

1 Paul K. Charlton (Bar No. 012449)  
2 Linsi M. Weber (Bar No. 025820)  
3 GALLAGHER & KENNEDY, P.A.  
4 2575 East Camelback Road  
5 Phoenix, Arizona 85016-9225  
6 Telephone: (602) 530-8000  
7 Facsimile: (602) 530-8500  
8 Email: paul.charlton@gknet.com  
9 linsi.weber@gknet.com

10 Marcos Jiménez (pro hac vice pending)  
11 Scott Cosgrove (pro hac vice pending)  
12 Ann M. St. Peter-Griffith (pro hac vice pending)  
13 KASOWITZ, BENSON, TORRES & FRIEDMAN LLP  
14 1441 Brickell Avenue, Suite 1420  
15 Miami, Florida 33131  
16 Telephone: (786) 587-1077  
17 Facsimile: (305) 675-7970  
18 Email: MJimenez@kasowitz.com  
19 SCosgrove@kasowitz.com  
20 AStpetergriffith@kasowitz.com

21 *Attorneys for Plaintiff*

22 **UNITED STATES DISTRICT COURT**  
23 **DISTRICT OF ARIZONA**

24 CELLCO PARTNERSHIP d/b/a  
25 VERIZON WIRELESS,

26 Plaintiff,

27 v.

28 JASON HOPE; WAYNE P. DESTEFANO;  
CHRISTA STEPHENS; QUINN  
McCULLOUGH; STEVE UHRMAN;  
JANET O'MEARA; CYLON, LLC a/k/a  
JAWA; EYE LEVEL HOLDINGS, LLC  
a/k/a/ JAWA; NEW ECONOMIC ORDER,  
LLC; SAGUARO MEDIA, LLC; NEW EIN,  
LLC; INK SIGN HOLDINGS, LLC;  
YELLOW BALL HOLDINGS, LLC;  
MESSAGE PLAN, LLC; FYISMS.COM,  
LLC; MYTXTSMS.COM, LLC;  
STANDARD PLAN, LLC; STANDARD  
MESSAGE, LLC; SMS CITY, LLC;  
HOT-HOT-NEWS.COM, LLC;  
CITY-O-GAMES.COM, LLC;  
WORLDTEXTS.COM, LLC;  
TOPICTEXT.COM, LLC; TEXT CHARGE,  
LLC; ALL-GAME-CHEATS.ORG, LLC;  
and NEWS ALERTS, LLC,

Defendants.

Case No.

**COMPLAINT**

**(Jury Demand)**

GALLAGHER & KENNEDY, P.A.  
2575 EAST CAMELBACK ROAD  
PHOENIX, ARIZONA 85016-9225  
(602) 530-8000

1 Plaintiff Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”), files this  
2 Complaint against defendants Jason Hope, Wayne P. DeStefano, Christa Stephens, Quinn  
3 McCullough, Steve Uhrman, Janet O’Meara, Cylon, LLC a/k/a Jawa, Eye Level  
4 Holdings, LLC a/k/a Jawa, New Economic Order, LLC; Saguaro Media, LLC, New EIN,  
5 LLC, Ink Sign Holdings, LLC, Yellow Ball Holdings, LLC, Message Plan, LLC,  
6 FYISMS.COM, LLC, MYTXTSMS.COM, LLC, Standard Plan, LLC, Standard  
7 Message, LLC, SMS City, LLC, City-O-Games, LLC, Hot-Hot-News, LLC,  
8 WorldTxts.Com, LLC, TopicText.Com, LLC, Text Charge, LLC, All-Game-Cheats.Org,  
9 LLC, and News Alerts, LLC (collectively, “defendants”). In support thereof, Verizon  
10 Wireless alleges:

11 **Nature of the Action and Overview of Defendants’ Fraud Scheme**

12 1. Defendants are engaged in a complex scam where they have fraudulently  
13 obtained access to the Verizon Wireless network, in order to market their premium text  
14 messaging services (“PSMS”) to Verizon Wireless customers in contravention of Verizon  
15 Wireless’ requirements for PSMS vendors. Defendants are also using sophisticated  
16 techniques, including cloaking software, to frustrate the efforts of Verizon Wireless and  
17 its auditors to discover these deceptive marketing practices. Verizon Wireless brings this  
18 action to enjoin defendants from any further marketing to Verizon Wireless customers  
19 and to recover damages associated with their unauthorized marketing practices.

20 2. Verizon Wireless offers customers the opportunity to purchase PSMS from  
21 third party vendors such as defendants (“content providers”) and to pay for such services  
22 through their Verizon Wireless bill. PSMS include “ring tones,” “news alerts,” and other  
23 similar content that is delivered, for a fee, to a customer’s wireless handset. PSMS  
24 content is often advertised through webpages maintained by the content providers.  
25 PSMS is delivered to the consumer’s mobile handset through text messages conveyed by  
26 specially-assigned five or six-digit numbers, known as “short codes,” rather than normal  
27 ten-digit phone numbers.

28 3. To ensure that Verizon Wireless customers authorize and are clearly

1 advised of any charges for PSMS before they sign up for such services, Verizon Wireless  
2 requires that content providers follow the Consumer Best Practices Guidelines for Cross  
3 Carrier Mobile Content Services promulgated by the Mobile Marketing Association  
4 (“MMA Best Practices”). These standards include, for example, requirements for the size  
5 and prominence of price disclosures on any webpages offering defendants’ services, so  
6 that any charges for PSMS content are clearly and conspicuously disclosed to the  
7 consumer prior to purchase.

8 4. Verizon Wireless strictly enforces its requirement that content providers  
9 abide by the MMA Best Practices. Prior to allowing delivery of PSMS to its customers,  
10 Verizon Wireless conducts an extensive review of a content provider’s proposed  
11 marketing campaign (“short code campaign”), including any webpages (URLs) used to  
12 subscribe customers. In addition, after approval of the short code campaign, Verizon  
13 Wireless monitors the campaign for continued compliance with the MMA Best Practices.

14 5. Contrary to the MMA Best Practices and in violation of federal and  
15 Arizona law, defendants have conspired to defraud Verizon Wireless and deceptively  
16 market their PSMS to Verizon Wireless customers by, among other activities:

- 17 a. activating dozens of separate short code campaigns with Verizon  
18 Wireless using straw names and false addresses so as to create the  
19 false impression that the campaigns were unrelated to each other and  
20 to defendant Cylon LLC and its principals;
  - 21 b. using deceptive and noncompliant marketing practices, including  
22 unapproved webpages, that are different from the ones that  
23 defendants represented they would use when they sought Verizon  
24 Wireless’ approval to activate the short code campaigns; and
  - 25 c. deploying sophisticated methods to prevent Verizon Wireless and its  
26 auditors from discovering their deceptive and noncompliant  
27 marketing practices.
- 28

1 **The Parties**

2 **Plaintiff**

3 6. Plaintiff Verizon Wireless is a Delaware general partnership with its  
4 principal place of business in Basking Ridge, New Jersey. Verizon Communications Inc.  
5 and Vodafone Group Plc indirectly own all interest in Verizon Wireless. The direct  
6 corporate parents of Verizon Wireless are:

7 a. Bell Atlantic Mobile Systems, Inc., a Delaware corporation with its  
8 principal place of business in New Jersey;

9 b. GTE Wireless Incorporated, a Delaware corporation with its principal  
10 place of business in New Jersey;

11 c. PCS Nucleus, L.P., Denver Place, a Delaware limited partnership  
12 with its principal place of business in Colorado, which is composed of Vodafone  
13 Americas Inc. (formerly AirTouch Communications, Inc.), a Delaware corporation with  
14 its principal place of business in Colorado, and Vodafone Holdings LLC (general  
15 partner), a Delaware limited liability company with its principal place of business in  
16 Colorado (of which Vodafone Americas, Inc. is the sole member); and

17 d. JV Partner Co., LLC is a Delaware limited liability company with its  
18 principal place of business in Colorado whose sole member is Vodafone Americas Inc.

19 **Individual Defendants**

20 7. Defendant Jason Hope (“Hope”) is a resident of Arizona and the chief  
21 executive officer of defendant Cylon, LLC. Hope is the mastermind behind defendants’  
22 fraudulent and deceptive practices, which he has conducted in Arizona.

23 8. Defendant Wayne P. DeStefano (“DeStefano”) is a resident of Arizona.  
24 Along with Hope, DeStefano owns the entities used to perpetrate the fraud described in  
25 this complaint. He works with Hope in Arizona to further the fraud described in this  
26 complaint.

27 9. Defendant Christa Stephens (“Stephens”) is a resident of Arizona. Upon  
28 information and belief, Stephens is employed by Hope and DeStefano (through their

1 entities) and works in concert with them in Arizona to further the fraud described in this  
2 complaint.

3 10. Defendant Quinn McCullough (“McCullough”) is a resident of Arizona.  
4 Upon information and belief, McCullough is employed by Hope and DeStefano (through  
5 their entities) and works in concert with them in Arizona to further the fraud described in  
6 this complaint.

