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10 d/b/a Merchant Referral Solutions

COPY

OCT 30 2009



MICHAEL K. JEANES, CLERK
A. ASHER
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11 **SUPERIOR COURT OF ARIZONA**

12 **MARICOPA COUNTY**

13 **MAXIMUM BUSINESS CONCEPTS,**
14 **L.L.C., d/b/a MERCHANT REFERRAL**
15 **SOLUTIONS,**

16 Plaintiff,

17 v.

18 **WAYNE MALLETTE and LISA**
19 **MALLETTE, husband and wife,**

20 Defendants.

Case No. **CV2009-034585**

COMPLAINT

(Tort—Non Motor Vehicle)

21 For its complaint, Plaintiff Maximum Business Concepts, L.L.C., d/b/a Merchant
22 Referral Solutions, alleges:

23 1. Plaintiff Maximum Business Concepts, L.L.C., is an Arizona limited
24 liability company with its primary place of business in Maricopa County, Arizona.
25 Maximum Business Concepts, L.L.C. does business as Merchant Referral Solutions,
26 which is a trade name registered with the Arizona Secretary of State (hereinafter, "MRS"
27 or "Plaintiff").

28 2. Defendants Wayne Mallette and Lisa Mallette (hereinafter, collectively,
"Defendants") are, on information and belief, husband and wife. Defendants caused

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1 events to occur or caused harm to occur in Maricopa County, Arizona, out of which this
2 action arises.

3 3. Defendants authored and posted statements about MRS on the internet out
4 of which this action arises.

5 4. All material transactions, occurrences and events relevant to this action
6 occurred or originated in Maricopa County, Arizona. Venue is proper in this Court
7 pursuant to A.R.S. §12-401.

8 **GENERAL ALLEGATIONS**

9 5. MRS does business under an Affiliate Marketing Partner Program. Affiliate
10 Marketing Partners are individuals or companies that have the opportunity to earn income
11 by referring business to MRS.

12 **COUNT ONE**

13 **(Defamation)**

14 6. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth
15 herein by this reference.

16 7. As set forth above, Defendants published statements regarding MRS on the
17 internet.

18 8. Defendants' internet publications contain false and defamatory statements of
19 fact of and concerning the Plaintiff that were written and published by the Defendants.
20 These statements include, but are not limited to:

21 A. "...I am in the process of reporting these thieves to every possible
22 fraud reporting resource I can find, because I want them SHUT DOWN
23 before they have a chance to rip off anyone else.

24 B. "...old scammers with a new face..."

25 C. "...they are operating outside the law..."

26 D. "My new part-time job is to do everything in my power to reduce the
27 size of your potential victim pool."

28 E. "My husband got scammed by these people..."

- 1 F. "...just an old scammer..."
- 2 G. "They ripped us off..."
- 3 H. "...steal our money."
- 4 I. "My goal is that no one else gets ripped off by these people."
- 5 J. "...scam artists..."
- 6 K. "...due to the web of lies they use..."
- 7 L. "They are a bunch of scammers and thieves."
- 8 M. "They are just getting started with their thievery and scamming."

9 9. Each of the Defendants published statements that are factually false and, to
10 the extent any of Defendants' statements appear to convey an opinion, they are actionable
11 because they imply the existence of additional undisclosed facts that are false.

12 10. Defendants' statements are false and defamatory because they bring Plaintiff
13 into disrepute, contempt or ridicule.

14 11. Defendants are liable not only for what was said, but also for what was
15 insinuated.

16 12. The statements are of and concerning Plaintiff.

17 13. Defendants made each and every defamatory statement knowing that said
18 statements were false.

19 14. Defendants made each and every defamatory statement knowing that MRS
20 was headquartered in Maricopa County and directed their statements towards Maricopa
21 County, intending to cause harm in Maricopa County.

22 15. In the alternative, Defendants acted in reckless disregard of the truth in
23 making each of the defamatory statements; in the alternative, Defendants were negligent
24 in failing to ascertain the truth of the defamatory statements before making them.

25 16. Each and all of the statements referenced herein, separately or in
26 conjunction with one another, were published by the Defendants by reason of evil motives
27 and/or malice towards Plaintiff and were and are intended and designed to and did injure
28 and defame and continue to injure and defame Plaintiff.

1 17. Defendants' statements, singularly or in combination, have exposed and
2 continue to expose Plaintiff to public contempt. The statements have impeached and
3 continue to impeach the honesty and integrity of Plaintiff, have damaged Plaintiff's
4 reputation, and have subjected him to ridicule in the eyes of friends, acquaintances,
5 business associates, and the general public.

6 18. By reason of the evil motives and malice of the Defendants, MRS prays for
7 punitive damages.

8 **COUNT TWO**

9 **(Interference with Contractual Relations)**

10 19. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth
11 herein by this reference.

12 20. MRS had prospective and actual contracts with clients.

13 21. Defendants, and each of them, knew about the existence of these contracts.

14 22. Defendants intentionally interfered with MRS's contractual relationships,
15 which caused breaches or terminations of contracts between MRS and its clients.

16 23. The Defendants' conduct was improper.

17 24. As a direct and proximate result of the Defendants' conduct and the
18 breaches and terminations of contracts caused thereby, MRS has suffered damages in an
19 amount to be proven at trial.

20 25. By reason of the evil motives and malice of the Defendants, MRS prays for
21 punitive damages.

22 **COUNT THREE**

23 **(Aiding and Abetting)**

24 26. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth
25 herein by this reference.

26 27. As set forth above, the Defendants and others who have defamed Plaintiff
27 on the internet, engaged in conduct for which they are liable to MRS.
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28. The Defendants were aware that the other Defendants and anonymous internet posters were going to engage in such conduct.

29. The Defendants provided substantial assistance and encouragement to each other and to others to engage in the type of conduct complained of herein with the intent of promoting such conduct.

30. As a direct and proximate result of the Defendants providing substantial assistance and encouragement to each other and to others to engage in the type of conduct complained of herein, MRS has suffered damages in an amount to be proven at trial.

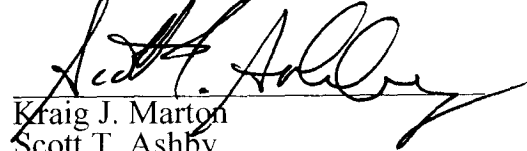
31. By reason of the evil motives and malice of the Defendants, MRS prays for punitive damages.

WHEREFORE, Plaintiff MRS asks that this Court enter judgment against the Defendants, jointly and severally, as follows:

- A. For compensatory damages in an amount according to proof at trial;
- B. For punitive damages in an amount according to proof at trial;
- C. For costs of suit incurred herein;
- D. For injunctive relief requiring the Defendants to remove their defamatory statements from the internet; and
- E. For such other and further relief as the Court deems just and proper.

DATED this 30th day of October, 2009.

JABURG & WILK, P.C.


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