

1 Christine Baker
2 [deleted]
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4 In Pro Per

5
6 **SUPERIOR COURT OF ARIZONA**
7 **MOHAVE COUNTY**

8 Christine Baker;)
9 Plaintiff,)

10 v.)

11 Access Sales Inc. aka Fax.com; Kevin Katz;)
12 Eric Wilson; Wellstone Filters, Inc.; Learned)
13 J. Hand; Stock Market Review; Stratford)
14 Health Care Association; Equal Access)
15 Health; NationWide Benefits;)
16 leads_2_health; Health One USA; Med One;)
17 Virtual Media Systems; Michael Krohn;)
18 Mortgage Center; Dana Capital Group, Inc.;)
19 JLH Wholesalers Inc.; CreditPro Inc.;)
20 American Entertainment Distributors Inc.;)
21 James MacArthur; JeffCo Marketing Group;)
22 Gateway International Holdings, Inc.;)
23 Lawrence Consalvi; Travelcomm; Absolute)
24 Health & Fitness Inc.; Randall Rohm;)
25 MicroCap; CSA; Poseidis Inc.; Louis Pardau)
26 Dit Pardo; Wall Street Trading Topics;)
27 Alliance Healthcare; Blue Jay Inc.; Neil S.)
28 Luxenberg; shareyourexperiences.com; John)
Torrey; Artec Inc.; Ronald Shinn; Gerry)
Knight; Twister Networks, Inc.; Steven Dao;)
Thomas Heysek; Hot Penny Stocks; Wall)
Street Stocks; Jeremy Jaynes; Claremont)
Technologies, Inc.; Dan Steer; Keith Hyatt;)
Leads To Results, Inc.; Infasource, Inc.;)
Prime One Financial; CBSK Financial)
Group, Inc.; Prime One Financial; Archer)
Finance, Inc.; Lowermybills, Inc.; Does 1 –)
50;)

Defendants.)

CV-04-915

FIRST AMENDED COMPLAINT

1 **COMPLAINT FOR DAMAGES FOR VIOLATIONS OF THE TELEPHONE**
2 **CONSUMER PROTECTION ACT, A.R.S. CONSUMER FRAUD AND A.R.S.**
3 **BANKING AND FINANCIAL INSTITUTIONS**

4 **Introduction**

5 1. Plaintiff Christine Baker brings this action for monetary relief against
6 defendants for their violations of the Telephone Consumer Protection Act of 1991, 47
7 U.S.C. § 227(b)(1) (“TCPA”), and its implementing regulations, 47 C.F.R. §
8 64.1200(a)(3). The TCPA creates a private right of action for monetary and injunctive
9 relief for sending unsolicited advertisements to a person or business by facsimile (“fax”).
10 To carry out its purpose, the TCPA explicitly vests state courts with exclusive subject
11 matter jurisdiction over the causes of action it creates.

12 2. Many of the defendants’ unsolicited faxes and postings at plaintiff’s websites
13 also contain false, misleading and deceptive advertisements in violation of A.R.S. Title
14 44 Article 7, Consumer Fraud and A.R.S. Title 6, Banks and Financial Institutions.

15 **Jurisdiction**

16 3. This court has subject matter jurisdiction pursuant to 47 U.S.C. § 227(b)(3).
17 The allegations herein relate to defendants’ purposeful transaction of business in Arizona
18 and their infliction of tortuous injury on plaintiff in Arizona through such transactions
19 and attempted transactions.

20 **Parties**

21 4. Plaintiff Christine Baker is an adult individual residing in the State of Arizona,
22 Mohave County.

23 5. Upon information and belief, defendant Access Sales Inc. (“Access Sales”) aka
24 Fax.com is a Nevada corporation (listed in default on the NV Secretary of State website)
25 with its principal place of business in Irvine, California.

26 6. Upon information and belief, defendants Kevin Katz and Eric Wilson are or
27 were officers or directors of Access Sales with the same business address.

28 7. Upon information and belief, defendant Wellstone Filters, Inc. (“Wellstone”) is

1 a corporation with its principal place of business in Timberlake, North Carolina.