7 11. Defendant Steve Uhrman (“Uhrman”) is a resident of Arizona. Upon  
8 information and belief, Uhrman is employed by Hope and DeStefano (through their  
9 entities) and works in concert with them in Arizona to further the fraud described in this  
10 complaint.

11 12. Defendant Janet O’Meara (“O’Meara”) is a resident of Arizona. Upon  
12 information and belief, O’Meara is employed by Hope and DeStefano (through their  
13 entities) and works in concert with them in Arizona to further the fraud described in this  
14 complaint.

15 **Defendants Controlled by Hope and/or DeStefano**

16 13. Defendant Cylon, LLC (“Cylon”) is a California limited liability company  
17 whose members are citizens of Arizona.

18 14. Defendant Cylon was formed in 2004. Defendant Hope, and The  
19 DeStefano Family Trust (with defendant DeStefano and Jennifer DeStefano acting as  
20 trustees), are managers and members of Cylon.

21 15. Defendant Eye Level Holdings, LLC (“ELH”) a/k/a Jawa, is a Delaware  
22 limited liability company whose members are citizens of Arizona.

23 16. Defendant New Economic Order, LLC (“New Economic”) is a Delaware  
24 limited liability company owned and controlled by Defendant Hope. New Economic is a  
25 member of ELH, whose members are citizens of Arizona.

26 17. Defendant Saguaro Media, LLC (“Saguaro Media”) is a Delaware limited  
27 liability company owned and controlled by Defendant DeStefano. Saguaro Media is a  
28 member of ELH, whose members are citizens of Arizona.

1           18. Defendant New EIN, LLC (“New EIN”) is a Delaware limited liability  
2 company whose members are citizens of Arizona. Upon information and belief, New  
3 EIN is the primary member in allmobilealerts.com, LLC, Discount Text, LLC, Gamer  
4 Data, LLC, Info Text Alert, LLC, Messaging Unlimited, LLC, Mobile Gaming, LLC,  
5 News Alerts, LLC, Oboo News, LLC, onshifftwo.net LLC, Refund, LLC, Standard Plan,  
6 LLC, Text Messaging, LLC, Text Plan LLC, and Weather Plan Alerts, LLC.

7           19. Defendant Ink Sign Holdings, LLC (“Ink Sign”) is a Delaware limited  
8 liability company whose members are citizens of Arizona. Upon information and belief,  
9 Ink Sign is the primary member in SMS Program, LLC, Text Alert Plan LLC, Mobile  
10 Texts LLC and Reduction, LLC.

11           20. Defendant Yellow Ball Holdings, LLC (“Yellow Ball”) is a Delaware  
12 limited liability company whose members are citizens of Arizona. Upon information and  
13 belief, Yellow Ball is the primary member in Text Refund, LLC, Hot-Hot-News.com,  
14 LLC, and Plan Discount, LLC.

15           21. Defendant Message Plan, LLC (“Message Plan”) is a Delaware limited  
16 liability company whose members, upon information and belief, are affiliated with Hope  
17 and DeStefano.

18           22. Defendant FYISMS.COM, LLC (“FYISMS.COM”) is a Delaware limited  
19 liability company whose members, upon information and belief, are affiliated with Hope  
20 and DeStefano.

21           23. Defendant MYTXTSMS.COM, LLC (“MYTXTSMS.COM”) is a  
22 Delaware limited liability company whose members, upon information and belief, are  
23 affiliated with Hope and DeStefano.

24           24. Defendant Standard Plan, LLC (“Standard Plan”) is a Delaware limited  
25 liability company whose members, upon information and belief, are affiliated with Hope  
26 and DeStefano.

27           25. Defendant Standard Message, LLC (“Standard Message”) is a Delaware  
28 limited liability company whose members, upon information and belief, are affiliated

1 with Hope and DeStefano.

2 26. Defendant SMS City, LLC (“SMS City”) is a Delaware limited liability  
3 company whose members, upon information and belief, are affiliated with Hope and  
4 DeStefano.

5 27. Defendant City-O-Games.Com, LLC (“City-O-Games”) is a Delaware  
6 limited liability company whose members, upon information and belief, are affiliated  
7 with Hope and DeStefano.

8 28. Defendant Hot-Hot-News.Com, LLC (“Hot-Hot-News”) is a Delaware  
9 limited liability company whose members, upon information and belief, are affiliated  
10 with Hope and DeStefano.

11 29. Defendant WorldTxts.Com, LLC (“WorldTxts”) is a Delaware limited  
12 liability company whose members, upon information and belief, are affiliated with Hope  
13 and DeStefano.

14 30. Defendant TopicText.Com, LLC (“TopicText”) is a Delaware limited  
15 liability company whose members, upon information and belief, are affiliated with Hope  
16 and DeStefano.

17 31. Defendant Text Charge, LLC (“Text Charge”) is a Delaware limited  
18 liability company whose members, upon information and belief, are affiliated with Hope  
19 and DeStefano.

20 32. Defendant All-Game-Cheats.Org, LLC (“All-Game-Cheats.Org”) is a  
21 Delaware limited liability company whose members, upon information and belief, are  
22 affiliated with Hope and DeStefano.

23 33. Defendant News Alerts, LLC (“News Alerts”) is a Delaware limited  
24 liability company whose members, upon information and belief, are affiliated with Hope  
25 and DeStefano.

26 34. Upon information and belief, Cylon, ELH, New Economic, Saguaro Media,  
27 New EIN, Ink Sign, Yellow Ball, Message Plan, FYISMS.COM, MYTXTSMS.COM,  
28 Standard Plan, Standard Message, SMS City, City-O-Games, Hot-Hot-News, WorldTxts,

1 TopicText, Text Charge, All-Game-Cheats.Org, and News Alerts, are all owned and  
2 controlled, directly or indirectly, by Hope and/or DeStefano.

3 35. Upon information and belief, the following entities are related to Hope and  
4 DeStefano, and are involved in the fraudulent and deceptive practices alleged in the  
5 complaint: Digital Madhouse, LLC, Allmobilealerts.com, LLC, Discount Text, LLC,  
6 Gamer Data, LLC, GeneralTexting, LLC, Info Text Alert, LLC, Messaging Unlimited,  
7 LLC, Mobile Gaming, LLC, Mobile Texts LLC, News Alerts, LLC, Oboo News, LLC,  
8 Oneshifttwo.net LLC, Plan Discount, LLC, Reduction, LLC, Refund, LLC, SMS  
9 Program, LLC, Standard Plan, LLC, Standard Texting, LLC, Text Alert Plan, LLC, Text  
10 Messaging, LLC, Text Plan LLC, Text Refund, LLC, Jawa, LLC, M.A.D. Investments,  
11 LLC, and Weather Alerts, LLC.

### 12 **Jurisdiction and Venue**

13 36. This Court has subject matter jurisdiction over this matter pursuant to 28  
14 U.S.C. §§ 1331, 1332, and 1337(a). Federal question jurisdiction is specifically  
15 conferred by the Racketeer Influenced and Corrupt Organizations Act (“RICO”) (18  
16 U.S.C. § 1961, *et seq.*).

17 37. The Court has diversity jurisdiction because there is complete diversity of  
18 citizenship between the plaintiff and all defendants, and the amount in controversy,  
19 exclusive of interest and costs, exceeds the sum of \$75,000.00.

20 38. Venue is proper in the District of Arizona under 28 U.S.C. § 1391(b) and  
21 18 U.S.C. § 1965 because (i) personal jurisdiction exists in this District over defendants,  
22 and (ii) a substantial part of the events or omissions giving rise to Verizon Wireless’  
23 claims occurred in this district.

### 24 **Statement of Facts Common to All Counts**

#### 25 **Premium Text Messaging Services**

26 39. Verizon Wireless provides wireless communications services, including  
27 text messaging, for its customers through its nationwide network, which includes  
28 computer systems, and switching and transmission facilities.

1           40. As noted above, Verizon Wireless offers its customers the ability to  
2 purchase PSMS offered by third party content providers, to have this content delivered to  
3 their Verizon Wireless device by text message, and to be charged for this content on their  
4 Verizon Wireless bill.

5           41. Content providers participate in the delivery of PSMS content to wireless  
6 customers by first leasing a short code from the Cellular Telecommunications & Internet  
7 Association (“CTIA”), whose Common Short Code Administration acts as a  
8 clearinghouse so that each content provider can have a unique code that is usable on  
9 multiple wireless networks. When leasing a short code, content providers submit a  
10 contact name and address, which Verizon Wireless receives and relies upon. Here,  
11 defendants used a number of short codes, including, but not limited to, the following  
12 thirteen short codes: 27663, 46157, 54892, 56483, 59187, 71851, 86234, 37975, 38254,  
13 95297, 48221, 72465, and 55928.

14           42. Before content providers are permitted to offer PSMS to Verizon Wireless’  
15 customers, they are required to submit an application that includes the content provider’s  
16 name, a contact person and phone number, the marketing program including any URL  
17 (*i.e.* webpage) that will be used to market the PSMS, the content that will be offered, any  
18 charges associated with the content, and the manner in which pricing disclosures will be  
19 made to the consumer. The content provider’s application must demonstrate complete  
20 compliance with the MMA Best Practices.

