

Complaint

- 1- This action is brought under the following statutes:
 - 47 USC §227(b)(1)(C) Junk Fax Protection Act of 2005 (JFPA)
 - 73 P.S. §2250.3 Pennsylvania Statute- Prohibition of Misleading Advertising
 - 15 USC §78j(b)-Section 10b-5 of the Securities Exchange Act of 1934
- 2- Jurisdiction on this matter is founded upon both 15 USC §78aa and 47 USC §227(b)(3)(C) (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- Defendants are:
 - A- The Cervelle Group LLC, a corporation headquartered in Florida and doing business throughout the country.
 - B- My Vintage Baby Inc., a corporation headquartered in Texas and doing business throughout the country
 - C- BioStem Inc., a corporation headquartered in Georgia and doing business throughout the country.
 - D- Cryo-Banks International, a corporation headquartered in Florida and doing business throughout the country
 - E- BioQuest Technologies Inc., a corporation headquartered in Florida and doing business throughout the country
 - F- Connect-A-Jet Inc., a corporation headquartered in Texas and doing business throughout the country
 - G- Inca Designs Inc., a corporation headquartered in New York and doing business throughout the country

Background

- 5- On May 22, 2007 at approximately 12:46am, Plaintiff received an unsolicited fax promoting investment in shares of stock for BioStem Inc. with regard to their upcoming takeover by Cryo-Banks International (see attached "A", copy of fax received by Plaintiff).
- 6- On June 26, 2007 at approximately 12:16am, Plaintiff received an unsolicited fax promoting investment in shares of stock for BioQuest Inc. (see attached "B", copy of fax received by Plaintiff)
- 7- On July 9, 2007 at approximately 2:26am, Plaintiff received an unsolicited fax promoting investment in shares of stock for My Vintage Baby Inc. (see attached "C", copy of fax received by Plaintiff)

- 8- On August 27, 2007 at approximately 1:43am, Plaintiff received an unsolicited fax promoting investment in shares of stock for Connect-A-Jet. (see attached "D", copy of fax received by Plaintiff)
- 9- On March 18, 2008 at approximately 6:04 pm, Plaintiff received an unsolicited fax promoting investment in shares of stock for Inca Designs (see attached "E", copy of fax received by Plaintiff)
- 10- On March 18, 2008 at approximately 9:32 pm, Plaintiff received another unsolicited fax promoting investment in shares of stock for Inca Designs (see attached "F", copy of fax received by Plaintiff)
- 11- Plaintiff has researched the firms and found that all of the firms involved utilize The Cervelle Group, and specifically David Donlin, for purposes of helping the client find a shell corporation to use for the offering and the organization of the shares, and for promotion within the financial community and for investor and public relations for the individual firms. Cervelle generally receives both cash payments and securities prior to the public offering of the client's stock. They are believed to be the actual parties responsible for sending the faxes, along with 2 or more of the other defendants.
(<http://www.thecervellegroup.com/>)

Claim of Relief

- 12- Defendants have violated 47 USC §227(b)(1)(C) by sending 6 unsolicited faxes to the Plaintiffs fax machine without an EBR- Established Business Relationship.
- 13- Defendants have violated 73 P.S. §2250.3 by sending 6 faxes with misleading advertising.
- 14- Defendants have violated 15 USC §78j(b) by using manipulative and deceptive devices in conjunction with the exchange of securities through instrument of interstate commerce (telephone/fax) and by doing so have caused the Plaintiff actual losses.
- 15- 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, costs and attorney's fees.

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

- A. Declaratory judgment that Defendants' conduct violated 47 USC §227 (b)(1)(C).
- B. Declaratory judgment that Defendants' conduct violated 73 P.S. §2250.3
- C. Declaratory judgment that Defendants' conduct violated 15 USC §78j(b).
- D. Statutory damages of \$9,000 pursuant to 47 USC §227(b)(3)(B)
(see Plaintiff's Motion to Treble Damages)
- E. Actual Losses of \$1.50 (6 faxes @ .25 cents each for electricity, paper and toner) pursuant to 15 USC §78r.
- F. 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

Date

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

Plaintiff

Erik T. Robinson

V.

