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LOS ANGELES COUNTY SUPERIOR COURT, STATE OF CALIFORNIA

(Unlimited Civil)

KEVIN BLANCHARD, WILLIAM) Case No. BC284166

COOPER, JOHN LUND, MICHAEL)

SPENCER, AND EARL J. MALLET)

on behalf of themselves and all similarly)

situated persons,)

)

)

Plaintiffs,)

)

v.) CLASS ACTION

)

DIRECTV, INC., HUGHES) **COMPLAINT FOR**

ELECTRONICS CORPORATION,) **1. UNFAIR COMPETITION** (Business &

GENERAL MOTORS CORPORATION,) Professions Code § 17200 et. seq.)

YARMUTH WILSDON CALFO PLLC,) **2. INTERFERENCE WITH CIVIL RIGHTS**

SPENCER D. FREEMAN, DEBORAH) (Civil Code § 52.1)

T. BOYLSTON, JOHN M.) **3. EXTORTION AND DURESS**

STELLWAGEN, GURJIT PANDHER,)

GREGORY Q. ZAMUDIO, DIRECTV)

END USER DEVELOPMENT)

ORGANIZATION, BERT EICHHORN)

DAVID BAUTISTA, SECURE SIGNALS)

INTERNATIONAL, MCGINNIS GROUP)

INTERNATIONAL, LLC, STANLEY F.)

MCGINNIS, and DOES 1 through 100)

1 inclusive,)
2 Defendants.)

3 Plaintiffs allege as follows:

4 **PARTIES**

- 5
- 6 1. Plaintiffs BLANCHARD, COOPER, LUND, SPENCER, and MALLET, individuals, bring
- 7 this action on behalf of themselves, as private attorneys general pursuant to Business and
- 8 Professions Code section 17204 and Business and Professions Code section 17535 on behalf
- 9 of the general public and specifically on behalf of recipients of demand letters from
- 10 defendants, and on behalf of other persons similarly situated pursuant to Code of Civil
- 11 Procedure section 382.
- 12
- 13 2. Plaintiffs are now, and at all times mentioned in this Complaint were, competent adults, and
- 14 residents of the State of California.
- 15
- 16 3. Defendants DIRECTV, INC. (hereinafter DIRECTV), and HUGHES ELECTRONICS
- 17 CORPORATION, are now, and at all times mentioned in this Complaint were, corporations
- 18 whose principal place of business is the County of Los Angeles, State of California. One or
- 19 more of the transactions that are the subject of this lawsuit occurred in the County of Los
- 20 Angeles.
- 21
- 22 4. Defendant GENERAL MOTORS CORPORATION is a corporation whose principal place of
- 23 business is the State of Michigan.
- 24
- 25 5. Defendant YARMUTH WILSDON CALFO PLLC is a business of unknown form whose
- 26 principal place of business is the State of Washington.
- 27

1 6. Defendants BERT EICHHORN and DAVID BAUTISTA, individuals, are now, and at all
2 times mentioned in the Complaint were, competent adults and residents of the County of Los
3 Angeles, State of California.

4 7. Defendants SPENCER D. FREEMAN, DEBORAH T. BOYLSTON, JOHN M.
5 STELLWAGEN, GURJIT PANDHER, and GREGORY Q. ZAMUDIO, individuals, are
6 now, and at all times mentioned in the Complaint were, competent adults and residents of the
7 State of Washington.
8

9 8. Defendant DIRECTV END USER DEVELOPMENT ORGANIZATION is a business entity
10 of unknown form whose principal place of business is the County of Los Angeles, State of
11 California.
12

13 9. Defendant SECURE SIGNALS INTERNATIONAL, and MCGINNIS GROUP
14 INTERNATIONAL, LLC, are business entities of unknown form whose principle place of
15 business is unknown.

16 10. Defendant STANLEY F. MCGINNIS, an individual, is now, and at all times mentioned in
17 the Complaint was, a competent adult and a resident of a State unknown.

