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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

FAX.COM, INC., a Delaware corporation;
and FAXID, INC., a California
corporation,

Defendants.

NO.

COMPLAINT

I. Introduction

1. Plaintiff State of Washington (“State”) brings this action against defendants under the federal Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq*, under the Washington Telecommunications Act (“WTA”), RCW 80.36.540, and under the Washington Consumer Protection Act (“CPA”), RCW 19.86 *et seq*. The State alleges that defendants have been and are continuing to transmit unsolicited commercial faxes to residents, business, and governmental entities in Washington. Transmitting unsolicited commercial faxes is known as “junk faxing.” In addition, defendants also illegally used automatic telephone dialing equipment to call hundreds of hospital patient rooms in Washington.

2. The State seeks a permanent injunction, damages, triple damages, civil penalties,

1 costs and attorney's fees, and other equitable relief against defendants for their illegal junk faxing
2 and for their illegal use of automatic dialing equipment.

3 4 **II. Jurisdiction and Venue**

5 **3.** This court has jurisdiction under 28 U.S.C. § 1331, 1337(a), 1367, and 47 U.S.C. §
6 227(f)(1).

7 **4.** Venue in this district is proper under 28 U.S.C. § 1391 and 47 U.S.C. § 227(f)(2).
8 The acts complained of occurred in King County, Washington, as well as elsewhere in the Western
9 District of Washington.

10 11 **III. Parties**

12 **5.** Plaintiff is the State of Washington. It is authorized to bring suit in the public
13 interest on behalf of its citizens under the TCPA, the WTA, and the CPA.

14 **6.** Defendant Fax.com, Inc. ("Fax.com") is a Delaware corporation. Its principal place
15 of business and mailing address is 120 Columbia, Suite 500, Aliso Viejo, California, 92656. Its
16 president is Kevin Katz. Fax.com was previously named FaxSynergy.com, Inc. Fax.com has
17 compiled a large database of fax telephone numbers. It advertises that its database of over 10
18 million fax numbers is the largest in the world. Fax.com routinely mass faxes advertisements for
19 other businesses to all or part of its database, and is paid money for this. In the vernacular of the
20 industry, it is a fax-blaster. Fax.com is one of the major fax-blasters in the United States. It
21 derives substantial revenues from the sale and use of its database of fax numbers to fax for itself
22 and its customers. Fax.com actively maintains this database, solicits others to use its services, and
23 reviews the content of the fax advertisements it sends. In relation to Washington, its actions are
24 interstate. Fax.com is legally responsible for its own acts and for the acts of the other named
25 defendant.

26 **7.** Defendant FaxID, Inc. ("FaxID") was a California corporation. It dissolved on

1 October 1, 1999. Fax.com is the successor-in-interest to FaxID, and it is liable, along with FaxID,
2 for all acts of FaxID. Kevin Katz was the president of FaxID. FaxID changed its name to, merged
3 with, was bought out by, or its business operations were substantially continued by Fax.com.
4 Fax.com has also at various times used the name of FaxID in its business operations. FaxID, like
5 Fax.com, was a fax-blaster. FaxID derived substantial revenues from the sale and use of its
6 database of fax numbers to fax for itself and its customers. It also actively maintained its database,
7 solicited others to use its services, and reviewed the content of the fax advertisements it sent. In
8 relation to Washington, its actions were interstate.

