

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Plaintiff

Erik T. Robinson
2735 Harper Street
Philadelphia, PA 19130

V.

Defendants

Medefile International Inc.
240 Cedar Knoll Road
Cedar Knoll, NJ 07927

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Case # _____

Complaint

1- This action is brought under the following 2 Statutes:

The Junk Fax Protection Act of 2005- 47 USC §227(b)(1)(C), hereinafter alternatively referred to as "JFPA" (a/k/a- Telephone Consumer Protection Act, or TCPA)
[Jurisdiction is pursuant to 47 USC §227(b)(3)(C)]

The Securities Exchange Act of 1934- 15 USC §78j(b), hereinafter alternatively referred to as "34 Act" [Jurisdiction is pursuant to 15 USC §78aa]

2- See Plaintiff's Motion to the Court for Supplemental Jurisdiction

Parties:

3- The Plaintiff is Erik T. Robinson, an individual filing on his own behalf.

4- The Defendant is Medefile International Inc. a corporation headquartered in Cedar Knoll, New Jersey and doing business throughout the country.

Background

5- On June 22nd, 2008 at approximately 6:38pm, Plaintiff received an unsolicited fax promoting investment in shares of stock for Medefile Int'l Inc.
(see attached "A", copy of fax received by Plaintiff).

6- Plaintiff alleges that the Defendant, along with other parties, have sent this fax, or had it sent on their behalf with their full knowledge, consent and participation, as part of what is commonly referred to as a "Pump and Dump" scheme of manipulating the prices of securities.

These crimes typically involve OTC (for "over the counter") stocks which, because of their smaller size of overall capitalization, do not trade on an exchange and therefore are not well monitored by authorities.

Major shareholders, most of whom are known to these firms doing this, take their shares and wrongfully place them with stock brokerage firms which specialize in these illicit tactics. These firms sell small parcels of stock to unwary investors using false "inside" information on firms which are sometimes non-existent or in so called "development phase". The brokerages and the stock holders (often including company members wrongfully selling their own shares through others) take and divide the profits.

These telemarketing sales tactics are often aided by increasingly elaborate advertising campaigns usually including unsolicited faxes to homes and businesses, spam e-mails, falsified blogs, and even advertisements in USA Today as well as ads on MSNBC and others. There are firms who specialize in so called "investor relations" who covertly prepare and carry out these campaigns.

Claim of Relief

- 7- Defendants have violated 47 USC §227(b)(1)(C) by sending an unsolicited fax to the Plaintiffs fax machine without an EBR- Established Business Relationship.
- 8- Defendants have violated 15 USC §78j(b) by using manipulative and deceptive devices, to wit: falsified advertising via telemarketing sales and spam e-mails/faxes, in conjunction with the exchange of securities through instrument of interstate commerce (to wit: telephone, fax and internet lines) and by doing so have caused the Plaintiff to involuntarily incur actual losses.
- 9- As a result of the above violations, the Defendants are liable to the Plaintiff for declaratory judgment that Defendant's conduct violated the law, as well as Plaintiff's actual damages, statutory damages and costs.

Wherefore, Plaintiff respectfully prays that judgment be entered against the Defendants for the following:

- A. Declaratory judgment that Defendants' conduct violated both 47 USC §227 (b)(1)(C) and 15 USC §78j(b).
- B. Statutory damages of \$3,000 pursuant to 47 USC §227(b)(3)(B) (see Plaintiff's Motion to Treble Damages)
- C. Actual Losses of \$.25 (for electricity, paper and toner) pursuant to 15 USC §78r.
- D. For such other and further relief as the court may deem to be just and proper.

Respectfully Submitted,

Erik T. Robinson Plaintiff/Attorney Pro Se

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Plaintiff's Motion to Treble Damages

- 1- Pursuant to 47 USC § 227(b)(3)(B), the standard Statutory damages for violating the statute is \$500 per offense. The section also allows the court the discretion to treble this to \$1,500 if it can be shown that the Defendant knowingly and/or willingly violated the statute.
- 2- Plaintiff requests that the court, when evaluating damages in this matter, consider the following points in favor of trebling the damages:
- 3- In April of 2007 Plaintiff registered the fax number with the National Do-Not-Call Registry. This registration is valid until 2012 and was well before the date of Defendant's transmissions. (see attached "B" copy of e-mail received by Plaintiff confirming enrollment in the service). This is a service provided by the Federal Government to prevent just this sort of annoying advertising. A firm whose main form of business is done by telemarketing or facsimile must subscribe to the Federal Trade Commission's service to receive regular updates of persons who do not wish to receive these forms of advertisement. (47 CFR Section 64.1200)
- 4- Because the Defendants have either not enrolled in this service nor followed it's policies, they cannot be considered a legitimate business and therefore any fax from these firms is, by definition, in violation. As the senders of the faxes knew or were sufficiently negligent to willingly allow this lack of compliance, they should be held accountable to the fullest extent of the law.
- 5- The Plaintiff would also ask the court to consider the efforts undertaken to avoid these faxes without resorting to legal action. In addition to enrolling the fax number on the National Do-Not-Call list as mentioned above, he has considered using the "opt-out" numbers on the faxes to attempt to be taken off of the circulation list, however, Plaintiff's research has indicated that these "opt-out" numbers are often not a means of removing a number from a fax list, but are actually a way of verifying them and gathering them for future use. Further, the opt-out numbers on the faxes from "The Energy Bull" are also different each time, reinforcing Plaintiff's claim to not be able to effectively use them to opt-out of the Energy Bulls call list.

continued

6- As the Defendants behavior was both knowingly/willingly in violation of the law by not adhering to the rules of telemarketing/use of facsimile machine, and because of the attempts to avoid "opt-out" by changing the "opt-out" numbers, Plaintiff Motions for this court, as per 47 USC § 227(b)(3)(B), to award the statutory damages of \$500 trebled to \$1,500.