2 8. Upon information and belief, defendant Learned J. Hand is the Wellstone CEO
3 with the same business address.

4 9. Upon information and belief, defendant Blue Jay, Inc. is a Nevada corporation
5 with its principal place of business in Las Vegas, Nevada.

6 10. Upon information and belief, defendant Neil S. Luxenberg is the Blue Jay
7 president, secretary and treasurer with the same business address.

8 11. Upon information and belief, defendant Gateway International Holdings, Inc.
9 is a Nevada corporation with its principal place of business in Anaheim, California.

10 12. Upon information and belief, defendant Lawrence Consalvi is the Gateway
11 International Holdings CEO with the same business address.

12 13. Upon information and belief, defendant American Entertainment Distributors,
13 Inc. (“AED”) is a Florida corporation with its principal place of business in Hollywood,
14 Florida.

15 14. Upon information and belief, defendant James MacArthur is an AED
16 director/officer with the same business address.

17 15. Upon information and belief, defendant Virtual Media Systems, Inc. is a
18 Florida corporation with its principal place of business in Hollywood, Florida.

19 16. Upon information and belief, defendant Michael Krohn is a Virtual Media
20 Systems officer/director located in Hallendale, Florida.

21 17. Upon information and belief, defendant Absolute Health and Fitness, Inc. is a
22 Nevada corporation with its principal place of business in Carson City, Nevada.

23 18. Upon information and belief, defendant Randall Rohm is the Absolute Health
24 and Fitness president residing and doing business in Raleigh, North Carolina.

25 19. Upon information and belief, defendant MicroCap is located in Hanna,
26 Alberta, Canada.

27 20. Upon information and belief, defendant Poseidis, Inc. is a Florida corporation
28 with its principal place of business in West Palm Beach, Florida.

1 21. Upon information and belief, defendant Louis Pardau Dit Pardo is the Poseidis
2 president with the same business address.

3 22. Upon information and belief, defendant JLH Wholesalers, Inc. (“JLH”) is a
4 Colorado corporation with its principal office in Highlands Ranch, Colorado.

5 23. Upon information and belief, defendant CreditPro, Inc, dba CreditAxis
6 (“CreditPro”) is a California corporation located in Westlake Village, California.

7 24. Upon information and belief, defendant Artec, Inc. is a Nevada corporation
8 with its principal place of business in Reno, Nevada.

9 25. Upon information and belief, defendants Ronald Shinn and Gerry Knight are
10 Artec officers with the same business address.

11 26. Upon information and belief, defendant Dana Capital Group, Inc. (“Dana
12 Capital”) is a California corporation with offices in Laguna Woods, California.

13 27. Upon information and belief, defendant Prime One Financial is a California
14 corporation with offices in Murrieta, California.

15 28. Upon information and belief, defendant Archer Finance, Inc. is a California
16 corporation with offices in Newport Beach, California.

17 29. Upon information and belief, defendant CBSK Financial Group, Inc.
18 (“CBSK”) is a California corporation with offices in Santa Ana, California.

19 30. Upon information and belief, defendant Leads To Results, Inc. is a California
20 corporation with offices in Irvine, California.

21 31. Upon information and belief, defendant Keith Hyatt is the owner of Leads To
22 Results with offices at the same address.

23 32. Upon information and belief, defendant Infasource, Inc. is a California
24 corporation with offices in Irvine, California.

25 33. Upon information and belief, defendant Twister Networks, Inc. is a Nevada
26 corporation with offices in Costa Mesa, California.

27 34. Upon information and belief, defendant Steven Dao is president of Twister
28 Networks with the same business address.

1 35. Upon information and belief, defendant Thomas Heysek is actively involved in
2 penny stock promotions and he is located in California.

3 36. Upon information and belief, defendant Jeremy Jaynes is actively involved in
4 penny stock promotions and he is located in Florida.

5 37. Upon information and belief, defendant Claremont Technologies, Inc. is a
6 Nevada corporation with offices in Canada

7 38. Upon information and belief, defendant Dan Steer is president of Claremont
8 Technologies with the same business address.

