

**IN THE COUNTY COURT,
IN AND FOR PINELLAS COUNTY, FLORIDA
SMALL CLAIMS DIVISION**

MATTHEW D. WEIDNER,
Plaintiff,

CASE NO.:

v.

GEEKSUPPORTLIVE INC
Defendant.

PLAINTIFF'S VERIFIED COMPLAINT

Plaintiff Matthew D. Weidner ("Plaintiff"), by and through undersigned counsel, sues GEEKSUPPORTLIVE INC, a Florida Profit Corporation ("Defendant") and alleges as follows:

JURISDICTION, VENUE, AND PARTIES

1. This is an action for damages that does not exceed \$5,000.00 exclusive of attorney's fees and costs and for equitable relief.
2. This Court has subject-matter jurisdiction based on Fla. Stat. §34.01, Fla. Stat. §501, 47 U.S.C. 227, and 47 U.S.C. 64.
3. Defendant is an entity incorporated and operating within the State of Florida.
4. Upon information and belief Defendant owns the domain GeekSupportLive.com.
5. Venue is proper because the events complained of occurred in Pinellas County.
6. Plaintiff is a resident of Pinellas County, Florida and is otherwise *sui juris*.

FACTS COMMON TO ALL COUNTS

7. On August 20, 2015, at approximately 2:35 p.m. EST, Plaintiff's cellular telephone rang from a number identified as 800-845-6565. When Plaintiff answered the phone a male voice began speaking identifying himself as an agent of Microsoft, with their Database Technical Support team. The agent advised that he, as an agent of Microsoft was monitoring my

computer using Microsoft server facilities and had determined that my computer had been infected with computer viruses, spyware and other malicious computer code that made my computer unsafe. The male voice repeated many different times several statements which were intended to cause me concern and anxiety about my computer's security, and my own personal and financial security. The statements made by the male voice became more insistent that my privacy was at risk and included warnings that if I did not address the security issues that he/Microsoft were seeing in real time, just as he was speaking, my risks and liability would increase. Critically, the male voice insisted that he was monitoring my actual computer and that he was an agent of Microsoft in their "Server Department" or some such description. On information and belief, this phone call came in on an auto or robotic dialing system and based on the poor audio quality of the phone call and the broken English of the operator, I believe the operator was calling from an foreign, international jurisdiction. After the insistent and persistent warnings of the initial male voice, the phone call was transferred to another operator who he stated that his name was "Alex" and he was a senior technician, who worked with Microsoft, who was a partner with a business identified as GeekSupportLive.Com. This next operator spoke in more clear English, and the audio quality of the phone conversation was better than the previous caller. "Alex" further advised Plaintiff that if he had additional questions he could call 855-481-5399 and that he could view the geeksupportlive.com website to purchase a protection plan to Plaintiff's computer from the virus. Upon being transferred "Alex" confirmed the previous caller's warnings and threats that my own personal computers were infected with viruses and malicious code. "Alex" warned me that if I did not immediately take the actions that he directed, I faced great liability. Each of his statements became more and more insistent and coercive, warning me

that I was at great personal risk if I did not follow his commands. "Alex" again confirmed that the basis for his warnings to me that my computer was infected was through his affiliation with Microsoft in their server monitoring department. "Alex" next directed me to get in front of my computer and type in the URL address www.teamviewer.com. "Alex" did not explain to me exactly why I was being directed to enter the teamviewer website, but he continued to prompt me through the various steps of accessing the teamviewer website making sure that I had typed in the address correctly and asking me repeatedly to describe to him what I saw on my computer screen when I accessed the teamviewer website. When he confirmed that I was on the teamviewer website, he advised that he would provide a code that was an essential and necessary part of fixing my immediate and dangerous problems. Teamviewer.com is a legitimate remote-access computer site that allows one party to gain full control and access to another computer from anywhere in the world after the host computer user ("Plaintiff") provides a nine digit code to the remote user ("Alex"). It was clear that the purpose of directing me to log on to Teamviewer was to give "Alex" and GeekSupportLive to gain access to my computer.

8. The entire conversation from both operators was false, fraudulent, misleading and deceptive. The insistent and aggressively coercive threats of computer viruses, malicious code and unwanted intrusions into my computers was false, fraudulent and misleading. The direct and specific representations that the callers were affiliated with Microsoft and that they were monitoring my computer from their offsite locations and doing so because they were agents of Microsoft was false, fraudulent and misleading. The direct, explicit and persistent threats that I was in danger were false, fraudulent and misleading and were intended cause me great emotional distress and to coerce me to become a victim of their scam.

CLAIM FOR RELIEF

COUNT I

Violation of the Federal Telephone Consumer Protection Act

10. Plaintiff re-alleges and re-incorporates the preceding paragraphs and all previous allegations as if fully set forth herein.

11. Title 47 of the US Code restricts the use of telephone communication devices. 47 U.S.C. §227 specifically prohibits the use of prerecorded or automated dialing systems to contact consumer telephone devices. While 47 CFR 64.1200 (e)(2)(iii) provides further restrictions on contacts.