18 11. Plaintiffs do not know the true names or capacities of the defendants sued herein as DOES 1
19 through 100 inclusive, and therefore sue these defendants by such fictitious names. Plaintiffs
20 will amend this complaint to allege their true names and capacities when ascertained.
21 Plaintiffs are informed and believe, and thereon allege, that each of these fictitiously named
22 defendants is responsible in some manner for the occurrences herein alleged, and that
23 plaintiff's damages as herein alleged were proximately caused by those defendants. Each
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1 reference in this complaint to "defendant" or "defendants" or to a specifically named
2 defendant refers also to all defendants sued under fictitious names.

3 12. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned
4 each of the defendants, including all defendants sued under fictitious names, and each of the
5 persons who are not parties to this action but are identified by name or otherwise throughout
6 this complaint, was the alter ego of each of the remaining defendants and was the agent and
7 employee of each of the remaining defendants and in doing the things herein alleged was
8 acting within the course and scope of this agency and employment.
9

10 **CLASS ALLEGATIONS**

11 13. Plaintiffs are members of one or both of two classes of persons, the members of which are
12 similarly situated to each other member of that class. The classes of persons are defined as
13 follows:
14

15 **NONPAYERS SUBCLASS**

16 Persons residing anywhere in the United States who received one
17 or more DEMAND LETTERS sent by defendants of the format
and content described below.

18 **PAYERS SUBCLASS**

19 Persons residing anywhere in the United States who received one
20 or more DEMAND LETTERS sent by defendants of the format
and content described below and who consequently paid a sum of
money or forfeited valuable property to defendants.

21 Members of the Payers Subclass are entitled to relief on all causes
22 of action pled in this Complaint. Members of the Nonpayers
23 Subclass are entitled to relief on the first and second causes of
action.

24 14. The classes plaintiffs represent includes tens of thousands of persons who received the
25 DEMAND LETTERS, many thousands of whom also paid money or forfeited property.
26

1 Both classes are so numerous that it is impracticable to bring all members of the classes
2 before the court. The identity of the members of each class is easily ascertainable from
3 defendants' own records.

4 15. The plaintiffs' and class members' claims against defendants involve questions of law or
5 fact common to the classes that are substantially similar and predominate over questions
6 affecting individual class members, in that all class members received similar Demand
7 Letters issued pursuant to a common plan or scheme of defendants to extort money, and to
8 defraud and intimidate plaintiffs and class members from possessing lawful property, and
9 that each member of the Payers Subclass paid a sum of money or forfeited valuable property
10 as a result of the extortion.
11

12 16. The claims of plaintiffs are typical of the claims of the members of their respective classes.
13

14 17. Plaintiffs can fairly and adequately represent the interests of the class.

15 **FIRST CAUSE OF ACTION FOR UNFAIR COMPETITION BY ALL PLAINTIFFS**
16 **(BROUGHT AS CLASS ACTION AND INDIVIDUAL ACTION) AGAINST ALL**
17 **DEFENDANTS**

18 18. Plaintiffs incorporate in this cause of action the allegations contained in paragraphs 1
19 through 17, inclusive.

20 19. Commencing prior to June 1, 2001, but continuing on that date and continuing thereafter,
21 defendants have engaged in, are engaged in, and propose to engage in unfair competition as
22 that term is defined in Business and Professions Code section 17200, which includes any
23 "unlawful, unfair or fraudulent business act or practice," "unfair, deceptive, untrue or
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1 misleading advertising,” and any act prohibited by Chapter 1 (commencing with section
2 17500) of Part 3 of Division 7 of the Business and Professions Code.

3 20. DIRECTV is one of five main units of Hughes Electronics Corporation, which in turn is a
4 wholly owned subsidiary of General Motors Corporation. Revenue and profits of all kinds
5 earned by DIRECTV, including revenue from the unlawful conduct described below, flow to
6 Hughes Electronics Corporation and General Motors Corporation.

7
8 21. DIRECTV is the nation’s leading direct broadcast satellite system, delivering over 225
9 channels of television and other programming to more than 10 million homes and businesses
10 in the United States.