9 **8.** Fax Broadcasting Systems (“Fax Broadcasting Systems”) is a division or d/b/a of
10 defendant Broadcast Marketing Group, LLC (“Broadcast Marketing Group”). Broadcast Marketing
11 Group is or was a California limited liability company. Fax Broadcasting Systems and Broadcast
12 Marketing Group are not defendants in this action at this time. FaxID and Fax.com are the
13 successors-in-interest to Fax Broadcasting Systems and Broadcast Marketing Group and are liable
14 for all acts of Fax Broadcasting Systems and Broadcast Marketing Group alleged as illegal in this
15 complaint. Fax Broadcasting Systems and Broadcast Marketing Group changed its name to,
16 merged with, was bought out by, or its business operations were substantially continued by FaxID
17 and Fax.com. It is unknown at the present time whether Fax Broadcasting Systems and Broadcast
18 Marketing Group were fax-blasters. However, Fax Broadcasting Systems and Broadcast Marketing
19 Group and later Fax.com and FaxID, after they took over their operations, were engaged in building
20 databases of fax telephone numbers. Part of the process they used to build these databases included
21 making automated telephone calls to hospital patient rooms and emergency telephone lines in
22 Washington in violation of federal law. For purposes of federal law, the illegal calls were made in
23 the context of interstate commerce, were controlled and directed by defendants, and were
24 electronically tied in to defendants’ California operations. Fax.com and FaxID controlled and
25 directed the illegal telephone call operation originally set up by Fax Broadcasting Systems and
26 Broadcast Marketing Group when the violations of federal law occurred in Washington.

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2 **IV. Defendants' Illegal Business Practices**

3 **9.** Since at least January, 1999 FaxID and Fax.com have been in the business of
4 providing fax advertising services using telephone fax machines, computers, and other devices to
5 transmit unsolicited advertisements to fax machines in Washington. Attached as Exhibits A-R are
6 examples of advertisements that FaxID and Fax.com faxed to Washington citizens.

7 **10.** FaxID and Fax.com did not receive the express invitation or permission of those to
8 whom the faxes were being sent, and did not have a prior business relationship with those persons.
9 The faxes that FaxID and Fax.com sent were unsolicited commercial faxes, or junk faxes, and thus
10 illegal.

11 **11.** These unsolicited commercial faxes originated from defendants FaxID and Fax.com.
12 The number 800-992-5329 is assigned to Fax.com at 120 Columbia, Suite 500, Aliso Viejo,
13 California 926565. This number has also been used by FaxID. The faxes list this telephone
14 number as the one recipients should call to be removed from the solicitation list. Defendants' faxes
15 also should have, but generally did not, list its business name and other identifying information as
16 required by law.

17 **12.** Many recipients also continued to receive junk faxes from FaxID and Fax.com after
18 requesting that they stop. In addition, fax machines owned by governmental entities, including the
19 Washington State Attorney General's Office, were among those receiving unsolicited commercial
20 faxes from these defendants.

21 **13.** In Washington, many citizens complained about FaxID and Fax.com's conduct to
22 the Washington State Attorney General's Office. At least 70 complaints involving 244 faxes have
23 been filed, and the number is growing. The following matrix lists the citizens who have
24 complained, the number of faxes received from FaxID and Fax.com, the date they received the
25 faxes, the phone number listed in the fax which in part identifies these defendants as the culpable
26 party, and a brief description of the unsolicited fax that was received.

AGO Complaint #	Complainant	# of Faxes	Fax Date	Phone # on Fax	Description of Fax
100990	George Nickum	1	01/22/99	800-329-5232	Ron Brooke Corp. Travel
102811	Warren Stiles	1	08/20/99	800-992-5329 ¹ 800-965-5329	Your Permission Please...
104913	Todd Rohling	1	09/19/99	800-992-5329	Financial Freedom
105743	John Butler	1	09/30/99	800-992-5329 800-965-5329	Your Permission Please...
106239	James Pearce	1	11/30/99	800-992-5329	Financial Freedom
106551	David Mark	1	10/19/99	800-992-5329 800-965-5329	Your Permission Please...
107037	B.J. Rakes	2	10/15/99 10/15/99	800-992-5329 800-965-5329 800-992-5329	Your Permission Please... Corporate Travel
107313	Carla Plata	1	09/99	800-992-5329 800-965-5329	Your Permission Please...
107379	Bette Rice	1	11/07/99	800-992-5329	Chiropractic Health Center ²
107570	Rod Domrowski	1	10/21/99	800-992-5329	Chiropractic Health Center
108189	Randy McPhee	3	11/99 appr. 11/99 appr. 11/99 appr.	Not visible 800-992-5329 800-965-5329 800-992-5329	Chiropractic Health Center Your Permission Please... Corporate Travel
108976	Carol Sund	2	10/29/99 10/18/99	800-992-5329 800-992-5329 800-965-5329	Corporate Travel Your Permission Please...
110376	Ron Smith	1	11/10/99	800-992-5329 800-965-5329	Your Permission Please...
110431	Rob Pailca	1	12/16/99	800-992-5329	National Credit Repair
110538	Ken Young	1	12/10/99	800-992-5329 800-965-5329	Your Permission Please...
110587	Mary Veurink	1	12/99 appr.	800-992-5329	Polzin Chiropractic ³
110705	John Maloof	3	12/13/99 12/13/99	800-992-5329 800-992-5329 ⁴	SportsWorld Tours ⁵ SportsWorld Tours