21           43. Verizon Wireless conducts an extensive review of each application for  
22 compliance with the MMA Best Practices before it will activate a short code campaign  
23 for a content provider. Verizon Wireless also reviews any new campaign submitted by a  
24 previously approved content provider.

25           44. Each short code campaign is reviewed by several Verizon Wireless  
26 departments, including the marketing and legal departments. Some campaigns are  
27 returned for clarification or modification, sometimes more than once. Some campaigns  
28 are rejected altogether.

1           45. The MMA Best Practices require that short code campaigns clearly and  
2 conspicuously disclose, prior to purchase, the costs associated with a particular program  
3 and require these disclosures at every stage of the sign-up process.

4           46. The MMA Best Practices require that wireless customers follow a two-step  
5 process – known as the “double opt-in” requirement – to sign up for PSMS marketed on  
6 the internet. The customer first enters his or her mobile number (“MIN”) in a MIN entry  
7 field on the webpage offering the PSMS.

8           47. A text message containing a personal identification number (“PIN”) is then  
9 sent to the customer’s mobile number handset for verification. The text message must  
10 disclose the price of the content above the PIN, and must include the terms and  
11 conditions of any subscription. These disclosures are important because it helps to ensure  
12 that a customer knows the cost of the PSMS content before he or she uses the PIN to  
13 complete the order. To complete the order, the customer enters the PIN in a PIN entry  
14 field on the content provider’s webpage.

15           48. The PIN entry page must similarly disclose, among other things, pricing  
16 information as well as terms and conditions. The customer can also double opt-in by  
17 replying affirmatively from his or her mobile handset through a text message in response  
18 to the PIN message from the content provider.

19           49. Pricing disclosures must be made within 125 pixels of any MIN or PIN  
20 entry field on a webpage, in at least 12-point font, and with a sufficient color contrast  
21 value to ensure that visibility of the pricing disclosure is not obscured.

22           50. Once a customer has completed the “double opt-in” process, he or she then  
23 must receive a text message from the content provider confirming the customer’s PSMS  
24 order. The confirmation text message must contain basic information about the PSMS,  
25 including the price charged to the customer. If at any time the customer wishes to opt out  
26 or decline the PSMS, he or she can send a text message to the short code with the word  
27 “STOP” or a number of similar phrases that indicate a desire to opt out of the PSMS.

28           51. After approving a short code campaign, Verizon Wireless thoroughly and

1 continually monitors each campaign on a regular basis for compliance with the MMA  
2 Best Practices. Verizon Wireless employs Aegis Mobile to conduct these reviews.  
3 Verizon Wireless requires prompt correction of violations and will terminate  
4 noncompliant campaigns.

### 5 **The Criminal Enterprise and Its Activities**

6 52. Cylon is a content provider engaged in the business of selling PSMS content  
7 over the internet.

8 53. Upon information and belief, Hope and DeStefano own or control the other  
9 corporate entities named as defendants. Hope and DeStefano used these entities to  
10 fraudulently activate short codes with Verizon Wireless and then deceptively market  
11 PSMS to Verizon Wireless customers.

12 54. In early 2009, Verizon Wireless discovered that Cylon was violating one or  
13 more of the MMA Best Practices, including bypassing the handset verification (PIN  
14 entry) portion of the “double-opt in” process and instead providing customers a PIN  
15 directly on the webpages offering Cylon PSMS content. The requirement to send the PIN  
16 to the handset, rather than providing it on the website as Cylon had done, prevents a  
17 person from signing up a mobile number for content without the knowledge of the person  
18 with possession of the handset.

19 55. As a result, on March 25, 2009, Verizon suspended Cylon’s access to the  
20 Verizon Wireless network on two short codes it had previously activated. The  
21 suspension letter specifically advised that “ALL programs run in the future, on this or  
22 other short codes managed by the content provider, will require disclosure to Verizon  
23 Wireless” (emphasis added).

24 56. Defendant Hope blamed Cylon’s violations on a rogue employee, assuring  
25 Verizon Wireless that Cylon had implemented security features to prevent similar  
26 violations in the future, and requested that the two short codes be reactivated.

27 57. Verizon Wireless has now learned that after the March 2009 suspension,  
28 Hope and DeStefano devised an enterprise (the “Cylon Enterprise”) to conceal their and

1 Cylon's affiliation with short code campaigns activated on the Verizon Wireless network,  
2 so they could perpetrate noncompliant and unapproved marketing practices in a manner  
3 that reduced the risks and consequences of detection by Verizon Wireless, as explained  
4 below.

5 58. On April 23, 2009, Hope and DeStefano merged Cylon into defendant  
6 ELH, a/k/a Jawa, which is registered in Arizona as ELH's trade name.

7 59. ELH is owned by defendants New Economic (owned by Hope) and  
8 Saguaro Media (owned by DeStefano).

9 60. ELH holds an interest in numerous other entities (*e.g.*, New EIN; Ink Sign;  
10 Yellow Ball), which in turn own other entities (*e.g.* Messaging Unlimited LLC and Text  
11 Messaging LLC).

12 61. Hope and DeStefano, in concert with the other individual defendants,  
13 defrauded Verizon Wireless, through the following means, among others:

- 14 a. creating single-purpose-vehicle LLCs ("SPVs") to lease short codes  
15 and activate short code campaigns on the Verizon Wireless network  
16 without disclosing to Verizon Wireless the SPVs' connection to each  
17 other and to the Cylon Enterprise;
- 18 b. designating employees or associates, such as defendants Stephens,  
19 McCullough, Uhrman and O'Meara, as the contacts for the SPVs, in  
20 order to conceal the relationship of the SPVs to each other and to the  
21 Cylon Enterprise;
- 22 c. submitting false addresses (primarily UPS stores) for the SPVs when  
23 leasing short codes and activating short code campaigns on the  
24 Verizon Wireless network;
- 25 d. causing the SPVs to represent to Verizon Wireless that the SPVs  
26 would use MMA-compliant marketing practices, when in truth and  
27 in fact defendants used and continue to use deceptive and  
28 noncompliant webpages (URLs) and text messages to peddle their

1 PSMS to Verizon Wireless customers; and

- 2 e. concealing these noncompliant and deceptive marketing practices  
3 through sophisticated software programs that blocked Verizon  
4 Wireless' auditors from accessing the noncompliant websites.

5 **The Use of Special Purposes Vehicles for Particular PSMS Campaigns**

6 62. Since the Cylon suspension in March 2009, defendants have launched  
7 dozens of separate short code campaigns with Verizon Wireless. Rather than launching  
8 them under a single company name or using a single short code, they have launched the  
9 campaigns using separate SPVs and separate short codes, thus making it appear that these  
10 campaigns are entirely unrelated to each other and to the Cylon Enterprise.

11 63. Defendants' use of SPVs serves two purposes. First, if Verizon Wireless  
12 detects a deceptive marketing campaign and shuts it down, as it did with Cylon, Hope  
13 and DeStefano lose only the revenue associated with that entity; the other SPVs continue  
14 to generate funds.

15 64. Second, the use of SPVs makes complaints about one campaign more  
16 difficult to link to other campaigns, further masking the true nature of defendants'  
17 enterprise.

18 **The Use of Straw Names and False Addresses for the Special Purpose Vehicles**

19 65. As an added layer of disguise, Hope and DeStefano have designated  
20 different associates whose names are not publicly associated with Cylon, such as  
21 defendants Stephens, McCullough, and Uhrman, to lease the short codes from the CTIA  
22 and activate short code campaigns on the Verizon Wireless network.

23 66. The individual defendants also use changing and fictitious addresses for  
24 these SPVs, drawing attention away from their connection to each other and to the Cylon  
25 Enterprise.

26 67. For example, defendant Stephens is listed as the contact person for at least  
27 17 short codes used by different Cylon Enterprise SPVs, including:

- 28 a. FUNTXTS.COM

- 1 b. TEXT CHARGE
- 2 c. SMS CITY
- 3 d. TEXTING PLAN
- 4 e. FIRST CLASS SMS
- 5 f. TEXT MESSAGING
- 6 g. NEWS ALERTS
- 7 h. ABSOLUTELY-GAMES.COM
- 8 i. TEXT-DASH.COM
- 9 j. TOPICTEXT.COM
- 10 k. BESTTXTS.COM
- 11 l. FYISMS1.COM
- 12 m. ALL-GAME-CHEATS.ORG
- 13 n. MOBILE SMS
- 14 o. UNLIMITED MESSAGING
- 15 p. PREMIUM SMS; and
- 16 q. TEXT ANYTIME

17 68. When leasing a short code from the CTIA to access the Verizon Wireless  
18 network, the applicant must provide a business address. Tellingly, the address  
19 information provided to the CTIA and relied upon by Verizon Wireless did not list the  
20 address in Scottsdale, Arizona where Stephens works with Hope and DeStefano. Instead,  
21 the address corresponds to UPS stores in different states. By using these multiple  
22 addresses, defendants made it more difficult to connect the SPVs and the short code  
23 campaigns to each other and to a single enterprise.