11 22. DIRECTV encrypts—electronically scrambles—its satellite transmissions to prevent
12 unauthorized viewing of its satellite television programming. DIRECTV offers its television
13 programming to residential customers on a subscription and pay-per-view basis only. Each
14 customer is required to obtain a DIRECTV access card and other system hardware including
15 a small satellite dish and to create an account with DIRECTV. Upon activation of the access
16 card by DIRECTV, the customer can receive and view in decrypted (unscrambled) format
17 those channels to which the customer has subscribed or otherwise made arrangement to
18 purchase from DIRECTV.

19
20 23. In the past several years, defendant DIRECTV came into possession of various business
21 records of companies which DIRECTV suspected had been involved in selling lawful,
22 noncontraband, electronic devices and hardware that could, under certain circumstances and
23 conditions, be used by a person with sufficient expertise to receive unauthorized satellite
24 transmissions. DIRECTV calls persons who use such devices and hardware to receive
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1 unauthorized satellite transmissions “pirates.” These records contained names and addresses
2 of persons who were listed as the recipients of these devices and hardware. These
3 individuals are consumers or “end-users” as defendants would call them.

4 24. Rather than investigating whether the persons identified in the business records had 1)
5 actually received the hardware and 2) used it in some illegal or improper fashion as a
6 “pirate,” DIRECTV, HUGHES ELECTRONICS CORPORATION and GENERAL
7 MOTORS CORPORATION, originated, developed and implemented a policy, practice and
8 scheme by which their agents, law firms and collection agencies, would send a series of form
9 “Demand Letters” to all persons whose names had been found in the business records. The
10 Demand Letters were drafted in-house by DIRECTV and modified only slightly by the
11 agents who sent the Letters.
12

13 25. The purpose of this scheme was to intimidate and coerce said persons into forfeiting said
14 equipment and to extort a sum of money payable to DIRECTV and its agents. The further
15 goal of this scheme was to deter any person from purchasing similar equipment in the future,
16 regardless of their intentions and use for such hardware. DIRECTV expressly stated its goal
17 was to send out at least 100,000 Demand Letters.
18

19 26. In order to meet this goal, DIRECTV determined that it was not feasible to actually
20 investigate the merits of the piracy allegations against individuals prior to sending the
21 Demand Letters to them. Accordingly, DIRECTV did not attempt to contact these persons to
22 inquire as to the purpose for their suspected purchase and did not attempt to determine if the
23 person currently had or ever had a DIRECTV satellite system. Moreover, as will be seen
24 below, in the threatening Demand Letters, DIRECTV did not request an explanation or
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1 express an interest in receiving an explanation from the consumer as to the reasons for his or
2 her possession of the devices or hardware.

3 27. In order to implement this scheme, DIRECTV utilized the services of several collection
4 agencies and law firms to act as its agents in sending the Demand Letters and handling
5 communications with the recipients. These agents include defendants Yarmuth Wilsdon
6 Calfo Pllc, individual attorneys in that firm, Bert Eichhorn and David Bautista of the
7 DIRECTV End User Development Organization, Stanley F. McGinnis of Secure Signals
8 International and McGinnis Group International, LLC, and other persons and entities
9 currently identified only as Doe Defendants.
10

11 28. Since defendants implemented this strategy in mid-2001, defendants have sent out an
12 estimated 50,000 to 100,000 form Demand Letters.
13

14 29. The form Demand Letters typically were and are of two variants. The first variant, or Initial
15 Demand Letter, typically contained and still contains the following common elements:

