

From: JANNEY & JANNY COURT SERVICES 213 413 8024

08/15/2007 09:23

#792 P.017/062

SUMMONS (CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

HEWLETT-PACKARD COMPANY, a Delaware Corporation, KEVIN T. HUNSAKER, an individual, PATRICIA DUNN, an individual, and DOES 1 through 100

FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE)

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

STEPHEN SHANKLAND, an individual

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte.

The name and address of the court is: (El nombre y dirección de la corte es): SUPERIOR COURT OF THE STATE OF CALIFORNIA 400 McAllister Street San Francisco, CA 94102 Civic Center Courthouse

CASE NUMBER (Número del Caso): 07-366705

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es): Kevin R. Boyle, Esq. (State Bar # 192718) 310/477-1700 310/477-1699 PANISH, SHRA & BOYLE, LLP 11111 Santa Monica Blvd., Suite 700 Los Angeles, CA 90025

DATE: AUG 15 2007 Clerk, by (Secretario) Deputy (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).) (Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010).)

(SEAL)

- NOTICE TO THE PERSON SERVED: You are served 1. as an individual defendant. 2. as the person sued under the fictitious name of (specify): 3. on behalf of (specify): under: CCP 416.10 (corporation) CCP 416.20 (defunct corporation) CCP 416.40 (association or partnership) other (specify): 4. by personal delivery on (date):

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08/15/2007 09:23

#792 P.018/062

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KEVIN R. BOYLE, STATE BAR NO. 192718
RAHUL RAVIPUDI, STATE BAR NO. 204219

(SPACE BELOW FOR FILING STAMP ONLY)

CASE MANAGEMENT CONFERENCE SET

FILED
San Francisco County Superior Court
JAN 5 2007

BY: GORDON PARKER, Clerk
JAN 2 6 2007
DEPARTMENT 212
CLERK

Attorneys for Plaintiff

DEPARTMENT 212
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

STEPHEN SHANKLAND, an individual,

Plaintiff,

vs.

HEWLETT-PACKARD COMPANY, a
Delaware Corporation, KEVIN T.
HUNSAKER, an individual, PATRICIA
DUNN, an individual, and DOES 1 through
100,

Defendants.

CASE NO. 0707-266208

COMPLAINT

- 1. Invasion of Privacy/Intrusion
- 2. Intentional Infliction of Emotional Distress
- 3. Violation of California Business & Professions Code §§ 17200 et. seq.

DEMAND FOR JURY TRIAL

FILED BY FAX

COMES NOW the Plaintiff, STEPHEN SHANKLAND, who, on information and belief, complains and alleges as follows:

GENERAL ALLEGATIONS

1. Defendants have admitted that, as a general practice, they engaged in "pretexting" by attempting to obtain personal information of others through fraud and false pretenses. In an interview held on September 8, 2006, when asked if she believed pretexting is illegal, Defendant Patricia Dunn replied, "I have no idea, but it's wrong."

1 2. On September 12, 2006, Defendant Patricia Dunn, who was at the time, Chairman of
2 the Board for HP, admitted that pretexting “techniques were practiced on a number of individuals
3 including certain directors, two employees and a number of individuals outside of the company
4 including journalists.”

5 3. To further highlight HP’s widespread use of pretexting, on September 28, 2006,
6 Defendant Patricia Dunn testified before the United States Congress that “the fraudulent
7 misrepresentations of identity . . . was part of a standard arsenal” of HP tactics.

8 4. Subsequent to these disclosures and admissions, both State and Federal Governments
9 initiated civil and criminal indictments on HP, and its officers and agents. As a result of the State
10 Government investigations, on December 7, 2006, the Superior Court of the State of California
11 entered a Final Judgment and Permanent Injunction, which, among other things, impose monetary
12 penalties of \$14.5 million and required HP to undertake efforts to reform its corporate governance.

13 5. In addition, certain Defendants involved in the pretexting scandal have been indicted
14 by the United States Government. In fact, in January 2007, Bryan Wagner, a Colorado private
15 investigator, pleaded guilty to two felony charges in the San Jose federal court. In pleading guilty to
16 two felony counts, Bryan Wagner admitted that he was paid as part of a conspiracy with HP to make
17 fraudulent use of Social Security numbers and other confidential information to obtain the personal
18 phone records of reporters and HP officials as well as their family members.

19 6. Moreover, the Federal Government was so alarmed by Defendants’ conduct that it too
20 became involved by expediting the drafting and enactment of legislation. The United States Congress
21 drafted and the President signed into action the Telephone Records Privacy Act of 2006 which
22 expressly outlaws pretexting in an attempt to obtain another’s telephone records – the very acts
23 committed by Defendants.