¹ Phone #'s clearly identified with FaxID. 1-800-992-5329 is its delete #. 1-800-965-5329 is its sales #.

² Chiropractic Health Center has a 425 local #.

³ Polzin Chiropractic

⁴800# is at footer, and the header says FaxID.

AGO Complaint #	Complainant	# of Faxes	Fax Date	Phone # on Fax	Description of Fax
			11/01/99	800-992-5329 800-965-5329	Your Permission Please...
111110	Deborah Illman	5	12/6/99 11/99 appr. 11/99 appr. 11/99 appr. 12/13/99	800-992-5329 ⁶ 800-992-5329 800-992-5329 800-965-5329 800-992-5329	Corporate Travel Chiropractic Health Center Chiropractic Health Center Your Permission Please... SportsWorld Tours
111287	Elizabeth Monroe	6	12/06/00 04/05/00 04/21/00 03/20/00 03/29/00 02/04/00	800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329	Corporate Travel Corporate Travel Ashlea Bollinger Corp. Travel Phone Linda Chapman Corp. Travel Corporate Travel
111823	Ron Ruosche	2	12/09/99 12/99 appr.	800-992-5329 ⁷ 800-992-5329	Corporate Travel Financial Freedom
112712	Tom Boyden	1	12/09/99	800-992-5329 800-965-5329	Your Permission Please...
113585	Elizabeth Monroe	2	02/04/00 02/00 appr.	800-992-5329 800-992-5329 800-965-5329	Linda Chapman Corp. Travel Your Permission Please...
113900	Barbara Slatt	1	02/07/00	800-992-5329	Linda Chapman Corp. Travel
116342	John Kucher	1	03/08/00	800-992-5329	Linda Chapman Corp. Travel
116525	John Maloof	1	03/13/00	800-992-5329	Linda Chapman Corp. Travel
116636	Brian Haskin	2	03/23/00 03/23/00	800-992-5329 800-992-5329	Linda Chapman Corp. Travel Phone
117132	Richard Wesley	3	03/20/00 03/16/00 03/23/00	800-992-5329 800-992-5329 800-992-5329	Phone Linda Chapman Corp. Travel Linda Chapman Corp. Travel
117385	Nabisco Biscuit	1	03/20/00	800-992-5329	Phone
118123	Dave Clark, DSHS	2	05/22/00 04/06/00	800-992-5329 800-992-5329	Sheryl Stein Corp. Travel Corporate Travel
118229	Holli Ericksen	2	02/07/00 03/23/00	800-992-5329 800-992-5329	Linda Chapman Corp. Travel Linda Chapman Corp. Travel
118950	Ann Labe	1	04/07/00	800-992-5329	Corporate Travel

⁵ See 122197; Sports World.

⁶800# is at footer, and the header says FaxID.

⁷800# is at footer, and the header says FaxID.