Defendants

The Cervelle Group LLC et al

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Case #08-01592

Plaintiff's Motion to Treble Damages

1- Pursuant to 47 USC § 227(b)(3)(B), the standard Statutory damages for violating the statute are \$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 "G" 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 neither 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 especially ask the court to consider the malicious timing of most of the faxes: 12:46am, 12:16am, 2:26am and 1:43am. Anyone at home who received these transmissions was awoken along with children, babies and pets. This is an especially malicious time of day to be contacting anyone with matters other than emergencies.

6- As the senders of the fax were either aware of the hour, or were sufficiently negligent to willing in letting it happen, they were knowingly and or willingly in violation of the law and should be held accountable to the fullest extent of the law.

- 7- 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 used the “opt-out” numbers on the faxes to attempt to be taken off of the circulation list for their faxes to no avail. In point of fact, 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.

The court should also consider the repetitive nature of these offenses. Despite the above mentioned countermeasures, the Plaintiff has continued to receive these faxes against his will.

8- 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 malicious nature of the time of day the faxes were sent, and because of the repetitive nature of the offenses despite the efforts undertaken to avoid them, Plaintiff Motions for this court, as per 47 USC § 227(b)(3)(B), to award the statutory damages of \$500 trebled to \$1,500 per fax for all 6 faxes for a total of \$9,000.

Respectfully Submitted

Erik T. Robinson Plaintiff/Attorney Pro Se

Date

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

Plaintiff

Erik T. Robinson

V.

Defendants

The Cervelle Group LLC et al

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**Case # 08-01592
[proposed] ORDER**

This Court, after having considered the arguments and merits of the Plaintiff's Motion to Treble Damages,

HEREBY GRANTS PLAINTIFF'S MOTION,

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

Hon.

Date

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

Plaintiff

Erik T. Robinson

V.

Defendants

The Cervelle Group LLC et al

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Case #08-01592

Plaintiff's Motion to the Court For Supplemental Jurisdiction

1- Before the court is a matter that involves the violations of 3 separate laws; 2 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- Under 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]). There is however, a provision for the Federal Courts to hear actions from State Attorneys for violations of a large enough scale, criteria which the nationwide securities scams easily meet. [47 USC §227(f)(2)]
- 3- Pursuant to 15 USC § 78aa, the Federal Courts have exclusive jurisdiction over all matters related to violations of the Securities Exchange Act of 1934, including the use of deceptive devices (such as false advertising by spam faxing) to manipulate the prices of stocks/securities and or their markets of exchange.

4- Because of the conflict of jurisdiction with regard to the wrongful fax laws, and because of the original jurisdiction for the violations of the Securities Exchange Act of 1934, Plaintiff hereby motions for this Federal Court to exercise Supplemental Jurisdiction as per 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.

5- Plaintiff also offers the following additional points for consideration:

- 6- There is already Federal Jurisdiction on 2 of the 3 aspects of the violations, the Securities Exchange Act of 1934 (15 USC §78aa) and the State Attorney's right of action for certain offenses under the JFPA [7 USC §227(b)(3)(C)]

- 7- There is an ongoing Federal investigation into one of the Defendants:
 - 8- The US Securities Exchange Commission previously suspended the trading of Defendant Connect-A-Jet in October of 2007 in connection with these wrongful promotions. There is also an active investigation founded on these activities. [contact: Mr. Paul Montoya- US SEC- Assistant Regional Director, Division of Enforcement (312) 353-7429, email- montoyap@sec.gov]. As there is already an active Federal case, and because Plaintiff intends to share any information gleaned from this action with those authorities, Federal oversight should be used to make sure that proper rules are followed to allow usage of information in the SEC's criminal case.
- 9- There is a geographic diversity of parties and a consequential need for consistent laws and procedures.
- 10- For purposes of judicial expediency and economy of time and money for all parties, there should only be 1 trial for these offenses.
- 11- The United States Constitution, Article 6 §2 Establishes the supremacy of Federal laws which has often been held to include supremacy of their courts jurisdiction as well.
- 12- There are similar 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 §1692k(d) which allows for maximum damages of \$1,000 per offense and which allows the Federal Courts to hear the complaint without regard to the amount of monetary damages involved.
- 13- 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.

14- 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

Date

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

Plaintiff

Erik T. Robinson

V.