- 16 a) An introduction confirming that the sender was acting as the agent of Directv, Inc.
17 b) Repeated accusations that the recipient has committed “illegal” and “unlawful” activities and
18 “theft,” backed up with several references to federal laws, which make it illegal to engage in
19 certain conduct attributed to the recipient. The implication of the Letters is that the recipient
20 could face civil and criminal prosecution as a result of this conduct. However, at the time
21 defendants sent the letters, defendants possessed no business records or other evidence
22 indicating that the recipient had viewed unauthorized DIRECTV satellite programming and
23 was committing theft or had attempted to commit theft.
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1 c) A purported factual assertion that the sender possessed business records that established the
2 recipient had purchased or acquired illegal signal theft equipment. However, the Letters do
3 not specifically describe or identify what equipment the recipient possesses which is
4 supposedly illegal signal theft equipment. In fact, none of the actual pieces of equipment,
5 which are the subject of these Demand Letters, are contraband or illegal items. At most, they
6 are pieces of hardware that have many innocent uses, but which under certain circumstances
7 and if certain other conditions are met, could (in knowledgeable hands) be used to receive
8 unauthorized satellite transmissions. Moreover, the business records are comprised of
9 mailing lists and shipping records seized under hostile and unreliable conditions from third
10 parties which, at the time defendants sent the letters, had not been corroborated or
11 authenticated in any way.
12

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14 d) A purported factual assertion that the recipient had purchased or acquired the signal theft
15 equipment to gain unauthorized access to DIRECTV's programming. However, the Letters
16 do not specify whether the recipient is or was a DIRECTV subscriber. In fact, the Letters
17 were sent to many recipients who never owned a DIRECTV system and, therefore, could not
18 possibly have received unauthorized transmissions even with the "signal theft equipment"
19 DIRECTV accused them of purchasing. The items in question would have been as useless to
20 a recipient who lacked a satellite dish as a shoe to a man without a matching foot.
21

22 e) A purported factual assertion that the recipient had modified devices to illegally gain access
23 to DIRECTV's programming. However, at the time defendants sent the letters, they did not
24 actually know whether the recipients had modified the devices or not as they had never seen
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1 the devices in question and knew nothing about the capabilities of the recipients to make
2 such modifications.

3 f) A list of demands which either must be met in timely fashion, or a lawsuit would be filed
4 against the recipient within 14 days or some other specified short period of time. The Letters
5 flatly state that after this period of time, DIRECTV will “initiate legal proceedings in the
6 federal district court” and “abandon its attempts to negotiate.” The list of demands includes
7 payment of an unspecified sum of money, forfeiture of property and a promise never to
8 acquire similar property in the future.
9

10 g) The threat that if the recipient does not settle, DIRECTV will seek and be entitled to recover
11 monetary damages of \$100,000 or more from the recipient, and implication that the recipient
12 could be criminally prosecuted since the statutes cited are criminal laws.
13

14 1. Each of the plaintiffs received at least one Demand Letter that contained the foregoing
15 elements. For example, on or about September 25, 2002 plaintiff Kevin Blanchard received
16 a Demand Letter signed by B. Eichhorn of the DIRECTV End User Development
17 Organization. On September 11, 2002, plaintiff William Cooper received a Demand Letter
18 signed by Gregory Q. Zamudio of Yarmuth Wilsdon Calfo PLLC. On August 12, 2002,
19 plaintiff John Lund received a Demand Letter signed by Stanley F. McGinnis of Secure
20 Signals International. On October 1, 2002, plaintiff William Spencer received a Demand
21 Letter signed by B. Eichhorn of the DIRECTV End User Development Organization. On
22 October 11, 2002, plaintiff Earl J. Mallet received a Demand Letter signed by Spencer D.
23 Freeman of Yarmuth Wilsdon Calfo PLLC,
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2. Other members of the classes have received at least one Demand Letter from each of the named defendants (except Hughes Electronics and General Motors).
3. Many of the statements contained in these Demand Letters are false, misleading or deceptive for numerous reasons, including those set forth above. Moreover, in making the claims set forth in the Demand Letters, defendants had knowledge of the falsity of the claims and made them with a reckless and conscious disregard for the truth.
4. The second variant, or Secondary Demand Letter, was sent several weeks to several months after the Initial Demand Letter, and typically reiterated the accusations that the recipient had purchased illegal signal theft equipment, and flatly stated that unless the recipient contacted the sender within ten days a lawsuit would be filed based upon a draft complaint that was sent to the recipient. Three of the plaintiffs have received Secondary Demand Letters as well.
5. This Secondary Demand Letter contains the same type of false, misleading or deceptive statements as are present in the Initial Demand Letter, plus the false implication that a lawsuit would be filed immediately after ten days.
6. At the time each of these Demand Letters was issued to the plaintiffs and at the time similar Letters were issued to the class members, the defendants did not have a serious and good faith intent to pursue imminent litigation against the recipients for two reasons. First, in the vast majority of cases, defendants did not actually have documentary evidence that the plaintiffs and class members were in possession of illegal signal theft equipment; instead, the Letters were merely a tactical ploy to induce a settlement. Defendants gambled, correctly as it turned out, that a substantial percentage of the recipients, as unsophisticated consumers,