1	AGO Complaint #	Complainant	# of Faxes	Fax Date	Phone # on Fax	Description of Fax
2	118953	John Borland	4	03/20/00 07/22/00 02/28/00 12/13/99	800-992-5329 800-992-5329 800-992-5329 800-992-5329	Phone Linda Chapman Corp. Travel Linda Chapman Corp. Travel SportsWorld Tours
3	119152	Shirley J. Seigel	1	04/21/00	800-922-5329	Ashlea Bollinger Travel
4	120401	Fred Jacobson, Sno. Golf	1	05/08/00	800-992-5329	Phone
5	120765	Richard Mclean		06/14/00	No ID on header	TelProducts
6	120917	Ron Ruosch	9	05/01/00 05/04/00 02/15/00 unclear unclear unclear 03/27/00 04/07/00 04/20/00	800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-965-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329	Corporate Travel Jane Morgan Corp. Travel Linda Chapman Corp. Travel Your Permission Please... Corporate Travel Financial Freedom ⁸ Phone Corporate Travel Ashlea Bollinger Corp. Travel
7	120919	Elizabeth Monroe	1	05/08/00	800-992-5329	Jane Morgan Corp. Travel
8	120921	Greg Campbell	1	02/09/00	800-992-5329	Linda Chapman Corp. Travel
9	120925	Char Burke	1	02/29/00	800-992-5329	Linda Chapman Corp. Travel
10	121305	Kirk Dunard	2	05/22/00 05/22/00	800-992-5329 800-992-5329	Corporate Travel Corporate Travel
11	121322	Mathew Bell	2	05/17/00 05/22/00	800-992-5329 800-992-5329	Liz Cordial Corp. Travel Liz Cordial Corp. Travel
12	121571	Roy Rutherford	1	05/11/00	800-992-5329	Corporate Travel ⁹
13	121750	Safeco (Peggy Olson)	106	05/22/00 05/22/00 05/22/00 05/22/00 05/22/00 05/22/00 05/22/00 05/22/00 05/22/00 05/22/00 05/22/00 05/22/00 05/22/00 05/22/00 05/22/00	800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329 800-992-5329	Corporate Travel Corporate Travel Corporate Travel Corporate Travel Corporate Travel Corporate Travel Sheryl Stein Corp. Travel Sheryl Stein Corp. Travel Sheryl Stein Corp. Travel Sheryl Stein Corp. Travel Sheryl Stein Corp. Travel Sheryl Stein Corp. Travel Sheryl Stein Corp. Travel Sheryl Stein Corp. Travel Sheryl Stein Corp. Travel

26 ⁸ Broadcast Marketing Systems LLC.
⁹ No fax attached; complaint only via internet.

	AGO Complaint #	Complainant	# of Faxes	Fax Date	Phone # on Fax	Description of Fax
1						
2						
3				05/22/00	800-992-5329	Sheryl Stein Corp. Travel
4				05/22/00	800-992-5329	Corporate Travel
5				05/22/00	800-992-5329	Sheryl Stein Corp. Travel
6				05/22/00	800-992-5329	Sheryl Stein Corp. Travel
7				05/22/00	800-992-5329	Sheryl Stein Corp. Travel
8				05/22/00	800-992-5329	Corporate Travel
9				05/22/00	800-992-5329	Corporate Travel
10				05/22/00	800-992-5329	Corporate Travel
11				05/22/00	800-992-5329	Corporate Travel
12				05/22/00	800-992-5329	Corporate Travel
13				05/22/00	800-992-5329	Corporate Travel
14				05/22/00	800-992-5329	Corporate Travel
15				05/22/00	800-992-5329	Corporate Travel
16				05/22/00	800-992-5329	Corporate Travel
17				05/22/00	800-992-5329	Corporate Travel
18				05/22/00	800-992-5329	Corporate Travel
19				05/22/00	800-992-5329	Corporate Travel
20				05/22/00	800-992-5329	Corporate Travel
21				05/22/00	800-992-5329	Corporate Travel
22				05/22/00	800-992-5329	Corporate Travel
23				05/22/00	800-992-5329	Corporate Travel
24				05/22/00	800-992-5329	Corporate Travel
25				05/22/00	800-992-5329	Corporate Travel
26				05/22/00	800-992-5329	Corporate Travel