Defendants

The Cervelle Group LLC et al

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**Case # 08-01592
[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.

Date

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

Plaintiff

Erik T. Robinson

V.

Defendants

The Cervelle Group LLC et al

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Case#08-01592

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, Plaintiff has made considerable effort to mitigate his expenses.
- Based on actions of some of the Defendants thus far, Plaintiff believes that the matter will be settled before trial.

Respectfully Submitted,

Erik Robinson, Plaintiff/Attorney Pro Se

Date

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

Plaintiff

Erik T. Robinson

V.

Defendants

The Cervelle Group LLC et al

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Case # 08-01592

Plaintiff's Attached/Exhibits A-G

- Exhibit A- Copy of unsolicited fax promoting investment in BioStem/CryoBanks
- Exhibit B- Copy of unsolicited fax promoting investment in BioQuest Technologies
- Exhibit C- Copy of unsolicited fax promoting investment in My Vintage Baby
- Exhibit D- Copy of unsolicited fax promoting investment in Connect-A-Jet
- Exhibit E- Copy of unsolicited fax promoting investment in Inca Designs
- Exhibit F- Copy of unsolicited fax promoting investment in Inca Designs
- Exhibit G- Copy of e-mail from US FTC indicating enrollment in the National Do-Not-Call Registry.

AGREEMENT OF GENERAL RELEASE AND TERMS OF SETTLEMENT

THIS AGREEMENT, dated _____, 2008,

Is between the parties of:

Mr. Erik T. Robinson, an individual representing himself, hereinafter alternatively referred to as either "Claimant" and or "Releasor". Also bound are Releasor's heirs, administrators, executors, or other possibly related party.

And

The corporate entities of: Cervelle Group, Inca Designs, Biostem, CryoBanks International, Bioquest Technologies, Connect-A-Jet, My Vintage Baby. These parties may hereinafter be alternatively referred to as "RELEASED". Also bound are their respective predecessors and successors in interest and any of their partners, members, shareholders, directors, officers associates, employees, agents, representatives, successors, assigns, subsidiaries, parent companies, individual employees of such, or any other possibly related party.

Whereas RELEASOR, in his Federal Case 08-01592, filed in the Eastern District Court of Pennsylvania, has alleged violations of the Junk Fax Prevention Act of 2005 (47 USC §227 et seq) and Rule 10b-5 of the Securities and Exchange Act of 1934 (15 USC §78aa)

And

Whereas both parties; the RELEASOR and RELEASED, in the interest of judicial expediency and economy of time and funds, agree to settle this matter privately as follows:

DISMISSAL OF COMPLAINT:

RELEASOR agrees to dismiss, with prejudice against refiling, his lawsuit against the RELEASED, pursuant to rule 41.1(b). And further, will make no other claim, allegation, charge or grievance of any kind against the RELEASED before any court, federal, state, county or municipal committee, federal, state, county, municipal or judicial regulatory agency or advisory committee, for anything which has happened up to the signing of this RELEASE.

COMPENSATION:

RELEASOR hereby confirms and agrees that _____ Dollars (\$_____) as good, valuable and adequate consideration for making this RELEASE. RELEASOR agrees not to disclose this amount publicly or to anyone other than family, friends, attorneys or financial advisors or professionals.

NO ADMISSION

RELEASOR understands that the payment pursuant to this RELEASE is not an explicit or implicit admission by the RELEASED PARTY for any liability or anything alleged against the RELEASED PARTY in any claim or complaint filed by the RELEASOR or any other party.

VOLUNTARINESS

RELEASOR and RELEASED both represent and agree that they fully understand the terms of this RELEASE and enters into this RELEASE voluntarily without any coercion or duress on the part of any person or entity, further that they were given adequate time to consider all implications of this RELEASE prior to entering into it, and to freely and fully consult with and seek the advice of whomever they deemed appropriate, including counsel and has done so.

SEVERABILITY

In the event that any part of this RELEASE shall be found to be illegal or in violation of public policy, or for any reason unenforceable at law, such finding shall not invalidate any other part hereof.

Agreed by:

Erik T. Robinson Claimant/Atty. Pro Se

Date

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

Erik T. Robinson
Plaintiff/Atty. Pro Se

v.