12. On August 20, 2015 at 9:34 a.m., Defendants, individually or acting in concert with agents, called Plaintiff's cellular telephone in violation of the prohibitions of the TCPA.

13. Said telephone call was made using an automatic telephone dialing system.

14. The telephone call placed to Defendant was unsolicited, unwanted and was unduly manipulative. The stated purpose of the phone call, according to the voice on the other end of the line, was to help Defendant cure a problem with his computer that he does not have.

15. Defendant did not have prior express consent to contact Plaintiff.

16. Defendant willfully and knowingly placed a non-emergency telephone call to Plaintiff's cellular telephone without Plaintiff's consent to do so in violation of 47 U.S.C. §227 ("TCPA").

WHEREFORE, Plaintiff demands:

- (a) Judgment in his favor;
- (b) Actual damages;
- (c) Statutory damages for each violation of the TCPA committed by Defendant;
- (d) An order enjoining Defendant from further violations of the TCPA.

- (e) An award of attorneys' fees and costs; and
- (f) Any other relief the Court deems just and proper.

COUNT II

Violation of Florida's Unfair and Deceptive Trade Practices Act

17. Plaintiff re-alleges and re-incorporates the preceding paragraphs and all previous allegations as if fully set forth herein.

18. One or more defendants individually or collectively operate the website identified as geeksupportlive.com. Each of the statements of fact and the entirety of the website and all pages are hereby expressly incorporated into this complaint. *See attached* website printout.

19. Defendant made false statements via the above telephone call to Plaintiff, including that Plaintiff had a virus on his computer and, upon information and belief, that Defendant was affiliated with Microsoft.

20. On information and belief, your undersigned believes that one or more statements made on the website are not in fact true and correct. Specifically, the site claims that distribution offices are owned and operated by Defendant throughout the world and that it is a "leader in the computer market."

21. Defendant's website and telephone solicitation campaign is unfair and deceptive.

22. Upon information and belief, the misstatements and conduct of Defendant is willfully unfair and deceptive.

23. Plaintiff relied upon the allegations in the website and in the information in the telephone call to his cellular telephone.

24. As a result of Plaintiff's reliance, he incurred actual damages.

25. This practice therefore violates Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA"), Fla. Stat. §501.

WHEREFORE, Plaintiff demands:

- a. Judgment in his favor;
- b. Actual damages;
- c. Statutory damages for each violation of the FDUTPA committed by Defendant pursuant to Fla. Stat. §501.2075;
- d. An order enjoining Defendant from further violations of the FDUTPA;
- e. An award of attorneys' fees and costs pursuant to Fla. Stat. §501.2105; and
- f. Any other relief the Court deems just and proper.

COUNT III

Intentional Infliction of Severe Emotional Distress

26. Plaintiff re-alleges and re-incorporates the preceding paragraphs and all previous allegations as if fully set forth herein.

27. Upon information and belief, Defendant's conduct was intentional and reckless.

28. The conduct was outrageous, because Defendant lied to Plaintiff and intended to scare Plaintiff by virtue of these lies into purchasing a product which he did not and does not need. Further, this conduct went beyond all bounds of decency, and was to be regarded as odious and utterly intolerable in a civilized community.

29. Said conduct caused Plaintiff severe emotional distress.

WHEREFORE, Plaintiff demands:

- (a) Judgment in his favor;
- (b) Actual damages;

- (c) An order enjoining Defendant from calling any other individuals and engaging in its egregious conduct.
- (d) An award of attorneys' fees and costs; and
- (e) Any other relief the Court deems just and proper.

COUNT IV

Fraud

- 30. Plaintiff re-alleges and re-incorporates the preceding paragraphs and all previous allegations as if fully set forth herein.
- 31. Defendant made a false statement to Plaintiff that his computer was infected with a virus.
- 32. Defendant made a statement to Plaintiff that he worked for Microsoft, upon information and belief, this statement was false.
- 33. Upon information and belief, when these statements were made, Defendant knew they were false.
- 34. Defendant, when making these statements, intended to induce Plaintiff to purchase a product that he did not need in reliance on the statement.
- 35. Plaintiff relied on the statement and was damaged as a result of said reliance.

WHEREFORE, Plaintiff demands:

- (f) Judgment in his favor;
- (g) Actual damages;
- (h) An order enjoining Defendant from calling any other individuals and engaging in its egregious conduct.
- (i) An award of attorneys' fees and costs; and
- (j) Any other relief the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands trial by jury on all claims, defenses, and issues so triable.

DEMAND FOR ATTORNEY'S FEES AND COSTS

Plaintiff hereby demands an award of all attorney's fees and costs incurred in prosecution of this action.

Dated this ____ day of August, 2015.

By: _____/MDW/_____
Matthew D. Weidner, Esq.
WeidnerLaw, P.A.
Attorney for Plaintiff
250 Mirror Lake Dr., N.
St. Petersburg, FL 33701
(727) 954-8752
service@mattweidnerlaw.com
FBN: 185957