

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA, FORT PIERCE DIVISION

DIANNE SOLDEVILLA,
Individually and on behalf of all
Others similarly situated,

CLASS ACTION

Plaintiff,

v.

ON THE BARRELHEAD, INC.,

Defendant.

DEFENDANT ON THE BARRELHEAD, INC.'S NOTICE OF REMOVAL

Defendant, On the Barrelhead, Inc. (“OTB”), through undersigned counsel, pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d) and 28 U.S.C. § 1453, as well as 28 U.S.C. §§ 1441 and 1446, hereby removes to this Court the state court action described below.

BACKGROUND

1. This action was filed on October 12, 2019 in the Circuit Court of the Nineteenth Judicial Circuit in and for St. Lucie County, Florida as *Dianne Soldevilla v. On the Barrelhead, Inc.*, Case No. 56-2019-CA-001964 (Fla. 19th Jud. Cir.) (the “State Court Action”).

2. Plaintiff filed the State Court Action on behalf of herself and Florida residents who allegedly: (a) within the four years prior to the filing of the Complaint (b) were sent the same alleged unsolicited commercial e-mail allegedly sent to Plaintiff (the “Alleged E-mail”) (c) from Defendant or anyone on Defendant’s behalf.

3. Plaintiff alleges that she and others received a supposedly unsolicited commercial e-mail from OTB in violation of Florida’s Electronic Mail Communications Act, Fla. Stat. §§

668.601 *et seq.* (“FEMCA”). Based on this allegation, Plaintiff asserts a single claim for a violation of FEMCA.

4. Plaintiff seeks the following relief, as set forth separately from the claims on pages 8 and 9 of the Complaint: (a) a “declaration that Defendant’s practices described herein violate Florida’s Electronic Mail Communications Act”; (b) an “injunction to enjoin future violations of Florida’s Electronic Mail Communications Act”; (c) “[l]iquidated damages of \$500 for each unsolicited commercial electronic mail message sent to Plaintiff and members of the Class”; (d) attorneys’ fees and other litigation costs incurred in action with the action; and (e) “such other and further relief as the Court may deem just and proper.” (Compl. pp. 8-9.)

5. Pursuant to 28 U.S.C. § 1446(a), Defendants have attached: (a) a copy of the Class Action Complaint (the “Complaint”) filed in the State Court Action as **Exhibit 1**; and a copy of all other process and pleadings served on any of the Defendants in the State Court Action as **Composite Exhibit 2**. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Circuit Court of the Nineteenth Judicial Circuit in and for Broward County, Florida, in accordance with the provisions of 28 U.S.C. § 1446(d), along with a Notice of the filing, a copy of which will be served upon all parties.

6. OTB was served with the Complaint on October 29, 2019. This Notice of Removal is timely filed in accordance with 28 U.S.C. § 1446.

THIS COURT HAS JURISDICTION OVER THIS ACTION UNDER CAFA

7. The State Court Action is removable to this Court, and this Court has jurisdiction over this action, under CAFA, 28 U.S.C. § 1332, 28 U.S.C. § 1441(a) and (b), and 28 U.S.C. §

1453, because this is a putative class action with more than 100 putative class members that are seeking to recover in excess of \$5 million in the aggregate, and there is minimal diversity.¹

8. Plaintiff seeks to bring this action on her own behalf and on behalf of the putative class comprised of:

All Florida residents who, with the four years prior to the filing of this Complaint, were sent the same unsolicited commercial electronic mail message sent to Plaintiff, as alleged herein, from Defendant or anyone on Defendant's behalf.

(Compl. ¶ 30.)

9. The Complaint seeks to certify a class pursuant to Fla. R. Civ. P. 1.220(b)(2) and (b)(3). (*Id.* at ¶ 30.)

10. CAFA expressly provides that class actions filed in state court are removable to federal court. CAFA expands federal jurisdiction over class actions by amending 28 U.S.C. § 1332 to grant original jurisdiction where the putative class contains at least 100 class members, any member of the putative class is a citizen of a State different from that of any defendant, and the amount in controversy exceeds \$5 million in the aggregate for the entire class, exclusive of interest and costs. 28 U.S.C. § 1332(d).