Cervelle et al
Defendants

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Case 08-01592

As per Rule 41.1(b) Plaintiff hereby motions for a voluntary dismissal with prejudice of the above named action. The matter has been settled to the mutual satisfaction of all parties.

Respectfully Submitted,

Erik T. Robinson Plaintiff/Atty. ProSe

Date

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

Erik T. Robinson
Plaintiff/Atty. Pro Se

v.

Cervelle et al
Defendants

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Case 08-01592

Plaintiff's Motion for Summary Judgment, or in the Alternative, for Default Judgment

Plaintiff hereby motions for this court, pursuant to Rule 56 of the Federal Rules of Civil Procedure, to render Summary Judgment in his favor on the grounds there is no issue of disputed material facts, by virtue of fact that Defendants have either not disputed or even responded to the complaint, and that Plaintiff is entitled to judgment as a matter of law.

(A decision under this Rule shall not include Defendant My Vintage Baby, which has settled this case with Plaintiff.)

In the alternative, Plaintiff motions for this court, pursuant to Rule 55 of the Federal Rules of Civil Procedure, to render Default Judgment in his favor for Defendants failure to respond to Plaintiff's lawfully served complaint.

(A decision under this rule shall not include Defendants My Vintage Baby, which has settled with Plaintiff, or Cervelle Group, which has responded to the complaint)

Respectfully Submitted,

Erik T. Robinson
Plaintiff/Atty ProSe

Date

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

Erik T. Robinson
Plaintiff/Atty. Pro Se

v.

Cervelle et al
Defendants

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Case 08-01592

Plaintiff's Motion for Sanctions

Whereas the Defendant's have failed to offer any response to Plaintiff's properly served complaint, Plaintiff motions for this court to levy Sanctions against the Defendants in the form of fines payable to the court for Contempt of Court in an amount to be decided by the court, and Punitive Damages payable to the Plaintiff in the amount of \$100,000 divided evenly among the deficient parties i.e.- \$20,000 each from Connect A Jet, Inca Designs, Bioquest Technologies, Marc Ebersole (substituted for Biostem), and CryoBanks International.

This Motion shall not include Defendants My Vintage Baby, which has settled with the Plaintiff, and Cervelle Group, which has responded to the complaint.

Respectfully Submitted,

Erik T. Robinson
Plaintiff/Atty Pro Se

Date

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

Erik T. Robinson
Plaintiff/Atty. Pro Se

v.

Cervelle et al
Defendants

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Case 08-01592

Certificate of Service

I, Erik T. Robinson, Plaintiff and Attorney Pro Se, do hereby certify that I have served copies of the Motions for Summary/Default Judgment and Sanctions, by First Class mail, upon Paul Datte Esq., the Attorney for Defendant Cervelle, at the following address:

Mr. Paul Datte, Esq.
Cerullo, Datte & Wallbillich, P.C.
Garfield Square
450 West Market Street
PO Box 450
Pottsville, PA 17901

Respectfully Submitted,

Erik T. Robinson
Plaintiff/Atty Pro Se

Date

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

Erik T. Robinson
Plaintiff/Atty. Pro Se

v.

Cervelle et al
Defendants

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Case 08-01592

Plaintiff's Certificate of Service

I, Erik T. Robinson, Plaintiff and Attorney Pro Se, do hereby certify that I have served upon the following unrepresented Defendants listed below, copies of my Motion for Sanctions and Motion for Summary or Default Judgment. I have done so by First Class US Mail, Fax and E-Mail.

Respectfully Submitted,

Erik T. Robinson
Plaintiff/Atty ProSe

Date

Mr. Marc Ebersole
BH Holdings
100 Hannover Park Rd.- Sute 200
Atlanta, GA 30350

Fax- (770) 650-7215

Cryo-Banks International
270 Northlake Blvd- Suite 1000
Altamonte Springs, FL 32701

Fax- (407) 834-3533

BioQuest Technologies
801 Maplewood Drive- Suite 6
Jupiter, FL 33458

Fax- (561) 747-5191

Connect-A-Jet
9211 Waterford Center- Suite 200
Austin, TX 78758

Fax- (512) 366-9660

Inca Design Corp
976 Lexington Ave at 71st Street
New York, NY 100121

Fax- (212) 327-2029