9 39. Upon information and belief, defendant Lowermybills, Inc. is a Delaware
10 corporation with offices in Santa Monica, California.

11 40. Plaintiff obtained the information in paragraphs 4-39 by calling the telephone
12 numbers listed on the defendants' unsolicited fax advertisements, reviewing the
13 defendants' websites, reviewing the resources at <http://www.junkfax.org/> and reviewing
14 public records.

15 41. The legal entities and locations of defendants Health One USA, NationWide
16 Benefits Association, Med One, Lead_2_ Health, Stratford Health Care Association,
17 Equal Access Health, Alliance Healthcare, Travelcomm, Wall Street Trading Topics,
18 Wall Street Stocks, Wall Street Insider, Hot Penny Stocks, Stock Market Review, CSA ,
19 shareyourexperiences.com, John Torrey, Mortgage Services, Mortgage Center and/or the
20 identities of its officers are to be obtained through discovery and/or subpoena.

21 42. Does 1 – 50 are the persons, entities, corporate officers, directors or employees
22 to be identified through discovery and/or subpoena.

23 **Factual Background**

24 43. Plaintiff operates her small business in Mohave County and in 2003 she
25 attempted to be removed from fax lists by calling the removal numbers on the unsolicited
26 faxes and she added all her telephone numbers to the FTC's do-not-call list.

27 44. Despite her efforts, plaintiff received well over 100 unsolicited faxes within
28 the last year.

1 45. Plaintiff received over 50 faxes with “312-264-4490” in the fax header. The
2 information at <http://www.junkfax.org/fax/profiles/faxcom.htm> indicates that those faxes
3 were sent by defendants Access Sales, aka fax.com, Kevin Katz and Eric Wilson, in
4 violation of the TCPA.

5 46. As of 12/13/04, the Nevada corporate record shows Access Sales as in
6 “default” and allegedly many large judgments have been entered against Kevin Katz, Eric
7 Wilson and the various entities they established to evade liability.

8 47. Due to prosecution by the FTC and several Attorneys General, fax.com and its
9 principals appears to be out of business and it is unlikely that plaintiff will be able to
10 serve the defendants related to fax.com unsolicited faxes and even if they can be served,
11 it is extremely unlikely that any judgments can be collected.

12 48. The companies utilizing junk faxes to promote their products and services are
13 often difficult to identify as many numbers on the faxes go to call centers with employees
14 trained not to reveal the call centers’ and advertisers’ true names and locations.

15 **UNSOLICITED MORTGAGE FAXES**

16 49. Most unsolicited faxes advertising mortgages violate California, Arizona and
17 federal mortgage advertising regulations, including but not limited to the failure to
18 identify the advertising mortgage company and its licensing agency and failure to
19 disclose the annual percentage rate (APR).

20 50. On 9/9/04, plaintiff received an unsolicited fax advertising “**mortgages with**
21 **rates as low as 1.95%**” from 312-264-4490 and with the removal # 800-658-8133 in
22 violation of the TCPA.

23 51. Plaintiff called the 800-694-0468 provided on the fax on several occasions
24 and the persons answering informed her that she reached defendant Mortgage Services’
25 call center, located in Southern California. Plaintiff was unable to reach a loan agent or
26 obtain an address for Mortgage Services.

27 52. On or about 10/7/04, plaintiff filed her complaint about the Mortgage Services
28 unlawful marketing with the California Department of Real Estate, assigned to Deputy

1 Commissioner Kelly Anderson, DRE File No. 1-04-1012-005.

2 53. On 8/17/04 and on several other occasions, plaintiff received unsolicited
3 mortgage advertisements with the toll-free numbers 800-853-2393 and 800-561-8303,
4 apparently faxed by defendants Keith Hyatt and his companies Leads To Results and
5 Infasource, in violation of the TCPA.

6 54. Plaintiff identified defendants Prime One Financial, CBSK (American Home
7 Loans) and Archer Finance as companies who ordered the promotions and/or purchased
8 unlawfully obtained leads.