1	AGO Complaint #	Complainant	# of Faxes	Fax Date	Phone # on Fax	Description of Fax
2				05/01/00	800-992-5329	Corporate Travel
3				05/01/00	800-992-5329	Corporate Travel
4				05/01/00	800-992-5329	Corporate Travel
5				05/01/00	800-992-5329	Corporate Travel
6				05/01/00	800-992-5329	Corporate Travel
7				05/01/00	800-992-5329	Corporate Travel
8				05/01/00	800-992-5329	Corporate Travel
9				05/01/00	800-992-5329	Corporate Travel
10				05/01/00	800-992-5329	Corporate Travel
11				05/01/00	800-992-5329	Corporate Travel
12				05/01/00	800-992-5329	Corporate Travel
13				05/01/00	800-992-5329	Corporate Travel
14				05/01/00	800-992-5329	Corporate Travel
15				05/01/00	800-992-5329	Corporate Travel
16				05/01/00	800-992-5329	Corporate Travel
17				05/01/00	800-992-5329	Corporate Travel
18				05/01/00	800-992-5329	Corporate Travel
19	121758	Steve Eckhart	1	05/22/00	800-992-5329	Liz Cordial Corp. Travel
20	121924	Carl Hassler	6	06/20/00	800-992-5329	Ashlea Bollinger Corp. Travel
21				06/01/00	800-992-5329	Sheryl Stein Corp. Travel
22				06/09/00	800-992-5329	Ashlea Bollinger Corp. Travel
23				05/22/00	800-992-5329	Liz Cordial Corp. Travel
24				05/11/00	888-850-9238	Sheryl Stevens Corp. Travel
25				01/20/00	877-208-3463	Sheryl Stevens Corp. Travel
26	121945	Fred Holtz	2	05/17/00	800-992-5329	Liz Cordial Corp. Travel
				05/22/00	800-992-5329	Liz Cordial Corp. Travel
27	121951	Richard MacLean	4	04/20/00	800-992-5329	Corporate Travel
28				06/09/00	800-992-5329	Ashlea Bollinger Corp. Travel
29				06/21/00	800-992-5329	Ashlea Bollinger Corp. Travel
30				06/22/00	800-992-5329	Website University
31	122126	George Nickum	1	11/03/99	800-992-5329	Corporate Travel