11. This suit satisfies all the requirements under CAFA for federal jurisdiction: (1) the putative class exceeds 100; (2) the members of the Putative Class have a different citizenship from Defendants; and (3) the amount in controversy exceeds \$5 million. Moreover, the exceptions to CAFA do not apply here. *See* 28 U.S.C. § 1332(d).

¹ OTB, by filing this Notice of Removal, does not waive and expressly reserves any objection as to venue, the legal sufficiency of the claims alleged in the State Court action, and all other defenses.

A. The Putative Class Exceeds 100 Members

12. CAFA requires that the class consist of at least 100 persons. 28 U.S.C. § 1332(d)(5).

13. That requirement is met here. Although Plaintiff does not identify the number of putative class members in their Complaint, Plaintiff alleges that she “believes the Class members number in the several thousands, if not more.” (Compl. ¶ 32.) Further, based on OTB’s ongoing investigation of its business records and its discussions with the third-party marketers that would have sent the Alleged Email and others like it, it is clear that there will be in excess of 100 class members likely implicated in the putative class asserted by Plaintiff in the Complaint.

B. There is Minimal Diversity for CAFA Jurisdiction

14. The second CAFA requirement is minimal diversity—at least one putative class member must be a citizen of a different state than any one defendant. 28 U.S.C. § 1332(d)(2).

15. On information and belief and as set forth in the Complaint, Plaintiff is a citizen of Florida. (Compl. ¶ 8.)

16. OTB is a corporation incorporated in Delaware with its principal place of business located in Durango, Colorado. (Compl. ¶ 9.) For diversity purposes a corporation is deemed to be a citizen of (1) the state under whose laws it is organized, and (2) the state of its “principal place of business.” 28 U.S.C. § 1332(c)(1). For purposes of diversity, then, OTB is a foreign corporation.

17. The putative class is comprised of certain “Florida residents.” (Compl. ¶ 30.)

18. Thus, there is diversity here, as Plaintiff is a citizen of Florida (as are the putative class members), and OTB is a citizen of Delaware or Colorado. Therefore, the second CAFA requirement is met. 28 U.S.C. § 1332(d)(2).

C. The Amount in Controversy Exceeds \$5,000,000

19. CAFA also requires that the aggregate amount in controversy exceed \$5 million for the putative class in the aggregate, exclusive of interest and costs. 28 U.S.C. § 1332(d)(2). As the United States Supreme Court has held, Defendants’ notice of removal “need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014).

20. Although OTB denies all liability alleged in the Complaint and denies that class treatment is appropriate for this lawsuit, the amount in controversy requirement is determined by accepting Plaintiff’s allegations as true. *See, e.g., Cain v. Hartford Life & Accident Ins. Co.* 890 F. Supp. 2d 1246, 1249 (C.D. Cal. 2002) (citations omitted). Here, based upon Plaintiff’s allegations and Defendant’s ongoing investigation of those allegations, the \$5 million CAFA amount in controversy requirement is satisfied.

21. First, Plaintiff seeks statutory damages under FEMCA of \$500 for “each unsolicited commercial electronic mail message sent to Plaintiff and members of the Class.” (*See* Compl. at p. 8.) Plaintiff alleges that these messages “like the ones sent to Plaintiff to thousands of consumers” (*id.* at ¶ 33), and this allegation is consistent with OTB’s ongoing investigation of its business records and its discussions with the third-party marketers that would have sent the Alleged Email and others like it. Specifically, OTB has been told by its third-party marketers that millions of emails were sent by them to United States residents in 2019 alone. Although OTB at this time cannot identify which specific e-mails were sent to Florida residents, based on this investigation and the representations made by the third-party marketers regarding the volume of e-mails sent, the amount in controversy based on statutory damages exceeds \$5,000,000.