24 69. The addresses for the short codes and SPVs associated with defendants  
25 Uhrman and McCullough were also UPS store locations. For example, for the PSMS  
26 campaign entitled “News U Can Use,” Uhrman is listed as the contact name and the  
27 business address is a UPS store in Cincinnati, Ohio. Uhrman’s name is associated with at  
28 least twelve short codes used by different Cylon Enterprise SPVs.

## 1 **Defendants' Use of Noncompliant URLs for Internet Marketing**

2 70. When they sought permission to access the Verizon Wireless network,  
3 defendants provided and represented to Verizon Wireless that they would use URLs  
4 (webpages) that complied with the MMA Best Practices. While defendants left these  
5 URLs in place and customers were able to purchase content through these compliant  
6 URLs, defendants also set up parallel noncompliant URLs that customers can access  
7 (usually by clicking on a sponsored link on search services such as Google or Bing) and  
8 through which they can sign up to receive PSMS. These noncompliant websites use the  
9 same short code to deliver their content as the compliant URLs that defendants  
10 previously provided to Verizon Wireless.

11 71. Verizon Wireless discovered defendants' use of noncompliant URLs and  
12 their other deceptive marketing practices in February 2011. These noncompliant URLs  
13 do not comply with the MMA Best Practices by, among other things:

- 14 a. using PIN entry pop-up screens to obscure and hide pricing  
15 information;
- 16 b. having the pricing information blend in with the background colors or  
17 otherwise presenting pricing information obscurely;
- 18 c. displaying the pricing information only in the terms and conditions;
- 19 d. failing to disclose subscription information on the PIN entry  
20 webpages;
- 21 e. displaying pricing information below the "fold" of the webpage. The  
22 "fold" is part of a webpage that is visible in the web browser window  
23 when the page first loads and before scrolling down;
- 24 f. displaying pricing information in small, noncompliant font size that is  
25 very difficult to read; and
- 26 g. sending consumers noncompliant and unapproved text messages  
27 that hide the price of the service.

28 Examples of such deceptive practices are described below. Because the compliant

1 and noncompliant sites use the same short code, Verizon Wireless is unable to  
2 identify which customers receiving content through these short codes have done so  
3 by having seen the compliant versus the noncompliant webpages.

#### 4 **Defendants' Sophisticated Cloaking Software Hides the Undisclosed and** 5 **Noncompliant Sites**

6 72. Defendants evade detection of their deceptive practices by using  
7 sophisticated technology that directs Verizon Wireless' auditors away from the  
8 noncompliant URLs used for the Cylon Enterprise's deceptive marketing scheme.

9 73. Specifically, defendants use computer cloaking software to block  
10 Verizon Wireless' monitoring efforts and its ability to detect misconduct by the  
11 Cylon Enterprise and its related entities.

12 74. The cloaking software appears to work in at least two ways. One  
13 method recognizes the internet protocol address ("IP address") of known Verizon  
14 Wireless auditors and directs them away from the undisclosed, noncompliant URLs. For  
15 example, when an auditor clicks on an advertisement for defendants' PSMS content that  
16 otherwise would lead to a noncompliant URL, the auditor is directed away to a compliant  
17 sign-up page or redirected to a completely different webpage where defendants' PSMS  
18 products are not offered.

19 75. A second method appears to work by blocking any IP address from accessing  
20 defendants' noncompliant websites on multiple occasions. Thus, for example, a person  
21 clicking on one of defendants' ads may be directed to a noncompliant site, but if he or she  
22 tries to replicate that search another time and clicks on the ad he or she will be directed to a  
23 compliant or unrelated site.

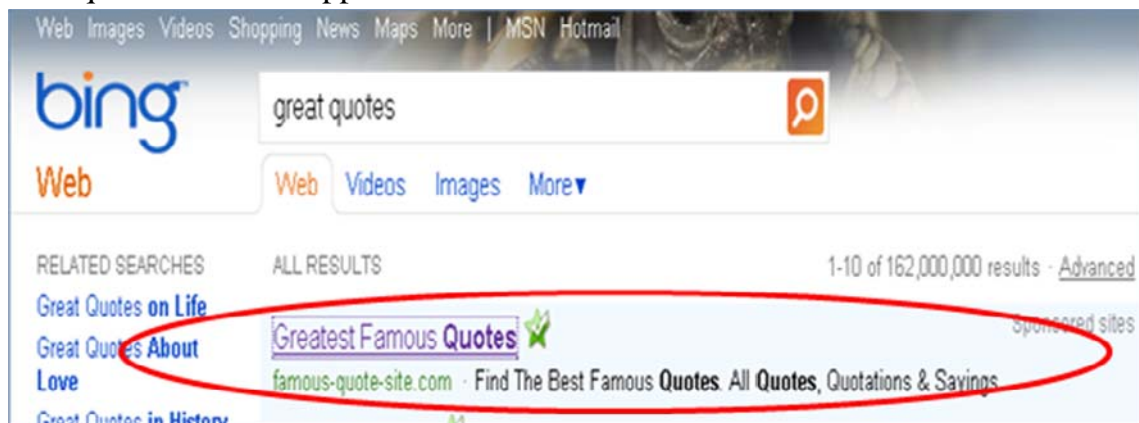
#### 24 **Examples of Defendants' Fraud**

25 76. In what is surely the proverbial tip of the iceberg, Verizon Wireless has  
26 compiled examples of defendants' fraudulent practices, including:

- 27 a. Defendant MYTXTSMS.COM, LLC leased short code 46157 and activated  
28 it with Verizon Wireless. The contact name provided to Verizon Wireless

1 for MYTXTSMS.COM was defendant Stephens. The address provided  
2 was a UPS store in New York City. The URL from which  
3 MYTXTSMS.COM would offer its PSMS campaign MyTxtSms was  
4 “get.mytextsms.com.” MyTxtSms purported to provide information on an  
5 assortment of topics such as celebrity gossip, sports, health, and general  
6 news. Verizon Wireless’ auditor reviewed the URL and found it compliant  
7 with the MMA Best Practices. Based on this URL information, Verizon  
8 Wireless approved the PSMS campaign of MyTxtSms on November 29,  
9 2010.

- 10 b. On February 11, 2011, however, Verizon Wireless discovered that  
11 MYTXTSMS.COM is using short code 46157 for an unapproved and  
12 noncompliant campaign. If a customer uses Microsoft’s “Bing” search  
13 engine and types in the search “great quotes,” a sponsored link to “famous-  
14 quote-site.com” appears:

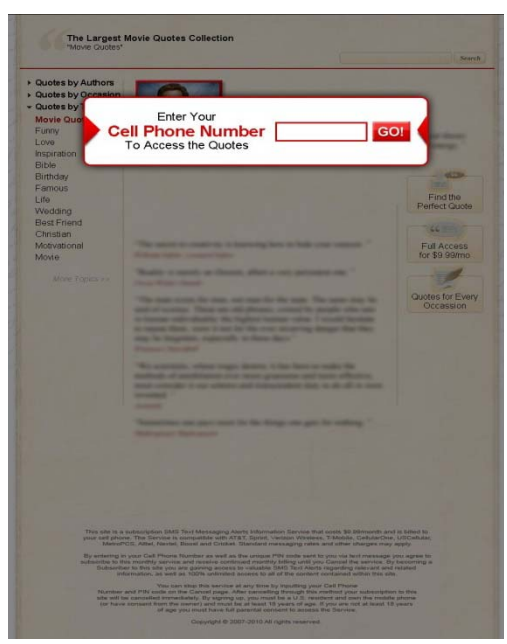


23 When Verizon Wireless’ auditor clicked on the sponsored link, he was  
24 redirected to the website “brainyquote.com” by defendants’ cloaking  
25 software.  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



Verizon Wireless' auditor then used IP masking software, clicked on the link, and was directed to the undisclosed and noncompliant URL (shown below) from which it was able to opt-in for a PSMS subscription through short code 46157.