	AGO Complaint #	Complainant	# of Faxes	Fax Date	Phone # on Fax	Description of Fax
1						
2						
3	122197	Dean Fitzsimmons	2	01/22/99 12/15/99	FaxID header 800-992-5329	SportsWorld Tours SportsWorld Tours
4	122776	AGO Bellingham	2	05/09/00 05/08/00	800-992-5329 800-992-5329	Phone Alpha-Omega Travel
5	122590	Gary Jelinick, NOAA	1	06/09/00	800-992-5329	Ashlea Bollinger Corp. Travel
6	122787	AGO Olympia	2	05/08/00 05/08/00	800-992-5329 800-992-5329	Phone Alpha-Omega Travel
7						
8	123007	Bruce McKibben	1	05/22/00	800-992-5329	Liz Cordial Corp. Travel
9	123180	Steve Goldblatt	4	06/21/00 06/09/00 12/13/99 unclear	800-992-5329 800-992-5329 800-992-5329 800-992-5329	Ashlea Bollinger Corp. Travel Ashlea Bollinger Corp. Travel SportsWorld Tours Chiropractic Health Center
10						
11	123467	AGO Olympia	1	06/21/00	800-992-5329	Ashlea Bollinger Corp. Travel
12	123467	AGO Seattle	1	07/05/00	800-992-5329	North Vancouver Air
13	124297	Janet Lafferty	4	06/21/00 06/22/00 06/27/00 06/29/00	800-992-5329 800-992-5329 800-992-5329 800-992-5329	Ashlea Bollinger Corp. Travel Website University Website University Corporate Travel
14						
15	124496	Gary Donovan	1	06/27/00	No ID on header	Corporate Travel
16	125124	Carin Smith, DVM	2	07/12/00 07/12/00	No ID on header No ID on header	Sheryl Stevens Corp. Travel Corporate Travel
17						
18	125266	AGO/Public Counsel	1	06/14/00	800-992-5329	Telproducts
19	125521	AGO Public Counsel	2	07/10/00 07/10/00	None None	Liz Cordial Corp. Travel Corporate Travel
20	125685	Phil Stripling	1	07/11/00	No ID on header	Sheryl Stein Corp. Travel
21	125737	Paul Screenrock	1	07/10/00	No ID on header	Liz Cordial Corp. Travel
22	125743	U of W c/o Corey D. Satten	11	03/20/00 03/23/00 04/05/00 05/22/00 06/01/00 06/09/00 06/21/00 06/22/00 06/27/00 07/10/00 07/18/00	No ID on header " " " " " " " " " " "	Advance Communications Linda Chapman Corp. Travel Corporate Travel Liz Cordial Corp. Travel Sheryl Stein Corp. Travel Ashlea Bollinger Corp. Travel Ashlea Bollinger Corp. Travel Website University Website University Liz Cordial Corp. Travel Corporate Travel
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AGO Complaint #	Complainant	# of Faxes	Fax Date	Phone # on Fax	Description of Fax
126260	Harvey Reis	3	08/02/00 08/02/00 08/02/00	No ID on header No ID on header No ID on header	Corporate Travel Sheryl Stein Corp. Travel Ashlea Bollinger Corp. Travel
126818	AGO/Public Counsel	1	08/02/00	No ID on header	#1 Vacation Choice – Orlando, FL
126827	King County Regional Justice Center	1	07/18/00	Unreadable	Bahamas Inventory Blow Out
132865	AGO Fiscal Purchasing	1	09/21/00	No ID on header	Corporate Travel
90-99-14872	Linda McCune	1	08/06/99	800-992-5329 800-965-5329	Your Permission Please...
90-99-15242	Teresa Michelssen	3	08/06/99 06/09/99 09/30/99	800-992-5329 800-965-5329 800-992-5329 800-992-5329 800-965-5329	Your Permission Please... Ashlea Bollinger Corp. Travel Your Permission Please...
90-99-15196	L.C. Miller	1	08/09/99	800-992-5329 800-965-5329	Your Permission Please...
70 complaints		244			

14. Separate from the acts of illegal junk faxing, Fax Broadcast Systems, Broadcast Marketing Group, FaxID, and Fax.com engaged in a series of acts which culminated in hundreds of illegal telephone calls being made to hospital patient rooms and other emergency medical telephone numbers at the University of Washington Medical Center (“UWMC”) on April 28-29, 2000 and May 3, 2000. Fax.com and FaxID are liable for these acts.

15. How this occurred begins with Fax Broadcast Systems, which is a division or d/b/a of Broadcast Marketing Group. Fax Broadcast Systems was in the business of building, compiling, and selling databases of fax numbers throughout the United States. Fax Broadcast Systems contracted with a Washington resident, Mike Salvus, to rent a small closet in his apartment in Bothell, Washington. In that closet Fax Broadcasting Systems set up multiple telephone lines, computers, modems, and special software whose purpose was to automatically dial thousands of

1 telephone numbers, determine which were connected to fax machines, and compile a database of
2 those fax numbers. In industry vernacular, the automated dialing equipment is called a “war dialer”
3 and what defendants were doing is called “casting.” Mr. Salvus’ location in Bothell, Washington
4 was advantageous to defendants because it allowed casting throughout the metropolitan Seattle area
5 without defendants, who were physically in California, incurring long-distance charges for the
6 thousands of telephone calls they were making to build their database. The operation, nevertheless,
7 was controlled by defendants from their headquarters in California, and electronic messages,
8 instructions, and digital commands came from California to the computers and modems in
9 Washington. Defendants also downloaded to their main computer in California the accumulated list
10 of fax numbers compiled from the endless calls coming from the rented closet in Bothell.