1 would submit to the defendants' demands due to confusion over the intimidating allegations
2 and factual misrepresentations contained in the Letters, as well as financial inability to
3 defend themselves against the draconian penalties threatened by defendants. Secondly, due
4 to the sheer number of Demand Letters issued, defendants could not possibly hope to file
5 lawsuits in the near future against more than a miniscule percentage of the recipients and
6 certainly could not sue every recipient in the event a settlement was not forthcoming. As it
7 turns out, defendants have only sued a small percentage of the recipients who failed to settle
8 and have settled with a substantial percentage of the recipients. Suing a small fraction of the
9 thousands of persons who were sent the Letters does not constitute a serious and good faith
10 intent to pursue imminent litigation.
11

12 7. The conduct of defendants as set forth above with respect to members of the general public
13 and specifically recipients of the Demand Letters was an "unlawful" business act or practice
14 within the meaning of section 17200 because in sending the Letters defendants violated
15 California Penal Code sections 518, 519, 520 and 523 and 524 (extortion and attempted
16 extortion) and comparable federal statutes relating to extortion—18 USC sections 875, 876
17 and 1951—and mail and wire fraud, 18 USC sections 1341 and 1343.
18

19 8. The conduct of defendants as set forth above with respect to members of the general public
20 and specifically recipients of the Demand Letters was a "fraudulent" business act or practice
21 and deceptive or misleading advertisement within the meaning of section 17200 because the
22 Demand Letters contained statements which were capable of deceiving or had a tendency to
23 deceive the recipients.
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1 9. The conduct of defendants as set forth above with respect to members of the general public
2 and specifically recipients of the Demand Letters was an “unfair” business act or practice
3 within the meaning of section 17200. The fairness of business conduct is determined by
4 weighing the practice’s impact on consumers and members of the general public against the
5 business justification for the conduct. Here, defendants’ legitimate concerns about piracy of
6 satellite transmissions does not come close to justifying their carpet-bombing, collateral-
7 damage-ignoring, heavy-handed campaign of intimidation and extortion, accusing thousands
8 of innocent persons on the possibility a few guilty persons may be uncovered. Using
9 defendants’ logic, the record companies should send a similar demand letter to every person
10 in the United States who owns a CD-Burner and one or more commercial CD’s because that
11 person has the necessary equipment to make unauthorized copies of commercial music.
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13
14 10. In engaging in conduct that constitutes unfair competition, each defendant has acquired
15 money or property from members of the general public. Specifically, defendants have
16 acquired the money paid by recipients of the Demand Letters and the value of property
17 forfeited by those persons.

18 11. Pursuant to Business and Professions Code section 17203 and section 17204, plaintiffs are
19 empowered to act as a Private Attorney General to enjoin such conduct in the future and to
20 compel each defendant to identify, locate and restore to the affected persons any money or
21 property that it may have acquired as a result of any act which constitutes unfair competition
22 or to obtain disgorgement of any profits which defendants may have obtained as a result of
23 this conduct. Specifically, defendants should restore to all recipients the money paid and
24 property taken.
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12. It is impossible for plaintiffs to determine the exact amount of money due to the plaintiffs and class members without a detailed review of defendants' financial books and records. Accordingly, plaintiff seeks, among other things, an accounting and/or the appointment of a receiver.