9 55. On 9/27/04, plaintiff received an unsolicited fax from defendant Mortgage
10 Center and when plaintiff called for more information about the loan programs, she was
11 told her credit reports could be accessed for mortgage applications 6 times within 3
12 months without lowering the credit scores due to a “browsing law.”

13 56. Plaintiff was also informed that Mortgage Center is licensed in every state, but
14 on 9/27/04 the Arizona Department of Banking had no record of a license for Mortgage
15 Center.

16 57. Plaintiff requested documentation for the Mortgage Center Arizona license and
17 the “browsing law” from Mortgage Center on 9/27/04 and she received no response.

18 58. Plaintiff submitted her complaint to the AZ Department of Banking and the
19 results of the license investigation were supposed to be available by mid October
20 according to Lori Mann, Senior Examiner, Consumer Affairs Division.

21 59. On 10/15/04, plaintiff’s call to Ms. Mann was returned by Rich with the AZ
22 Department of Banking and he advised that Mortgage Center hung up on callers from the
23 Department of Banking and that they did not have the resources to pursue these
24 unlicensed mortgage lending activities.

25 60. On 10/15/04, plaintiff contacted defendant Dana Capital as they had been
26 accused of sending unsolicited faxes in internet postings and others had noticed a
27 connection between Mortgage Center and Dana Capital.

28 61. After reviewing one of the unsolicited faxes and an allegedly thorough

1 investigation, Amanda Smith, Legal Department Coordinator for Dana Capital, denied
2 any affiliation of “Dana Capital Group of Arizona, Inc.” with Mortgage Center.

3 62. Dana Capital failed to respond to plaintiff’s request for an explanation for the
4 response by a completely distinct and separate entity, “Dana Capital Group of Arizona,
5 Inc.”.

6 63. Apparently defendant Dana Capital set up “Dana Capital Group of Arizona,
7 Inc.” to be able to deny accusations of unlawful marketing and to deceive and mislead
8 recipients of unsolicited faxes.

9 64. On 12/6/04, the credit bureau Experian identified Dana Capital as the mortgage
10 lender who obtained plaintiff’s credit report after she applied with Mortgage Center.

11 65. On 12/9/04, plaintiff provided Ms. Smith with the relevant part of the credit
12 report.

13 66. On 12/13/04, plaintiff called Ms. Smith, who stated that "that blurb on the
14 credit report really doesn't tell me much" and Ms. Smith showed no interest in
15 determining why the application with Mortgage Center resulted in the “Dana Capital
16 Group” identification on the credit report.

17 67. Mortgage Center and Dana Capital violated the TCPA, A.R.S. Title 44,
18 Consumer Fraud and A.R.S. Title 6, Banks and Financial Institutions.

19 **UNSOLICITED PENNY STOCK FAXES**

20 68. On 7/14/04 and 7/23/04, plaintiff received unsolicited faxes from defendants
21 Hot Penny Stocks and Wall Street Stocks advertising defendant Twister Networks
22 (Symbol TWTN) and plaintiff alleges that defendant Steven Dao ordered the promotions
23 in violation of the TCPA.

24 69. On 9/12/04 and 9/30/04, plaintiff received unsolicited faxes from defendant
25 Stock Market Review without a fax header, advertising defendant Wellstone (Symbol
26 WLSF) and plaintiff alleges that defendant Learned J. Hand ordered the promotion in
27 violation of the TCPA.

28 70. On 9/13/04, plaintiff received an unsolicited fax from defendant Wall Street

1 Trading Topics advertising defendant Poseidis (Symbol PSED) and plaintiff alleges that
2 defendant Louis Pardau Dit Pardo ordered the promotions in violation of the TCPA.

3 71. On 9/20/04, plaintiff received an unsolicited fax from defendant Gateway
4 International (Symbol GWYI) and plaintiff alleges that defendant Lawrence Consalvi
5 ordered the promotion in violation of the TCPA.