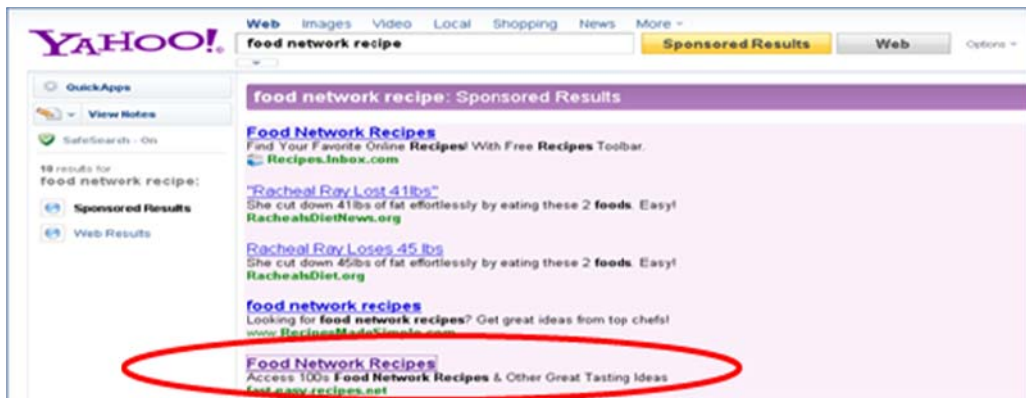


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

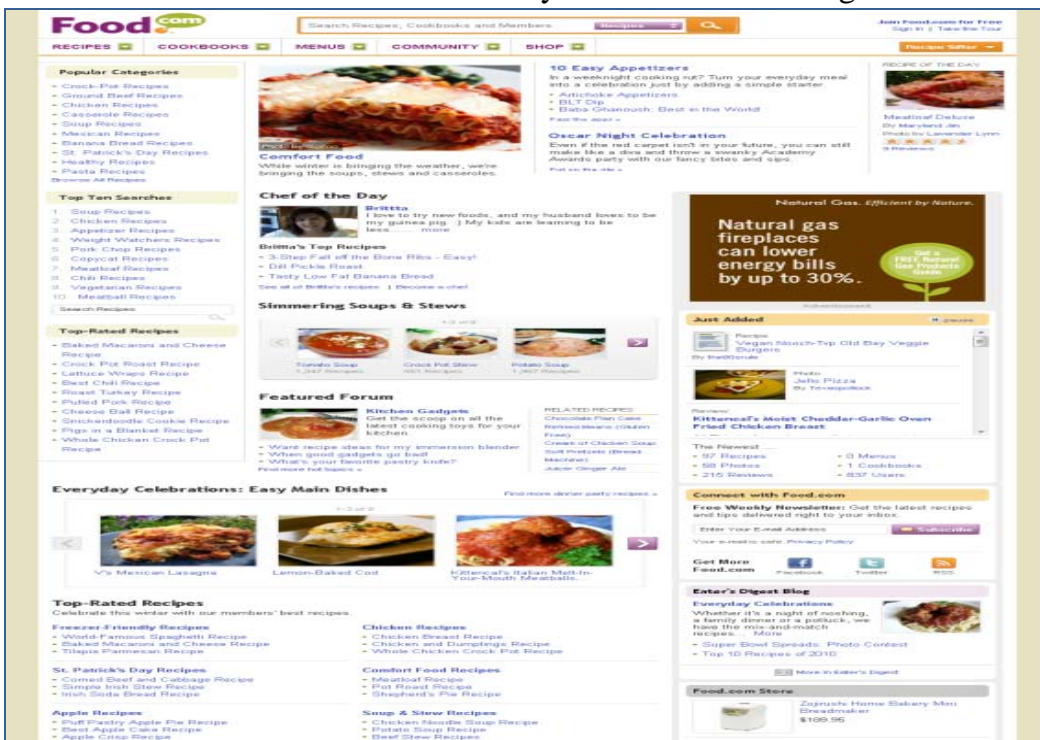
The order path for this undisclosed URL is misleading, deceptive, and noncompliant for various reasons:

- i. The MIN overlay – *i.e.*, the pop-up box in which the customer enters his or her cell phone number – does not disclose pricing or the short code involved, and the rest of the page content is intentionally grayed out to obscure its contents.
  - ii. The PIN entry page does not disclose subscription information, and there are no terms and conditions, pricing information, or carriers listed.
  - iii. The text message enclosing the PIN required to subscribe lists the PIN before the pricing information.
- c. Defendant FYISMS.COM, LLC which designates defendant Stephens as its contact person and lists a UPS store in Colorado Springs, Colorado for its business address, uses short code 54892. FYISMS.COM provided “movieshowtimes.fyisms.com” as the URL from which it would offer its PSMS. Verizon Wireless’ auditor reviewed the URL and found it compliant with the MMA Best Practices. Based on this URL information, Verizon Wireless approved the PSMS campaign on November 29, 2010.
- d. On February 11, 2011, however, Verizon Wireless discovered that the FYISMS1 PSMS campaign is using short code 54892 for an unapproved and noncompliant campaign. If a customer uses the Yahoo search engine and types in the search “food network recipe,” a sponsored link to “fast-easy-recipes.net” appears.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



When Verizon Wireless' auditor clicked on the sponsored link, it was redirected to the website "food.com" by defendants' cloaking software.



Verizon Wireless' auditor then used IP masking software, clicked on the link, and was directed to the undisclosed and noncompliant URL (shown below) from which it was able to opt-in for a subscription through short code 54892.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



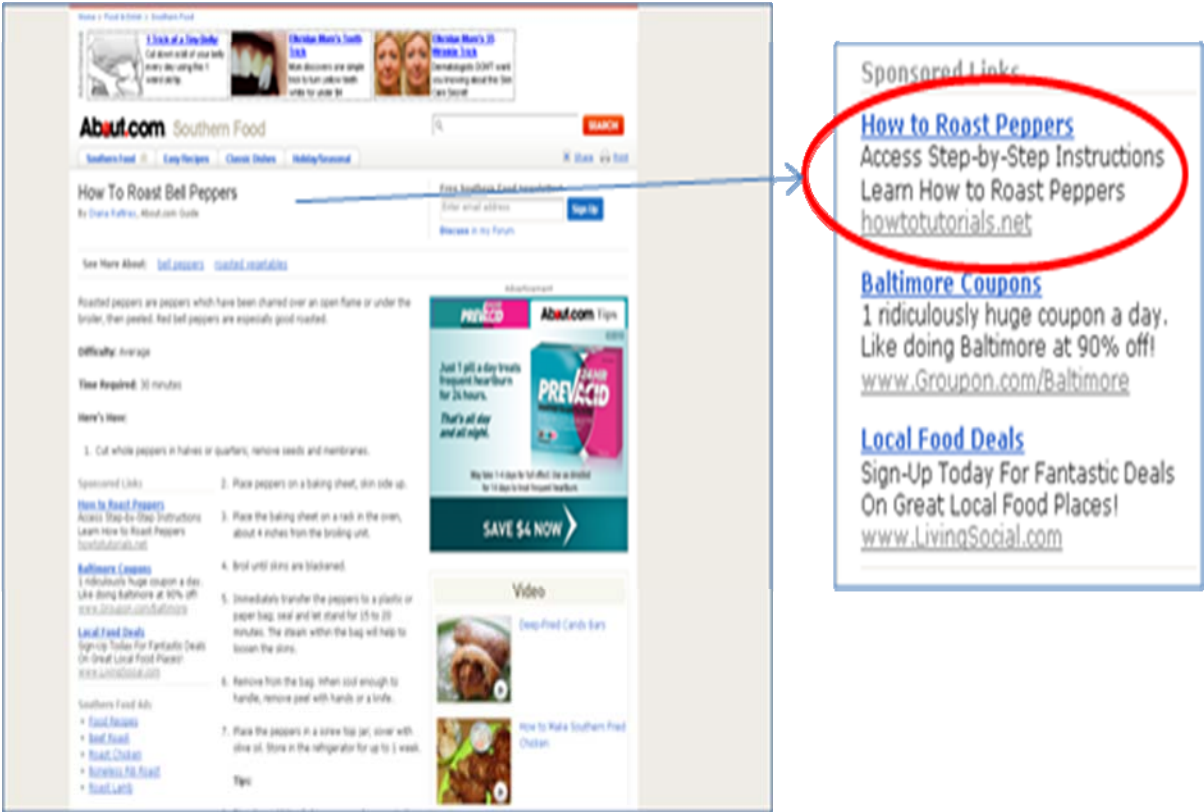
The order path for this undisclosed URL is misleading, deceptive, and noncompliant for various reasons:

- i. The MIN overlay does not disclose pricing or the short code; the rest of the page content is grayed out to obscure its contents; and the terms and conditions are below the fold line.
  - ii. On the PIN entry page, the webpage does not disclose subscription information, and there are no terms and conditions, pricing information, or carriers listed.
  - iii. The text message enclosing the PIN required to subscribe lists the PIN before the pricing information.
- e. Defendant Message Plan, LLC, which provided defendant Uhrman to Verizon Wireless and defendant McCullough to the CTIA as the contact person, uses short code 56483. The address provided for is a UPS store in Cincinnati, Ohio. News U Can Use provided “[thenewsucanuse.com](http://thenewsucanuse.com)” as

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

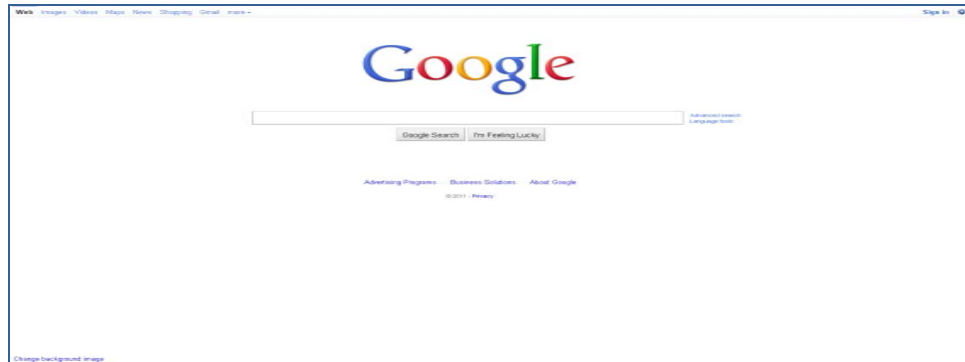
the URL from which it would offer its PSMS campaign, News U Can Use, which purports to send five alerts per month on subject matters including sports, health, celebrity gossip, and general news. Verizon Wireless’ auditor reviewed the URL and found it compliant with the MMA Best Practices. Based on this URL information, Verizon Wireless approved the PSMS campaign on November 29, 2010.

f. On February 8, 2011, however, Verizon Wireless discovered that News U Can Use is using short code 56483 for an unapproved and noncompliant campaign. If a customer uses the “about.com” search engine and types in the search “how to roast bell peppers,” a sponsored link to “howtotutorials.net” appears.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

When Verizon Wireless’ auditor clicked on the sponsored link, it was redirected to the website “google.com” by defendants’ cloaking software.