22. Second, Plaintiff seeks declaratory and injunctive relief in the Complaint, specifically, an injunction to enjoin future violations of Florida's Electronic Mail Communications Act. (Compl. at p. 8.) "When a plaintiff seeks injunctive or declaratory relief, the amount in controversy is the monetary value of the object of the litigation from the plaintiff's perspective," or "the monetary value [that] would accrue to the class plaintiffs upon issuance of the prospective injunction [and/or declaration]." *Cohen v. Office Depot, Inc.*, 204 F.3d 1069, 1077 (11th Cir. 2000) (citation omitted); *see also Hartford Ins. Grp. v. Lou-Con Inc.*, 293 F.3d 908, 910 (5th Cir. 2002) (amount-in-controversy in an action for declaratory relief is "the value of the right to be protected or the extent of the injury to be prevented"). Conversely, the value of declaratory or injunctive relief is also "the losses that will follow from" not obtaining the requested relief. *Hunt v. Wash. State Apple Advertising Comm'n*, 432 U.S. 333, 347 (1977). For CAFA purposes, a district court "aggregate[s] the claims of individual class members and consider[s] the monetary value that would flow to the entire class if [injunctive or] declaratory relief were granted." *S. Fla. Wellness, Inc. v. Allstate Ins. Co.*, 745 F.3d 1312, 1315 (11th Cir. 2014). Here, Plaintiff alleges that the "cumulative effect of unsolicited spam e-mails like Defendant's poses a real risk of ultimately rendering a consumer's e-mail inbox unusable and/or requiring the consumer to pay for additional space." (Compl. ¶ 29.)

23. Third, Plaintiff has requested an award of attorneys' fees under FEMCA. (Compl. at pp. 7-8.) Although OTB disputes whether Plaintiff or the putative class is entitled to any such award, and dispute that FEMCA applies to the Plaintiff's claim or putative class claims as a matter of fact or law, for purposes of removal, Plaintiff's assertion of a statutory right to attorneys' fees is properly considered in ascertaining the amount in controversy. *See, e.g., Sheffield Woods at Wellington Condo. Ass'n v. Scottsdale Ins. Co.*, 2009 WL 2255219, at *1 (M.D. Fla. July 28, 2009)

(denying motion to remand, finding amount in controversy met based in part on potential for attorneys' fees under Fla. Stat. § 627.428). Here, the possibility of attorneys' fees in a significant putative class action involving thousands of e-mail recipients increases the amount in controversy and further demonstrates that the CAFA amount in controversy requirement is clearly met here.

24. For all the foregoing reasons, the \$5 million CAFA amount in controversy requirement is satisfied.

D. The Exceptions to CAFA Do Not Apply Here

25. CAFA provides two mandatory exceptions to the application of federal jurisdiction (the "local controversy exception"), and one discretionary exception. 28 U.S.C. § 1332(d)(3)-(4); *see also Evans v. Walter Indus., Inc.*, 449 F.3d 1159, 1163 (11th Cir. 2006) (discussing the "local controversy exception"); *Gavron v. Weather Shield Mfg.*, 2010 WL 3835115, at *2-3 (S.D. Fla. Sept. 29, 2010). The burden of establishing the exceptions to CAFA rests on Plaintiff as the nonremoving party. *Evans*, 449 F.3d at 1164 ("[W]hen a party seeks to avail itself of an express statutory exception to federal jurisdiction granted under CAFA, as in this case, we hold that the party seeking remand bears the burden of proof with regard to that exception."). Nonetheless, the exceptions do not apply here.

E. The Procedural Requirements for Removal are Satisfied

26. This court is the proper venue for removal because the State Court Action is pending in St. Lucie County, Florida, and the United States District Court for the Southern District of Florida is the "district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a).

27. OTB timely filed this notice of removal.

28. Accordingly, because the CAFA prerequisites are met and none of the exceptions apply, this case is properly removable under CAFA.

29. The undersigned respectfully submits that this removal is well-grounded in fact, warranted by existing law, and not interposed for any improper purpose.

WHEREFORE, OTB respectfully requests that this Court will consider this Notice of Removal as provided by law governing the removal of cases to this Court, that this Court will make the proper orders to achieve the removal of the State Court Action to this Court, and that this Court will make such other orders as may be appropriate to effect the preparation and filing of a true record in this cause of all proceedings that may have been had in the State Court Action.