13. The aforementioned business practices of defendants are likely to continue and therefore will continue to violate the law and deceive the public unless this court enjoins them.

SECOND CAUSE OF ACTION FOR INTERFERENCE WITH EXERCISE OF CIVIL RIGHTS BY ALL PLAINTIFFS (BROUGHT AS CLASS ACTION AND INDIVIDUAL ACTION) AGAINST ALL DEFENDANTS

1. Plaintiffs incorporate in this cause of action the allegations contained in paragraphs 1 through 42, inclusive.
2. In violation of Civil Code section 52.1, defendants by means of threats, intimidation and coercion, interfered or attempted to interfere with the exercise and enjoyment by plaintiffs and class members of their constitutional and statutory rights, including their rights under Civil Code section 43 to be free from personal insult, from defamation, and from injury to their personal relations; and their rights under California Penal Code sections 518, 519, 520, 523 and 524 and federal statutes 18 U.S.C. sections 876 and 1951 to be free from extortion or attempted extortion.
3. As a result of the aforementioned conduct, policies, practices and customs of defendants, plaintiffs and class members suffered violations of their aforementioned rights, privileges and immunities, for which plaintiffs and class members are entitled to compensation in an amount to be shown according to proof.

- 1 4. In addition, as a result of the aforementioned conduct, policies, practices and customs of
2 defendants, each plaintiff and each class member is entitled to statutory damages pursuant to
3 Civil Code section 52 of \$4,000 to \$25,000 per violation.
- 4 5. The aforementioned conduct, policies, practices and customs of defendants were undertaken,
5 aided, authorized, supervised or consented to by each defendant with malice, with a willful
6 and wanton desire and design to violate, and with deliberate indifference to and reckless
7 disregard of, the aforementioned rights of plaintiffs and class members. Such conduct,
8 policies, practices and customs constituted malice, oppression or fraud, and thereby entitle
9 plaintiffs and class members to an award of punitive or exemplary damages in an amount
10 according to proof.
- 11 6. The aforementioned business practices of defendants are likely to continue and therefore will
12 continue to violate the law and interfere with the civil rights of the public unless this court
13 enjoins them. Plaintiffs and class members have no adequate remedy at law because
14 monetary damages, which may compensate for past interference with plaintiffs' and class
15 members' civil rights, will not afford adequate relief for the fear, humiliation, and risk of
16 injury that a continuation of defendants' conduct in denial of plaintiff's rights will cause.

17 **THIRD CAUSE OF ACTION FOR EXTORTION AND DURESS BY PLAINTIFF EARL**

18 **J. MALLET (BROUGHT ON BEHALF OF THE PAYER CLASS AND AS AN**

19 **INDIVIDUAL ACTION) AGAINST ALL DEFENDANTS)**

- 20 7. Plaintiffs incorporate in this cause of action the allegations contained in paragraphs 1 through
21 48, inclusive.

- 1 8. As alleged above, on or about October 11, 2002, Plaintiff Earl J. Mallet received a Demand
2 Letter from Spencer D. Freeman of Yarmuth Wilsdon Calfo, which was made by defendants
3 with knowledge of the falsity of the claims therein, as set forth above.
- 4 9. Mr. Mallet was terrified at the threats made in the Letter. He called the law firm and spoke
5 to Gregory Q. Zamudio, who told him that unless he paid \$3,500, he would face severe
6 consequences as set forth in the Letter. Mr. Mallet explained that he had not received or
7 viewed any unauthorized DIRECTV satellite programming and never attempted to do so. He
8 was confused over what records they could possibly possess that showed otherwise. Mr.
9 Zamudio made it clear that he did not care what Mr. Mallet had to say in his defense and that
10 his choice was to pay or face the consequence.
- 11 10. As a proximate result of defendants' extortionate threats, Mr. Mallet agreed to pay and has
12 paid the sum of \$3,500 to DIRECTV, and is entitled to damages in that sum. In addition, as
13 a proximate result of similar extortionate threats by defendants, thousands of persons,
14 members of the Payers Class, paid sums of money, estimated to be in the millions of dollars,
15 and are entitled to damages in that sum.
- 16 11. The aforementioned conduct, policies, practices and customs of defendants were undertaken,
17 aided, authorized, supervised or consented to by each defendant with malice, with a willful
18 and wanton desire and design to violate, and with deliberate indifference to and reckless
19 disregard of, the aforementioned rights of plaintiffs. Such conduct, policies, practices and
20 customs constituted malice, oppression or fraud, and thereby entitle plaintiff Mallet and
21 members of the Payers Class to an award of punitive or exemplary damages in an amount
22 according to proof.
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1 **REQUEST FOR JURY TRIAL**