Verizon Wireless’ auditor then used IP masking software, clicked on the link, and was directed to the undisclosed and noncompliant URL (shown below) from which it was able to opt-in for a subscription through short code 56483.

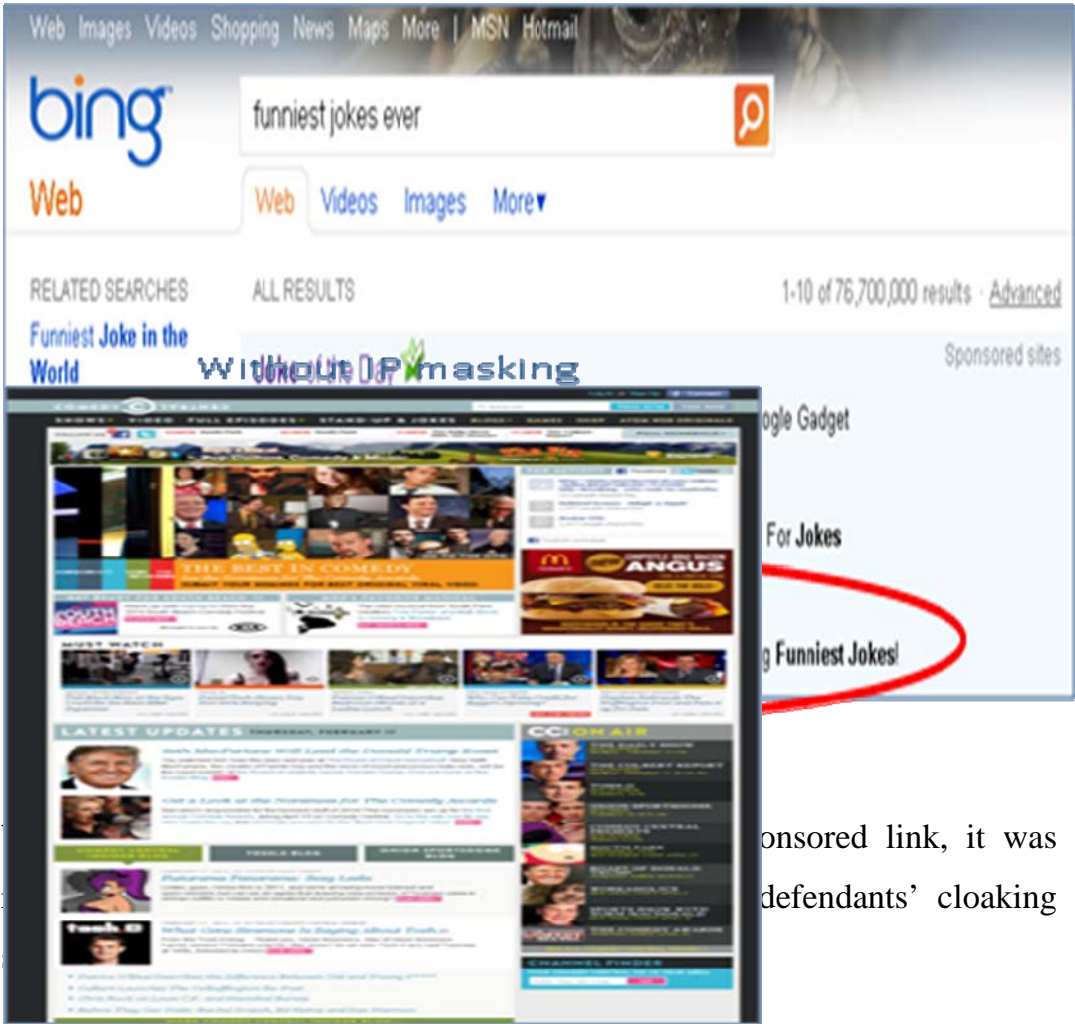


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

The order path for this undisclosed URL is misleading, deceptive, and noncompliant. The MIN overlay does not disclose pricing or the short code, and the rest of the page content is grayed out to obscure its contents.

- g. Defendant Standard Plan, LLC, which designates defendant Stephens as its contact person and lists a UPS store in San Jose, California for its business address, uses short code 37975. Standard Plan provided ["standardrateplan.com"](http://standardrateplan.com) as the URL from which it would offer its PSMS campaign "Standard Plan –Pegasus Blue," which purports to provide random fact alerts across a broad spectrum of topics. Verizon Wireless' auditor reviewed the URL and found it compliant with the MMA Best Practices. Based on this URL information, Verizon Wireless approved the PSMS campaign on March 3, 2010.
- h. On February 8, 2011, however, Verizon Wireless discovered that Standard Plan –Pegasus Blue is using short code 37975 for an unapproved and noncompliant campaign. If a customer uses the "Bing" search engine and types in the search "funniest jokes ever," a sponsored link to ["laughsatjokes.com"](http://laughsatjokes.com) appears.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



Verizon Wireless' auditor then used IP masking software, and was directed to an undisclosed and noncompliant URL (shown below) from which it was able to opt-in for a subscription through short code 37975.

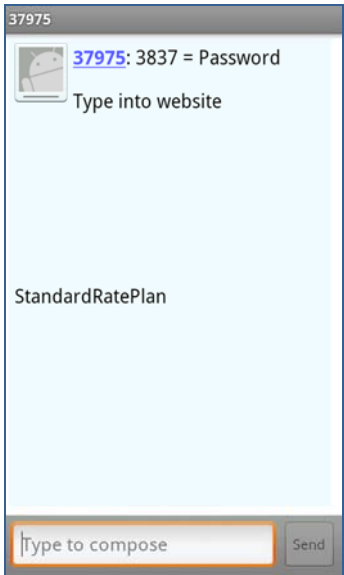
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



The order path for this undisclosed URL is misleading, deceptive, and noncompliant for various reasons:

- i. The MIN overlay does not disclose pricing or the short code, and the rest of the page content is grayed out to obscure its contents.
- ii. The PIN entry webpage does not disclose subscription information, terms and conditions, pricing information, or carriers listed.
- iii. The text message enclosing the PIN required to subscribe lists the PIN before the pricing information. In addition, the first page of the text is displayed as follows:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



The wide gaps leads the reader to believe the text message above is complete, and implies that a “standard rate plan” will apply; however, a second page exists and requires the customer to scroll down to find the premium rate pricing information:



1 **Defendants' Violations of Federal Criminal Law**

2 77. Defendants knowingly and willingly have conspired together and  
3 participated in a scheme to defraud Verizon Wireless using the U.S. mail and/or interstate  
4 wires.

5 78. Defendants' scheme involves deceptive and fraudulent means to obtain  
6 money through the Cylon Enterprise under false pretenses. The scheme involves  
7 fraudulent representations and omissions that caused Verizon Wireless to activate short  
8 code campaigns and caused Verizon Wireless to bill its customers for defendants' PSMS,  
9 without disclosing to Verizon Wireless – and indeed, by actively hiding from Verizon  
10 Wireless – defendants' use of deceptive means to lure Verizon Wireless customers into  
11 signing up for defendants' PSMS.

12 79. Each and every application by defendants to the CTIA and to Verizon  
13 Wireless in order to gain access to the Verizon Wireless network, contained materially  
14 false and misleading information, in violation of 18 U.S.C. § 1341 (mail fraud).

15 80. Each and every noncompliant and deceptive URL used by defendants, each  
16 and every misleading text message sent by them, and each and every use of cloaking  
17 software to hide defendants' deceptive practices, constitutes an independent violation of 18  
18 U.S.C. § 1343 (wire fraud).

19 81. Each and every payment defendants caused Verizon Wireless customers to  
20 make via U.S. mail for PSMS services as a result of the defendants' fraudulent conduct,  
21 and each and every act that defendants engaged in through the U.S. mail in furtherance of  
22 the Cylon Enterprise, also constitutes an independent violation of 18 U.S.C. § 1341 (mail  
23 fraud).

24 82. Defendants, in furtherance of the Cylon Enterprise, committed more than  
25 two of such criminal acts, which constitute predicate acts of systematic racketeering  
26 activities as part of the Cylon Enterprise's regular course of business.

27 83. Because Verizon Wireless does not and cannot know which of its  
28 customers may have been charged for defendants' PSMS based on its noncompliant

1 webpages, and which customers who purchased content from these webpages were not  
2 aware of the charges associated with that content, Verizon Wireless is instituting a  
3 process whereby its customers may claim a refund for any charges associated with  
4 defendants' PSMS content. Verizon Wireless will refund those charges if a customer did  
5 not authorize or did not understand that they would be charged for the PSMS content.  
6 Verizon Wireless has suffered and will suffer damages to its good will and reputation,  
7 and to its relationship with its customers, as a result of defendants' fraudulent activities.  
8 Verizon Wireless has already incurred significant expenses in handling complaints and  
9 other inquiries concerning defendants.