Dated: November 27, 2019

Respectfully Submitted,

STUMPHAUZER FOSLID SLOMAN
ROSS & KOLAYA, PLLC
Two South Biscayne Boulevard,
Suite 2550
Miami, FL 33131
Telephone: (305) 614-1400
Facsimile: (305) 614-1425

By: /s/ Ian M. Ross

IAN M. ROSS

Florida Bar No. 091214

iross@sflaw.com

JACQUELINE Z. DEROVANESIAN

Florida Bar No. 125662

jderovanesian@sflaw.com

docketing@sflaw.com

Counsel for On the Barrelhead, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of November, 2019, I electronically filed the foregoing document with the Clerk of the Court using the Florida Courts E-Filing Portal. I also certify that the foregoing document is being served on counsel on the Service List below via e-mail.

/s/ Ian M. Ross

IAN M. ROSS

SERVICE LIST

HIRALDO P.A.

Manuel S. Hiraldo, Esq.
mhiraldo@hiral dolaw.com
401 E. Las Olas Boulevard
Suite 1400
Fort Lauderdale, Florida 33301
(954) 400-4713

EDELSBERG LAW, PA

Scott Edelsberg, Esq.
scott@edelsberglaw.com
19495 Biscayne Blvd. #607
Aventura, FL 33180
(305) 975-3320

SHAMIS & GENTILE, P.A.

Andrew J. Shamis, Esq.
ashamis@shamisgentile.com
14 NE 1st Avenue, Suite 400
Miami, FL 33132
(305) 479-2299

Counsel for Plaintiff

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR ST. LUCIE COUNTY, FLORIDA**

DIANNE SOLDEVILLA,
individually and on behalf of all
others similarly situated,

Plaintiff,

v.

ON THE BARRELHEAD, INC.,

Defendant.

CLASS ACTION

JURY TRIAL DEMANDED

562019CA001964AXXXHC

Judge Barbara Bronis

CLASS ACTION COMPLAINT

Plaintiff Dianne Soldevilla brings this class action against Defendant On the Barrelhead, Inc., and alleges as follows upon personal knowledge as to herself and her own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by her attorneys.

NATURE OF THE ACTION

1. This is a putative class action under Florida’s Electronic Mail Communications Act, Fla. Stat. §§ 668.601-668.610 (“FEMCA”).

2. FEMCA “is intended to promote the integrity of electronic commerce and shall be construed liberally in order to protect the public and legitimate businesses from deceptive and unsolicited commercial electronic mail.” Fla. Stat. § 668.601.

3. In pertinent part, FEMCA prohibits the transmission from a computer in Florida, or to an electronic mail address that is held by a resident of Florida, of any e-mail that contains false or misleading information in the subject line. *See* Fla. Stat. § 668.603(1)(c).

4. To solicit customers for its loan matching services, Defendant sends misleading spam

e-mails with no regard for the rights of the recipients of those e-mails.

5. Spam e-mails like Defendant's undermine the integrity of electronic commerce in Florida.

6. As described below, Defendant caused thousands of misleading e-mails to be sent to Plaintiff and Class Members, causing them injuries, including lost productivity and resources, annoyance, consumption of valuable digital storage space, and/or financial costs.

7. Through this action, Plaintiff seeks injunctive relief to halt Defendant's illegal conduct. Plaintiff also seeks statutory damages on behalf of herself and Class Members, as defined below, and any other available legal or equitable remedies resulting from the illegal actions of Defendant.

PARTIES, JURISDICTION, AND VENUE

8. Plaintiff is a natural person who, at all times relevant to this action, was a citizen of and domiciled in St. Lucie County, Florida.

9. Defendant is a foreign corporation with its principal place of business located at 835 Main Ave., Suite 205, Durango, CO 81301.

10. This Court has personal jurisdiction over Defendant pursuant to Fla. Stat. § 668.606(4).

11. This Court has subject matter jurisdiction pursuant to Florida Rule of Civil Procedure 1.220 and Section 26.012(2), Florida Statutes. The matter in controversy exceeds the sum or value of \$15,000 exclusive of interest, costs, and attorney's fees.

12. Venue for this action is proper in this Court because a substantial part of the events or omissions giving rise to the claim occurred within the jurisdictional limits of this Court.

FLORIDA'S ELECTRONIC MAIL COMMUNICATIONS ACT

13. In pertinent part, FEMCA prohibits the following:

(1) Initiate or assist in the transmission of an unsolicited commercial electronic mail message from a computer located in this

state or to an electronic mail address that is held by a resident of this state which:

* * *

(c) Contains *false or misleading information in the subject line*;

Fla. Stat. § 668.603 (emphasis supplied).