2 Plaintiffs requests trial by jury.

3 **PRAAYER FOR RELIEF**

4 WHEREFORE, plaintiffs pray for judgment on all causes of action against defendants as
5 follows:
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- 7 1. For an order certifying this action as a class action;
- 8 2. For a declaration of the rights and liabilities of the parties;
- 9 3. For preliminary and permanent injunctive relief pursuant to Business and Professions Code
10 section 17203 restraining and enjoining defendants from continuing the acts of unfair and
11 unlawful competition and deceptive practices set forth above, requiring defendants to take
12 any acts needed to prevent further violations and requiring defendants to take the affirmative
13 measures to correct the misperceptions caused by their prior conduct;
- 14 4. For preliminary and permanent injunctive relief pursuant to Civil Code section 52 and 52.1
15 restraining and enjoining defendants from continuing the acts of interference with civil rights
16 set forth above, requiring defendants to take any acts needed to prevent further violations and
17 requiring defendants to take the affirmative measures to remedy the harm caused by their
18 prior conduct;
- 19 5. For an order requiring defendants to provide an accounting of all moneys which they may
20 have received and all profits which it may have acquired as a result of the acts and practices
21 found to constitute unfair competition under Business and Professions Code section 17200;
- 22 6. For an order that defendants identify, locate and make restitution to affected members of the
23 general public, and specifically recipients of the Demand Letters, all funds and the value of
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- 1 all things or property acquired by the acts of unfair competition and deceptive practices set
2 forth above, and all additional orders necessary to accomplish this purpose, pursuant to
3 Business and Professions Code section 17203;
- 4 7. For distribution of any moneys recovered on behalf of the general public, or members of the
5 class, via fluid recovery or cy pres recovery where necessary to prevent defendants from
6 retaining the benefits of their wrongful conduct as provided in California v. Levi Strauss &
7 Co. (1986) 41 Cal.3d 460 and People v. Thomas Shelton Powers, M.D. Inc. (1992) 2
8 Cal.App.4th 330.
- 9 8. For general damages on the second and third causes of action according to proof;
- 10 9. For statutory damages on the second cause of action in the amount of \$4,000 per plaintiff or
11 class member pursuant to Civil Code section 52 (a);
- 12 10. For statutory damages on the second cause of action in the amount of \$25,000 per plaintiff or
13 class member pursuant to Civil Code section 52 (b);
- 14 11. For punitive damages on the second and third causes of action in an amount appropriate to
15 punish defendants for their wrongful conduct and set an example for others;
- 16 12. For interest on the sum of damages on the second and third causes of action as allowed by
17 law;
- 18 13. For reasonable attorney's fees pursuant to pursuant to Civil Code sections 52 and 52.1,
19 pursuant to the Private Attorney General doctrine as codified in Code of Civil Procedure
20 section 1021.5, pursuant to the “common fund” doctrine, and pursuant to the “substantial
21 benefit” doctrine;
- 22 14. For costs of suit incurred herein; and
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1 15. For such other and further relief as the court may deem proper.

2 DATED: October 28, 2002

3 Respectfully submitted,

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6 By _____

7 JEFFREY WILENS
8 Attorney for Plaintiffs

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