10 84. Verizon Wireless has retained the law firms of Kasowitz, Benson, Torres &  
11 Friedman LLP and Gallagher & Kennedy, P.A. to represent it in this litigation, and has  
12 agreed to pay these firms a reasonable fee for their services.

13  
14 **COUNT I**  
15 **VIOLATION OF RICO (18 U.S.C. § 1962 (a) & (c))**

16 85. Verizon Wireless hereby realleges Paragraphs 1 through 84 as though fully  
17 set forth here.

18 86. Verizon Wireless and each defendant and co-conspirator is a "person"  
19 within the meaning of 18 U.S.C. §§ 1961(3) and 1962 (a) and (c).

20 **The Cylon Enterprise**

21 87. Defendants and their co-conspirators constitute a group of persons  
22 associated together for the common purpose of carrying out the acts described in this  
23 complaint. Defendants used the internet, the U.S. mail, and text messaging for the  
24 purpose of executing their fraudulent scheme, and thus interstate commerce has been  
25 affected. Thus, defendants and their co-conspirators, as part of the Cylon Enterprise,  
26 constitute an association-in-fact enterprise under 18 U.S.C. §§ 1961(4) and 1962(a) and  
27 (c).

28 88. From an unknown date, but from at least March 2009 and continuously

1 through the present, in the District of Arizona and elsewhere, the defendants named in this  
2 Count were employed by or associated with the Cylon Enterprise, and conducted or  
3 participated, directly or indirectly, in the conduct of the enterprise's affairs through a  
4 pattern of racketeering activity, or aided and abetted, counseled or commanded those  
5 named defendants who did so.

6 89. The Cylon Enterprise was engaged in, and its activities affected, interstate  
7 and foreign commerce, within the meaning of 18 U.S.C. § 1962 (a) and (c).

8 90. Each of the defendants and their co-conspirators unlawfully, knowingly  
9 and willfully violated 18 U.S.C. § 1962 (a) and (c) by directing and conducting the affairs  
10 of the Cylon Enterprise through a "pattern of racketeering activity" within the meaning of  
11 18 U.S.C. § 1961(5), and which involved multiple violations of the criminal laws of the  
12 United States, including wire fraud in violation of 18 U.S.C. § 1343 and mail fraud in  
13 violation of 18 U.S.C. § 1341.

14 91. Each defendant aided and abetted the racketeering activity of the other  
15 defendants, as alleged here, in that, as to at least two of the predicate acts of the  
16 racketeering activity, he or she was associated with the wrongful conduct, participated in it  
17 with the intent to bring it about, and sought by his or her actions to make it successful.

#### 18 **Unlawful Goal and Purpose of the Cylon Enterprise**

19 92. The overall goal and purpose of the defendants was to enrich themselves,  
20 their co-conspirators, and those who aided and abetted them by (i) using the Cylon  
21 Enterprise as a tool to extract money from others, for their personal use and benefit, and  
22 (ii) using the Cylon Enterprise to disguise their fraud and maintain their ability to  
23 continue their scheme.

24 93. Specifically, defendants enriched themselves by (i) deceiving Verizon  
25 Wireless into granting them access to Verizon Wireless' nationwide network to sell  
26 defendants PSMS; and (ii) causing Verizon Wireless to bill and collect money from its  
27 customers for defendants' PSMS services obtained by illicit and unauthorized means.  
28

1 **The Persons, Employed by or Associated with the Enterprise, Who Conducted or**  
2 **Participated, Directly or Indirectly, in the Conduct of the Enterprise's Affairs**

3 94. Hope is a principal and associate of the Cylon Enterprise through his  
4 ownership and control of the defendant entities and is the mastermind behind the schemes  
5 described here.

6 95. DeStefano is a principal and associate of the Cylon Enterprise through his  
7 ownership and control of the defendant entities.

8 96. Stephens is associated with the Cylon Enterprise through her affiliation  
9 with the defendant entities. Stephens is specifically listed as the contact person for at  
10 least 17 of the SPVs discussed in this complaint.

11 97. McCullough is associated with the Cylon Enterprise through his affiliation  
12 with the defendant entities. McCullough is specifically listed as the contact person for  
13 several of the SPVs discussed in this complaint.

14 98. Uhrman is associated with the Cylon Enterprise through his affiliation with  
15 the defendant entities. Uhrman is specifically listed as the contact person for at least  
16 twelve of the SPVs discussed in this complaint.

17 99. The defendant entities are associated with the Cylon Enterprise because  
18 they are directly and indirectly owned and controlled by Hope and DeStefano and  
19 through their respective relationships with Stephens, McCullough, and Uhrman.

20 **Defendants' Pattern of Racketeering Activity**

21 100. In furtherance of their scheme, defendants, over time, conducted or  
22 participated, directly or indirectly, in the conduct of the Cylon Enterprise's affairs  
23 through a pattern of racketeering activity or aided and abetted the other defendants  
24 who did so. The pattern of racketeering activity involved multiple violations of the  
25 criminal laws of the United States that amounted to, or pose a threat of, continued  
26 criminal activity. This includes, but is not limited to the following.

27 101. Over the course of the conspiracy, for the purpose of executing and in  
28 furtherance of the fraudulent and unlawful scheme described throughout this complaint,

1 defendants knowingly and willfully caused (or aided and abetted, counseled, or  
2 commanded those who caused), to transmit certain signals and sounds in interstate  
3 commerce by means of wire or radio communication as described in paragraphs 70-76.

4 102. Each and every false and misleading web page, each and every false and  
5 misleading text message, each and every false statement to Verizon Wireless in connection  
6 with defendants' short codes and URLs, and each and every effort to "cloak" the  
7 defendants' misconduct from detection, as described in paragraphs 70-76, constitutes an  
8 independent violation of 18 U.S.C. § 1343 (wire fraud).

9 103. Each and every payment that the defendants caused to be made for PSMS  
10 services connected to the illegal, deceptive and fraudulent conduct described here  
11 constitute an independent violation of 18 U.S.C. § 1341 (mail fraud).

12 104. As a result of the defendants' scheme of omissions, false representations,  
13 and trickery, defendants have injured Verizon Wireless as described in this complaint.

14 WHEREFORE, Verizon Wireless demands damages to compensate it for: (i) the  
15 harm it has sustained to its business reputation and relationship with its customers, (ii) the  
16 expenses it has incurred in handling the thousands of customer complaints concerning  
17 defendants, and (iii) the expenses it has incurred in reimbursing its customers on account  
18 of defendants' unauthorized charges. Verizon Wireless further seeks its attorneys' fees  
19 and costs associated with bringing this action, punitive damages, treble damages pursuant  
20 to the RICO Act, and any and all other relief the Court deems appropriate.

21  
22 **COUNT II**  
**VIOLATION OF RICO (18 U.S.C. § 1962(d))**

23 105. Verizon Wireless hereby realleges Paragraphs 1 through 84 as though fully  
24 set forth here.

25 106. Verizon Wireless and each defendant and co-conspirator is a "person"  
26 within the meaning of 18 U.S.C. §§ 1961(3) and 1962(d).

27 107. Defendants and their co-conspirators conspired to commit the violation of  
28 the RICO Act just described above in violation of 18 U.S.C. § 1961(d).

1           108. From an unknown date, but from at least March 2009 continuously through  
2 the present, in the District of Arizona and elsewhere, defendants and their co-conspirators  
3 have combined, conspired, confederated, agreed and reached tacit understanding with  
4 each other and with others known and unknown to violate 18 U.S.C. § 1962(c); that is, to  
5 conduct and participate, directly and indirectly, in the pattern of racketeering activity  
6 described here.

7           109. Defendants have committed, or caused to be committed, a series of overt  
8 acts in furtherance of the conspiracy which was to defraud Verizon Wireless into  
9 providing defendants with access to its nationwide network, lure Verizon Wireless  
10 customers into signing up for defendants' PSMS with misleading and false information  
11 about pricing, cause Verizon Wireless to bill and collect from its customers for  
12 defendants' PSMS that Verizon Wireless would not have authorized but for defendants'  
13 fraud, and hide their misconduct from Verizon Wireless to continue operations of the  
14 Cylon Enterprise.

15           110. The overall goal and purpose of defendants was to enrich themselves, their  
16 co-conspirators, and those who aided and abetted them by (i) causing Verizon Wireless  
17 to bill and collect money from its customers for defendants' PSMS services obtained by  
18 illicit means, under false pretenses, and through means which Verizon Wireless would  
19 not have approved but for defendants' fraud, (ii) using the Cylon Enterprise as a tool to  
20 extract money from consumers for defendants' personal benefit, and (iii) using the Cylon  
21 Enterprise to disguise their fraud on Verizon Wireless and continue their ability to  
22 continue their scheme.

23           111. As a result of the conspiracy to violate the RICO Act, Verizon Wireless has  
24 been injured and will incur damages in customer reimbursement expenses and other costs  
25 as a result of defendants' conspiracy.