6 72. On 9/20/04 and 10/7/04, plaintiff received unsolicited faxes from defendant
7 MicroCap, advertising defendant Absolute Health & Fitness (Symbol AHFI) as “**better**
8 **than 600% Return Potential in near future**”, the SEC halted trading on 12/15/04 and
9 plaintiff alleges that defendants Randall Rohm, Jeremy Jaynes and Thomas Heysek
10 organized the promotions in violation of the TCPA.

11 73. On 10/5/04, plaintiff received an unsolicited fax, according to the header “from
12 ATKJ”, advertising defendant Artec (Symbol ATKJ) and plaintiff alleges that defendants
13 Ronald Shinn and Gerry Knight ordered the promotion in violation of the TCPA.

14 74. On 10/18/04 and 12/7/04, plaintiff received unsolicited faxes with no fax
15 headers, advertising defendant Claremont Technologies (Symbol CTTG) and plaintiff
16 alleges that defendant Dan Steer ordered the promotions in violation of the TCPA.

17 **UNSOLICITED HEALTH PLAN FAXES**

18 75. On 8/2/04 and 8/4/04, plaintiff received unsolicited faxes advertising “**New**
19 **Health Plans**” from “leads_2_health” as per the header. The faxes contained a form to
20 complete with personal data, to be faxed to 775-924-3810. The faxes promised: “**We**
21 **GUARANTEE we HAVE a company that WILL provide you with Health Benefits**
22 **when you fax this completed form back.**”

23 76. Plaintiff faxed the completed form and she subsequently spoke with several
24 representatives of a company identified as defendants Nationwide Benefits Association,
25 administered by USA Health One, and Med One with a website at
26 <http://healthoneusa.com/>. The website contained no mailing address.

27 77. Plaintiff learned that the advertised “New Health Plan” is not a health
28 insurance plan at all and it merely provides discounts described only as “Savings from

1 20-80% on every medical procedure” at participating providers.

2 78. Plaintiff made several attempts to find out the costs and discounts for specific
3 procedures at doctors and hospitals in her area and she was finally advised that she had to
4 pay the \$99 first month premium and a \$89 nonrefundable application fee before she
5 could obtain specific information about the benefits.

6 79. The faxes stated: “I give leads_2_health Permission to have a Healthcare
7 Professional call me to go over a plan.” In fact, the representatives who called plaintiff
8 were not Healthcare Professionals, but boiler room sales reps paid commissions for each
9 signup.

10 80. Apparently this “health plan” is a scam, targeting the many millions of
11 uninsured and the faxes violated the TCPA and A.R.S. Title 44, Consumer Fraud.

12 81. On 8/4/04, plaintiff received an unsolicited fax with the header
13 “affordablehealthcare”, advertising “**Affordable Health Care!**” in violation of the
14 TCPA.

15 82. On 8/11/04, plaintiff received an unsolicited fax from defendant Alliance
16 Healthcare, advertising a “**member advocacy program**” and “**Medical & Dental**
17 **Financing**” in violation of the TCPA.

18 83. On 8/16/04, plaintiff received an unsolicited fax with the header “from:
19 National Marketing”, advertising “**New Health Benefits**” for \$89 per month in violation
20 of the TCPA.

21 84. On 9/29/04 and 10/1/04, plaintiff received unsolicited faxes from 312-264-
22 4490 with the disconnected removal # 800-658-8133, advertising “**HEALTH CARE**
23 **EVERYONE CAN AFFORD.**” The advertised 800-697-9907 was answered by a
24 recording for defendant “Stratford Health Care Association” and the faxes were sent in
25 violation of the TCPA.

26 85. On 9/29/04, plaintiff received an unsolicited fax from 312-264-4490 with the
27 disconnected removal number 800-658-8133, advertising “**Health Care for the Entire**
28 **Family**” and “**As Low As \$54 per month.**” Plaintiff called the 888-856-7985 and the

1 announcement identified the company as defendant “Equal Access Health” and the fax
2 was sent in violation of the TCPA and A.R.S. Title 44, Consumer Fraud.

3 **UNSOLICITED VACATION FAXES**

4 86. On 9/20/04, plaintiff received an unsolicited fax from defendant Travelcomm,
5 advertising a “**Cancun lavish getaway**” and she has since received numerous faxes
6 advertising these vacations in violation of the TCPA.

