

1 Steven T. Kirsch  
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4 Appearing In Pro Per  
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6 SUPERIOR COURT OF THE STATE OF CALIFORNIA

7 IN AND FOR THE COUNTY OF SANTA CLARA  
8 (Small Claims – Palo Alto Court)

9 STEVEN T. KIRSCH, an individual,

10 Plaintiff,

11 v.

12 Kevin Katz, an individual, Eric M Wilson, an  
13 individual, et al.

14 Defendants.  
15  
16  
17

Case Nos.: 2-04-SC-000992 to 1002,  
1005, 1040, and 1041

**DECLARATION OF STEVEN T.  
KIRSCH**

Date: June 21, 2004

Time: 1:00 p.m.

Dept: 86

18 I, Steven T. Kirsch, declare as follows:

19 1. I am the Plaintiff in the above matter.

20 2. I am one of the world's leading experts on junk faxes and on fax.com in particular. I  
21 created and maintain junkfax.org which is the most comprehensive information source on junk  
22 faxes on the Internet. I have been cited in over 50 articles written about junk faxes. I have filed  
23 the largest class action in history, \$2.2 trillion in damages, against fax.com. My website contains  
24 more information about fax.com than any other site on the Internet. My information was  
25 collected from a variety of sources over more than 2 years including current and past employees  
26 of fax.com. I have filed dozens of lawsuits against companies and people who send me junk  
27 faxes, both in Superior Court and small claims court. I have never lost a case.  
28

1 3. Fax.com is generally considered to be the most notorious junk faxer in the world. They  
2 have been cited more times by the FCC than any other firm including a citation for junk faxing  
3 the FCC itself! They typically send millions of junk faxes a day. I know this because someone  
4 who works there admitted this to me and it is consistent with the revenue numbers that Tom  
5 Roth, fax.com's CFO, provided under oath in his deposition that the SEC took on January 31,  
6 2003.

7 4. Fax.com is has been not cooperative with the legal process. For example, here's what the  
8 FCC wrote about fax.com's responses to the FCC's investigation:

9 Moreover, the Commission found that Fax.com appears to have engaged in a **pattern of**  
10 **deception to conceal its involvement** in sending the prohibited faxes, and that the  
11 company **has not been forthcoming in its dealings with the agency.**

12 In view of the ``**pervasive and egregious pattern of deception**" underlying the apparent  
13 violations and the **gravity of Fax.com's conduct**, the Commission concluded that  
14 Fax.com is apparently liable for the **maximum fine** of \$11,000 for each of the 489 fax  
15 violations, for a total proposed fine of \$5,379,000.

16 5. Because of all the judgments against them from the FCC, the law firm of Covington &  
17 Burling, and others, fax.com split itself up into multiple "companies" on or about July 9, 2003.

18 6. A web page describing those new entities in detail can be found at  
19 <http://www.junkfax.org/fax/profiles/faxcomDetails.htm>

20 7. The original internal fax.com memo documenting the breakup into numerous smaller  
21 entities and the shredding of evidence that could be used against them can be found at:

22 <http://www.junkfax.org/fax/broadcasters/fdc/faxcomTodo.doc> These specifically name the  
23 following "new" entity names will be used on a going forward basis:

24 DRS = Data Research Systems

25 IMS = Impact Marketing Solutions

26 LHM = Lighthouse Marketing

27 TAS = TechAccess Systems

28

1 8. I have first hand knowledge of numerous other methods that confirmed that the entities  
2 described in these documents are merely the same people, doing the same job functions, but with  
3 a different name. These methods include names on letters from them, their own admissions in a  
4 court proceeding in the current action that they (Katz, Wilson, Martin, Dupree, Frappier, and  
5 Roth) all work for “fax.com,” phone calls placed to their direct lines at the new company,  
6 corporate registrations with the California Secretary of State, inside sources, and former  
7 employees.

8 9. The FCC has also independently come to the same conclusions I have posted, with much  
9 more detail, on my website on the links above. In their Order of Forfeiture against fax.com they  
10 specifically called out the same entities as on my website as being synonymous with “fax.com.”  
11 They wrote the following:

12 Fax.com, a California-based company that began operating in  
13 1998, characterizes itself as a “fax broadcaster,” transmitting  
14 messages to telephone facsimile machines on behalf of other  
15 entities for a fee. For purposes of this Order, “Fax.com”  
16 encompasses its president, Kevin Katz, as well as its other  
17 corporate officers, including Thomas Roth, Jeffrey Dupree, and  
18 Eric Wilson. In addition, Fax.com encompasses all affiliated  
19 entities, successors, and assigns of Fax.com, including, but not  
20 limited to, Tech Access Systems Corporation; Telcom Tech Support;  
21 Everglades Enterprises, Lighthouse Marketing, LLC; Impact  
22 Marketing Solutions, LLC; and Data Research Systems, Inc.

17 10. In short, there is absolutely no doubt whatsoever that the following entities are all just  
18 names for the various departments of fax.com:

- 19 Tech Access Systems Corp
- 20 Data Research Systems, Inc.
- 21 Impact Marketing Solutions, LLC
- 22 Lighthouse Marketing LLC

23 11. More recently, fax.com has abandoned the Impact Marketing and Lighthouse Marketing  
24 names and locations, and they are now calling themselves “Access Sales, Inc”

25 12. Even fax.com itself has trouble keeping all the names straight. I have a letter from the  
26 head of Lighthouse Marketing signed on Impact Marketing letterhead for example. And emails  
27 sent from Access Sales and their website have contained remnants from their alter egos.  
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13. More information about fax.com can be found here:

<http://www.junkfax.org/fax/profiles/faxcom.htm>

I declare under penalty of perjury that the foregoing is true and correct. Executed this 4th day of August, 2004, at Los Altos Hills, CA.



Steven T. Kirsch, Declarant