26           WHEREFORE, Verizon Wireless demands damages to compensate it for: (i) the  
27 harm it has sustained to its business reputation and relationship with its customers, (ii) the  
28 expenses it has incurred in handling the customer complaints concerning defendants, and

1 (iii) the expenses it has incurred in reimbursing its customers on account of defendants'  
2 unauthorized charges. Verizon Wireless further seeks its attorneys' fees and costs  
3 associated with bringing this action, punitive damages, treble damages pursuant to the  
4 RICO Act, and any and all other relief the Court deems appropriate.

5  
6 **COUNT III**  
**VIOLATION OF ARIZONA'S CONSUMER FRAUD ACT (A.R.S. § 44-1522)**

7 112. Verizon Wireless hereby realleges Paragraphs 1 through 84 as though fully  
8 set forth here.

9 113. Defendants made various false promises and/or misrepresentations in  
10 connection with the advertisement of their PSMS.

11 114. Specifically, defendants have engaged in deceptive and unfair trade  
12 practices by, among other actions, causing Verizon Wireless to grant them access to its  
13 network and bill customers for defendants' PSMS campaign, through the false  
14 representations and omissions described above.

15 115. Verizon Wireless relied upon the false misrepresentations and fraudulent  
16 omissions to its detriment in providing defendants with access to its nationwide network,  
17 and causing Verizon Wireless to bill and collect from its customers for defendants'  
18 PSMS that Verizon Wireless would not have authorized but for defendants' fraud.

19 116. Defendants' fraudulent, deceptive and unfair conduct directly harmed  
20 Verizon Wireless' business reputation and its relationship with its customers. Further,  
21 Verizon Wireless has incurred substantial expenses in handling customer complaints  
22 regarding defendants' deceptive practices, and refunding its customers the monies they  
23 were charged as a result of defendants' deceptive practices. Accordingly, Verizon  
24 Wireless has suffered actual damages as a direct and proximate result of defendants'  
25 deceptive and unfair conduct.

26 WHEREFORE, Verizon Wireless demands damages to compensate it for: (i) the  
27 harm it has sustained to its business reputation and relationship with its customers, (ii) the  
28 expenses it has incurred in handling the customer complaints concerning defendants, and

1 (iii) the expenses it has incurred in reimbursing its customers on account of defendants'  
2 unauthorized charges. Verizon Wireless further demands punitive damages because of  
3 defendants' ill-will demonstrating a reckless indifference to the interests of Verizon  
4 Wireless and its customers. Additionally, Verizon Wireless seeks its attorneys' fees and  
5 costs associated with bringing this action, the entry of a preliminary and permanent  
6 injunction to enjoin defendants from engaging in the fraudulent activity described here,  
7 and any and all other relief the Court deems appropriate.

8  
9 **COUNT IV**  
**TORTIOUS INTERFERENCE**

10 117. Verizon Wireless hereby realleges Paragraphs 1 through 84 as though fully  
11 set forth here.

12 118. Verizon Wireless has business contracts and relationships with its  
13 customers who subscribed to defendants' PSMS under false pretenses.

14 119. Defendants have knowledge of Verizon Wireless' business contracts and  
15 relationships with these customers.

16 120. Defendants have intentionally and unjustifiably interfered with Verizon  
17 Wireless' business contracts and relationships with these customers by having Verizon  
18 Wireless bill its customers for unauthorized and unwanted subscriptions as described  
19 here.

20 121. Defendants' intentional and unjustifiable interference has directly harmed  
21 Verizon Wireless' business reputation, as well as its contracts and relationship with its  
22 customers. Further, defendants' interference has disrupted Verizon Wireless' customer  
23 relationships. As a result, Verizon Wireless has suffered actual damages from  
24 defendants' deceptive and unfair conduct.

25 122. Defendants acted with ill-will and calculated disregard toward Verizon  
26 Wireless and its customers.

27 WHEREFORE, Verizon Wireless demands damages to compensate it for: (i) the  
28 harm it has sustained to its business reputation and relationship with its customers, (ii) the

1 expenses it has incurred in handling the customer complaints concerning defendants, and  
2 (iii) the expenses it has incurred in reimbursing its customers on account of defendants'  
3 unauthorized charges. Verizon Wireless further seeks its attorneys' fees and costs  
4 associated with bringing this action, punitive damages, and any and all other relief the  
5 Court deems appropriate.

6  
7 **COUNT V**  
8 **UNJUST ENRICHMENT**

9 123. Verizon Wireless hereby realleges Paragraphs 1 through 84 as though fully  
10 set forth here.

11 124. Verizon Wireless has conferred, and continues to confer, benefits on  
12 defendants in that, among other things, Verizon Wireless has given defendants the  
13 privilege of access to Verizon Wireless customers and the Verizon Wireless network, and  
14 the opportunity to derive revenues from Verizon Wireless customers.

15 125. Defendants have enrolled Verizon Wireless customers in defendants'  
16 PSMS campaign without authorization, and have earned a profit from each such  
17 enrollment as a result of defendants' deceptive and unfair practices, in a manner that they  
18 knew was unauthorized by Verizon Wireless.

19 126. Defendants' behavior has damaged Verizon Wireless' business reputation,  
20 and further caused Verizon Wireless to incur expense as describe in this complaint.

21 127. Defendants have accepted and retained these benefits from Verizon  
22 Wireless and its customers and have received profits from unauthorized enrollments of  
23 Verizon Wireless customers.

24 128. Under the facts described in this complaint, it would be inequitable and  
25 unjust for defendants to retain these benefits because defendants are not justified in using  
26 Verizon Wireless services.

27 129. Equity demands that defendants provide restitution to Verizon Wireless and  
28 its customers for monies that defendants received from the unauthorized enrollment of  
Verizon Wireless customers.



1 at risk and is being negatively affected as a consequence of defendants' fraudulent  
2 scheme.

3 138. Defendants have demonstrated the means and willingness to gain access to  
4 Verizon Wireless' nationwide network, Verizon Wireless customers, and Verizon  
5 Wireless services through fraudulent means, and to conceal their deceptive practices  
6 through sophisticated cloaking software. In fact, after Cylon was suspended for  
7 noncompliant and deceptive practices, Hope and DeStefano constructed the Cylon  
8 Enterprise described in this Complaint.

9 139. Verizon Wireless will be irreparably injured in the absence of an injunction  
10 requiring the defendants to preserve and not alter all of their documents and electronic  
11 data, and to cease and desist from their unlawful activities outlined in this Complaint in  
12 the future, either individually or through other straw persons or entities.

13 140. The hardship to Verizon Wireless outweighs any potential harm that  
14 defendants would incur by issuance of such an injunction. Defendants can easily refrain  
15 from fraudulent conduct and comply with MMA Best Practices without sustaining any  
16 harm.

17 141. The entry of an injunction here would further the public interest as it would  
18 ensure that defendants fully disclose any fees associated with their PSMS on the internet  
19 and in text messages. Full disclosure of hidden fees is in the interest of all consumers.

20 WHEREFORE, Verizon Wireless demands: (1) a preliminary injunction during  
21 the pendency of this action enjoining defendants from (i) failing to disclose the  
22 relationships of any entities or individuals to defendants Hope or DeStefano or their  
23 companies, and providing false addresses or other information as part of any effort to  
24 access the Verizon Wireless network for the purpose of delivering premium text message  
25 services ("PSMS") to customers; (ii) using marketing practices that fail to comply with  
26 the MMA Best Practices (as defined in the complaint) when selling or attempting to sell,  
27 PSMS through the Verizon Wireless network to customers; (iii) selling, or attempting to  
28 sell, PSMS to Verizon Wireless customers over the Verizon Wireless network; and (iv)

1 blocking, or attempting to block, Verizon Wireless' efforts to monitor and access the  
 2 internet webpages (URLs) used to market PSMS to Verizon Wireless; (2) the entry of a  
 3 permanent injunction at the conclusion of this action preventing defendants, directly or  
 4 indirectly, from submitting campaigns to Verizon Wireless, and requiring defendants to  
 5 account for all short codes and content providers related to defendants that operate on the  
 6 Verizon Wireless network; (3) an *ex parte* temporary restraining order that enjoins the  
 7 destruction, alteration, removal, secretion or interference with any records, documents,  
 8 data, notes, computer hardware and software, websites (URLs), or electronically stored  
 9 information, in whatever form, owned, held or controlled by defendants and relating to  
 10 the actions described in this complaint; and (4) any and all other relief the Court deems  
 11 appropriate.

**Jury Demand**

Plaintiff Verizon Wireless hereby demands a jury trial on all claims so triable.

RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of March, 2011.

GALLAGHER & KENNEDY, P.A.

By 

---

Paul K. Charlton  
 Lindsy M. Weber  
 2575 East Camelback Road  
 Phoenix, Arizona 85016-9225

KASOWITZ, BENSON, TORRES & FRIEDMAN LLP

Marcos Jiménez  
 Scott Cosgrove  
 Ann M. St. Peter-Griffith  
 1441 Brickell Avenue, Suite 1420  
 Miami, Florida 33131

*Attorneys for Plaintiff*