7 87. On 9/10/04, plaintiff received an unsolicited fax with the header “corporate”
8 and the toll-free number 866-240-0789, advertising **Florida/Mexico vacations** in
9 violation of the TCPA.

10 88. On 9/15/04 and 10/1/04, plaintiff received unsolicited faxes from 312-264-
11 4490 with the disconnected removal # 800-658-8133, advertising “**3 Trips For The**
12 **Price of 1.**” The faxes were designed to look like corporate memos and they were
13 addressed to “All employees” from “Denise Taylor, Corporate Travel Division” to
14 disguise that they were in fact unsolicited advertisements faxed in violation of the TCPA.

15 **MISCELLANEOUS**

16 89. On or about 12/5/03, plaintiff received an unsolicited fax from defendant Blue
17 Jay, advertising “**Sub Zero Liquid Ice Melt**” and plaintiff alleges that defendant Neil S.
18 Luxenberg ordered the promotion in violation of the TCPA.

19 90. On 8/26/04, 9/1/04 and 9/8/04, plaintiff received unsolicited faxes from
20 defendant AED for the “**Blockbuster Opportunity Box Office Express Automated**
21 **DVD Rental Machines**” and plaintiff alleges that defendant James MacArthur ordered
22 the promotions in violation of the TCPA and A.R.S. Title 44, Consumer Fraud.

23 91. Upon information and believe, the Federal Trade Commission has since shut
24 down AED and froze its assets.

25 92. On 9/13/04 and 9/30/04, plaintiff received unsolicited faxes from defendant
26 VMS advertising the “**The Virtual Media Machine**” and “**GET RICH with**
27 **TECHNOLOGY**” and plaintiff alleges that defendant Michael Krohn ordered the
28 promotions in violation of the TCPA and A.R.S. Title 44, Consumer Fraud.

1 93. On 9/22/04, plaintiff received an unsolicited fax from defendant JeffCo
2 Marketing Group, stating “**END ALL OF YOUR FINANCIAL PROBLEMS IN LESS**
3 **THAN 30 DAYS**”, in violation of the TCPA.

4 94. On 9/15/04, plaintiff received an unsolicited fax stating “**YOU DON’T HAVE**
5 **TO WORRY! We Can Get Your Credit Back On Track!**” with the 800-351-7810 for
6 defendant CSA, in violation of the TCPA.

7 95. On 9/24/04, an advertisement was posted at plaintiff’s internet forum claiming
8 “**We are able to guarantee ANYONE a bad credit loan of up to \$25,000.**” The
9 advertisement also promised a credit repair kit: “**It contains completely legal methods**
10 **that WILL show you how to remove negative marks from your credit report, even if**
11 **they are true.**” Plaintiff alleges that these promises are false and violate AZ Consumer
12 Fraud Statutes.

13 96. The links led to Creditaxis.com, a membership website stating that “This site
14 (the "Site") is owned and operated by CreditPro, Inc (DBA CreditAxis).” Defendants
15 JLH Wholesalers and CreditPro violated plaintiff’s terms, which clearly stated that no
16 commercial postings are allowed and that a \$50 removal fee applies to all violations.

17 97. On 9/27/04, plaintiff received an e-mail from defendant John Torrey’s
18 shareyourexperiences.com: “#####You are being researched#####” and “To see
19 what website users have posted regarding you at our website use this link:
20 <http://2.sye2.org/lx.php?a=search&b=5&c=christine@bayhouse.com>.” The link showed
21 two “experience requests.”

22 98. Contrary to the promise in the e-mail, plaintiff was unable to find out what
23 users had posted about her. In response to plaintiff’s 2nd support request to
24 shareyourexperiences.com, Paul Kaplan wrote on 9/28/04: “You must become a paid
25 member to contact the author.”

26 99. Apparently it is not possible to see what users posted and the e-mail
27 notifications are nothing but a scam to get people to pay for a worthless membership with
28 no useful benefits whatsoever, violating A.R.S. Title 44, Consumer Fraud.