24 7. Plaintiff is informed and believes, and thereupon alleges, that by using Plaintiff’s social
25 security number and other personal information, Defendants engaged in illegal and reprehensible
26 conduct which includes, but is not limited to, contacting Plaintiff’s home, work and cellular phone
27 providers and falsely represented themselves as the Plaintiff in order to obtain his private telephone
28 records.

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8. Plaintiff had a reasonable expectation of privacy in the intercepted information and also had a reasonable expectation that such information would not be intercepted. Plaintiff only became aware of the interceptions and disclosure of his confidential communications and information within the last year.

9. Accordingly, Plaintiff brings this action to redress Defendants' attempts to obtain his personal information through fraud and false pretenses.

PARTIES

10. Plaintiff, STEPHEN SHANKLAND, is, and at all relevant times herein was, a journalist and resident of the State of California.

11. Plaintiff is informed and believes, and thereupon alleges, that at all times mentioned herein, Defendant, HEWLETT-PACKARD COMPANY (hereinafter referred to as "HP"), was and now is a corporation organized and existing under and by virtue of the laws of the State of Delaware, and that said Defendant was and now is authorized to do and is doing business in the State of California, and that said Defendant has regularly conducted business in the State of California.

12. On information and belief, Defendant Kevin T. Hunsaker is an individual who, at all relevant times was the in-house counsel and ethics chief for HP and was a resident of the State of California.

13. On information and belief, Defendant Patricia Dunn is an individual who, at all relevant times, was the Chairman of Hewlett Packard and a resident of the State of California.

14. The true names and/or capacities, whether individual, corporate, associate, governmental or otherwise of Defendants, DOES 1 through 100, inclusive, are unknown to Plaintiff at this time, who therefore sues said Defendants by such fictitious names, and when the true names and/or capacities of said Defendants have been ascertained, Plaintiff will amend this complaint accordingly. Plaintiff is informed and believes, and thereupon alleges, that each Defendant designated herein as a DOE is responsible, negligently or in some other actionable manner, for the events and happenings hereinafter referred to, and caused injuries and damages proximately thereby to Plaintiff

1 as hereinafter alleged, either through said Defendants' own conduct or through the authorized and/or
2 ratified conduct of its agents, servants or employees or in some other manner.

3 15. Plaintiff is informed and believes, and thereupon alleges, that at all times mentioned
4 herein, Defendants, and each of them, including DOES 1 through 100, inclusive, were the agents,
5 servants, employees, joint venturers, successors-in-interest and/or alter ego of their coDefendants, and
6 were, as such, acting within the scope, course and authority of said agency, employment, joint venture,
7 successorship-in-interest and/or alter ego and that each and every Defendant, as aforesaid, when acting
8 as a principal, was negligent in the selection and hiring of each and every other Defendant as the agent,
9 servant, employee and/or joint venturer, and that each and every Defendant, when acting as a manager,
10 director and/or officer of the Defendant corporation, authorized, ratified or otherwise approved of the
11 acts of its agents, employees and/or representatives as alleged herein.

12
13 **FIRST CAUSE OF ACTION**

14 **(Invasion of Privacy/Intrusion as Against All Defendants)**

15 17. Plaintiff repleads and incorporates herein by reference all of the allegations contained
16 in the preceding paragraphs.

17 18. Plaintiff had a legally protected privacy interest in his confidential records.

18 19. Plaintiff had a reasonable expectation of privacy under the circumstances that his
19 confidential records and communications would not be intercepted, copied and/or reviewed.

20 20. Defendants' conduct in pretexting to obtain Plaintiff's confidential records constitutes
21 a serious invasion of privacy.

22 21. In addition, Defendants conspired to and intentionally intruded into the Plaintiff's
23 solitude and private affairs by surreptitiously pretexting and obtaining information about Plaintiff's
24 private affairs without his knowledge or consent. Defendants' intrusion was highly offensive to a
25 reasonable person because, among other things, the intrusion resulted in the revelation of confidential
26 and private communications.

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22. As a direct and proximate result of Defendants' actions alleged above, Plaintiff suffered damages, including emotional distress damages, all according to proof at trial, but in excess of the minimum jurisdictional limit of the Court.

23. As a direct and proximate result of Defendants' actions alleged above, Plaintiff has lost and will continue to lose income, interest and benefits, in an amount to be proven at the time of trial, which amount is in excess of the minimum jurisdictional limit of the Court, as well as additional foreseeable consequential and incidental damages in an amount to be shown at the time of trial.

24. In addition, Defendants' conduct as described herein was done with a conscious disregard of Plaintiff's rights, and was done with the intent to vex and annoy him. In fact, Defendants continued to commit the alleged illegal and bad acts even after confirming that such actions were illegal and inappropriate. Defendants' acts constitute oppression, fraud and/or malice under California *Civil Code* § 3294, entitling Plaintiff to an award of punitive damages in an amount appropriate to punish or set an example of the Defendants, and each of them, in an amount to be determined at trial.