Respectfully Submitted

Erik T. Robinson Plaintiff/Attorney Pro Se

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Plaintiff's Motion to the Court For Supplemental Jurisdiction

1- Before the court is a matter that involves the violations of 2 separate federal laws; 1 against wrongful faxes/unsolicited advertisements and 1 against manipulation of securities and their markets.

There are 2 separate sets of rules for jurisdiction on these charges:

2- The Junk Fax Protection Act- Pursuant to 47 USC §227(b)(3)(C), the individual consumers complaint of wrongful faxes would normally be heard in an appropriate court of the State for the Plaintiff. Senator Hollings, the bill's sponsor, states that these matters belong in small claims courts specifically to allow the average consumer the chance to fight these violators. (137 Cong. Rec. S16205-06 [daily ed. Nov. 7, 1991 at 30821-22)

3- There is however §227(f)(2) which authorizes Federal Courts to hear actions from State Attorneys for violations of a large enough scale and importance. While the Plaintiff is not a State Attorney, he feels that the nationwide scale of these offenses, along with the need to reinforce confidence in the stock market, are important enough to be heard in Federal Court.

4- The Securities Exchange Act of 1934- Pursuant to 15 USC §78aa the Federal Courts have exclusive jurisdiction over all matters related to violations of the Act. This includes the use of deceptive devices such as false advertising, which in this case utilizes spam/blast faxing to broadcast often falsified inside information to wrongfully manipulate the stock's price.

5- Because of the original jurisdiction of the violations of the Securities Exchange Act of 1934, Plaintiff hereby Motions for this Court to exercise Supplemental Jurisdiction pursuant to 28 USC §1367(a), which allows the court to hear the charges involving the JFPA because they are so closely related to the charges involving the Securities laws.

Plaintiff also offers the following additional points for consideration:

6- There is a Diversity of Citizenship because the Plaintiff resides in Pennsylvania and the Defendant is headquartered in New Jersey. Although the amount in controversy is less than the minimum of \$75,000 pursuant to 28 USC §1332, there is a great geographic diversity of parties and a consequential need for consistent laws and procedures.

continued

7- This matter is a Federal Question as per 28 USC §1331 which states that: "the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." As the JFPA is a Federal law, this should be allowed to qualify for Federal jurisdiction pursuant to 28 USC §1331.

8- Plaintiff believes in the interests of judicial expediency and economy of time and money for all parties, there should only be 1 trial for these offenses.

9- There are similar Federal consumer laws where the level of monetary damages is disregarded in favor of providing a venue for consumers to enforce Federal laws without the added cost of an attorney. An excellent example is the Fair Debt Collection Practices Act; 15 USC §1692 et seq. It's jurisdiction, founded in §1692k(d), allows Federal Courts to hear the complaint without regard to the amount of monetary damages involved.

10- The matter of junk faxes is not a difficult one to decide for the court, not requiring any special knowledge held by State courts as opposed to areas of knowledge of Federal courts.

11- Based on these points of consideration, Plaintiff motions for this court to exercise Supplemental Jurisdiction pursuant to 28 USCS §1367(a) and to hear all charges related to these offenses because the wrongful fax claims are so related to the securities law claims, for which the court already has jurisdiction, that they form part of the same case or controversy under Article 3 of the United States Constitution.

Respectfully Submitted

Erik T. Robinson Plaintiff/Attorney Pro Se

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[proposed] ORDER**

This Court, after having considered the arguments and merits of the Plaintiff's Motion for Supplemental Jurisdiction,

HEREBY GRANTS PLAINTIFF'S MOTION,

It is so ordered on this _____ day of _____, 2008.

Hon.

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Plaintiff's Personal Statement in Support of Motion to Proceed in Forma Pauperis

When evaluating the eligibility of the Plaintiff to proceed in Forma Pauperis, the Plaintiff would like to offer the following points for consideration:

- Although the Plaintiff is currently employed, he does not make a high salary.
- Plaintiff is filing this action alone, without the benefit of an attorney willing to bear these costs against anticipated settlements.
- By not hiring an attorney and researching and preparing the complaint by himself, Plaintiff has made considerable effort to mitigate his expenses.

Respectfully Submitted,

Erik Robinson, Plaintiff/Attorney Pro Se

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Plaintiff's Attached Exhibits A-B

- Exhibit A- Copy of unsolicited fax promoting investment in Medefile International Inc.
- Exhibit B- Copy of e-mail from US FTC indicating enrollment in the National Do-Not-Call Registry.