11 **16.** Mike Salvus’ written contract with Fax Broadcast Systems was signed on April 4,
12 2000. However, the contract notes that by that date the equipment had already been installed.
13 According to Mr. Salvus, his arrangement with Fax Broadcast Systems dated back to approximately
14 February, 1999.

15 **17.** On April 5, 2000, Fax.com took over part or all of the operations of Fax
16 Broadcasting Systems. In particular, beginning then Fax.com managed and controlled the operation
17 in Mike Salvus’ apartment.

18 **18.** On April 28, 2000, beginning at approximately 10 p.m., Fax.com’s war dialing
19 equipment began casting on four different telephone lines to the UWMC telephone exchange.

20 **19.** Because the UWMC is so large and has so many telephones, a complete exchange of
21 10,000 telephone numbers, the “598” exchange, is assigned to it. Fax.com’s equipment appeared to
22 be trying to dial all of the numbers in the exchange. These calls continued until April 29, 2000 at
23 1:13 a.m. By that time, the telephone company had been able to successfully trace the automated
24 calls. They were coming from Fax.com’s telephone lines and equipment in Mr. Salvus’ closet.

25 **20.** At 1:30 a.m. on August 29, 2000, a deputy sheriff from the Snohomish County
26 Sheriff’s Department visited Mr. Salvus. Mr. Salvus assured him the equipment would be cut off

1 **26.** Defendants' conduct also violated the CPA. RCW 19.86.020 makes it illegal to use
2 misleading and deceptive acts or practices in trade or commerce. RCW 80.36.540(5) makes a
3 violation of the WTA a *per se* violation of the CPA. Thus, defendants Fax.com and FaxID's junk
4 faxing is a *per se* violation of the CPA.

5 **27.** Defendants' actions also constitute a civil conspiracy and a nuisance under the
6 common law and statutes of Washington.

7 8 **VI. Reservation of Rights**

9 **28.** The State reserves the right to add additional defendants and causes of action as
10 information provided by discovery unfolds. It is entirely likely that other key individuals
11 controlling or directly participating in the illegal business activities of each defendant may be
12 added, as well as other businesses or individuals who participated in or made use of defendants'
13 junk faxing operations.

14 15 **VII. Remedies**

16 **29.** The TCPA authorizes the Attorney General of Washington to sue defendants in
17 federal court. Remedies available under the TCPA are injunctions, damages of \$500 for each
18 violation, and triple damages for knowing or willful violations.

19 **30.** The WTA authorizes recovery of actual damages or \$500 per violation, whichever is
20 greater. It also authorizes any remedy available under the CPA.

21 **31.** The CPA authorizes injunctions, actual damages, triple damages, civil penalties of -
22 up to \$2,000 per violation, and recovery of costs and reasonable attorney's fees.

23 **32.** Remedies available for civil conspiracy include damages and equitable relief.

24 25 **VIII. Prayer for Relief**

26 **33.** Plaintiff State seeks against defendants:

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- a. an injunction prohibiting them from sending unsolicited commercial faxes;
- b. an injunction prohibiting them from using automated dialing equipment to connect with any telephone line at a hospital, medical care facility, or emergency telephone line;
- c. an injunction prohibiting them from sending faxes to governmental entities;
- d. damages of \$500 for each instance of unsolicited junk faxing, which is now 217 faxes and counting;
- e. damages of \$500 for each instance in which an illegal call was made to the UWMC, which number is approximately 1200 illegal calls;
- f. triple damages for each knowing or willful act in violation of the statutes;
- g. civil penalties of \$2,000 for each violation of the CPA;
- h. costs and reasonable attorney's fees;
- i. joint and several liability with regard to the monetary awards; and
- j. such other equitable relief as the court thinks is proper.

DATED this _____ day of _____, 2001.

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