SECOND CAUSE OF ACTION

(Intentional Infliction of Emotional Distress as Against All Defendants)

25. Plaintiff repleads and incorporates herein by reference all of the allegations contained in the preceding paragraphs.

26. Defendants' intentional acts of pretexting to obtain Plaintiff's confidential and personal records without his consent were outrageous.

27. Defendants intended to cause Plaintiff emotional distress or acted with reckless disregard of the probability of causing him emotional distress, and did so for the purpose of causing Plaintiff to suffer humiliation and mental anguish.

28. Plaintiff suffered severe emotional distress as a proximate result of Defendants' outrageous conduct.

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29. As a direct and proximate result of Defendants' actions alleged above, Plaintiff suffered damages, including emotional distress damages, all according to proof at trial, but in excess of the minimum jurisdictional limit of the Court.

30. As a direct and proximate result of Defendants' actions alleged above, Plaintiff has lost and will continue to lose income, interest and benefits, in an amount to be proven at the time of trial, which amount is in excess of the minimum jurisdictional limit of the Court, as well as additional foreseeable consequential and incidental damages in an amount to be shown at the time of trial.

31. In addition, Defendants' conduct as described herein was done with a conscious disregard of Plaintiff's rights, and was done with the intent to vex and annoy them. Defendants' acts constitute oppression, fraud and/or malice under California *Civil Code* § 3294, entitling Plaintiff to an award of punitive damages in an amount appropriate to punish or set an example of the Defendants, and each of them, in an amount to be determined at trial.

THIRD CAUSE OF ACTION

**(Violation of Business & Professions Code §§ 17200 et.seq.
As Against HP and DOES 1 through 50)**

32. Plaintiff repleads and incorporates herein by reference all of the allegations contained in the preceding paragraphs.

33. *Business & Professions Code* §§ 17200 et.seq. defines unfair business practices to include any "unlawful, unfair and fraudulent" business act or practice.

34. Defendants' widespread practice of pretexting as alleged above is unfair, fraudulent and deceptive.

35. By committing the acts and practices alleged above, Defendants have been and continue to be engaged in unfair and/or deceptive business practices within the meaning of the *Business & Professions Code* §§ 17200 et.seq.

36. Plaintiff has been injured in fact and has lost money and property as a result of Defendants' unfair business practices as alleged throughout this Complaint.

1 37. Defendants, through their acts of unfair and deceptive business practices, have obtained
2 a value as a direct result of their scheme. Plaintiff requests that the Court impose relief by way of
3 restitution by ordering that the Defendants return any direct or indirect gains to the Plaintiff and to
4 enjoin Defendants from continuing to violate the *Business & Professions Code* by pretexting in the
5 future.

6 38. As a further result, the Court should also order Defendants to make restitution of all
7 ill-gotten gains attributable to these acts and practices, plus interest and award any other relief the
8 Court deems appropriate.

9 39. Plaintiff also respectfully requests an award of attorneys' fees, costs and expenses upon
10 prevailing in the request for relief against Defendants.

11
12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays judgment against Defendants HP, Kevin T. Hunsaker, Patricia
14 Dunn, and DOES 1 through 100, and each of them, as follows:

- 15 1. General damages according to proof and beyond the jurisdictional minimum of this
16 court;
- 17 2. Punitive damages in an amount to be determined by the trier of fact;
- 18 3. Damages for loss of earnings, past and future, according to proof;
- 19 4. Damages for lost earning capacity, according to proof;
- 20 5. Damages for Plaintiff's other economic losses, according to proof;
- 21 6. Cost of suit incurred herein;
- 22 7. Such other relief as the court deems just and proper.

23 WHEREFORE, Plaintiff further prays judgment against Defendants HP and DOES 1 through
24 50, and each of them, as follows:

- 25 8. Restitution as permitted under California *Business & Professions Code* §§ 17200
26 et.seq.
- 27 9. Disgorgement of profits as permitted under California *Business & Professions Code*
28 §§ 17200 et.seq.

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- 10. Injunctive Relief as permitted under California *Business & Professions Code* §§ 17200 et.seq.
- 11. Reasonable attorneys' fees as permitted under California *Business & Professions Code* §§ 17200 et.seq.

DATED: August 14, 2007

PANISH, SHEA & BOYLE, LLP



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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury for all causes of action in the instant matter.

DATED: August 14, 2007

PANISH, SHEA & BOYLE, LLP



BRIAN J. PANISH
KEVIN R. BOYLE
RAHUL RAVIPUDI
Attorneys for Plaintiff