14. Under section 668.602(3), “[c]ommercial electronic mail message” is “an electronic mail message sent to promote the sale or lease of, or investment in, property, goods, or services related to any trade or commerce...” Fla. Stat. § 668.602(3).

15. Under section 668.602(14), “[u]nsolicited commercial electronic mail message” is “any commercial electronic mail message that is not a transactional or relationship message and is sent to a recipient without the recipient’s affirmative or implied consent.” Fla. Stat. § 668.602(14).

16. A “prevailing plaintiff” in an action under FEMCA is entitled:

(a) An injunction to enjoin future violations of s. 668.603.

(b) Compensatory damages equal to any actual damage proven by the plaintiff to have resulted from the initiation of the unsolicited commercial electronic mail message or liquidated damages of \$500 for each unsolicited commercial electronic mail message that violates s. 668.603.

(c) The plaintiff’s attorney’s fees and other litigation costs reasonably incurred in connection with the action.

Fla. Stat. § 668.606(3).

17. FEMCA provides for a private right of action, allowing consumers like Plaintiff here to seek the relief outlined in section 668.606(3).

18. Specifically, section 668.6075 provides:

Unfair and deceptive trade practices.—A violation of s. 668.603 shall be deemed an unfair and deceptive trade practice within the meaning of part II of chapter 501. In addition to any remedies or penalties set forth in that part, a violator shall be subject to the penalties and remedies

provided for in this part.

19. Thus, by incorporating Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA"), Fla. Stat. §§ 501.201-.213, into FEMCA, the Florida Legislature provided consumers a civil remedy. Stated differently, the declaration by the Florida Legislature that a FEMCA violation is deemed an "unfair and deceptive trade practice" and thus "unlawful," triggers the private right of action afforded under FDUTPA.

20. This is further supported by the statute's reference to a "prevailing plaintiff" and the "plaintiff's attorney's fees and other litigation costs..." referenced under the section outlining the relief available to consumers like Plaintiff. *See* Fla. Stat. § 668.606(3).

21. Legislative history further supports the existence of a private right of action under FEMCA. Indeed, the Preamble to the Senate Bill that enacted FEMCA stated that the statute "...authorize[s] the department *and* persons receiving...unsolicited electronic mail to bring an action against persons transmitting that mail..." 2004 Fla. Sess. Law Serv. Cha. 2004-233 (S.B. 2574) (emphasis supplied).

FACTS

22. On or about September 30, 2019, Defendant sent an e-mail to Plaintiff with the following subject line: "New loan offer alert".

23. Defendant's promise of a "New loan offer" was false or misleading, as there was no offer. Instead, the purpose of the e-mail was to dupe Plaintiff into visiting Defendant's website, where Defendant markets its loan matching services.

24. Defendant's e-mail constitutes an unsolicited commercial electronic mail message under FEMCA because (1) it was sent to promote the sale or lease of, or investment in, property, goods, or services related to any trade or commerce; and (2) it was sent without Plaintiff's affirmative or

implied consent.

25. Plaintiff is the sole user of the e-mail address to which Defendant transmitted the violative e-mail.

26. Defendant's unsolicited e-mail caused Plaintiff actual harm including lost productivity and resources, annoyance, and consumption of valuable digital storage space.

27. Plaintiff was induced by the misleading subject line in Defendant's e-mail to click on and view Defendant's e-mail.

28. Plaintiff estimates that she wasted approximately 20 seconds reviewing Defendant's misleading e-mail.

29. Furthermore, Defendant's e-mail took up approximately 75KB of space on Plaintiff's e-mail inbox. The cumulative effect of unsolicited spam e-mails like Defendant's poses a real risk of ultimately rendering a consumer's e-mail inbox unusable and/or requiring the consumer to pay for additional space.

CLASS ALLEGATIONS

PROPOSED CLASS

30. Plaintiff brings this action pursuant to Florida Rule of Civil Procedure 1.220(b)(2) and (b)(3) on behalf of the following "Class" (including "Class Members" and "Members"):

All residents of Florida who, within the four years prior to the filing of this Complaint, were sent the same unsolicited commercial electronic mail message sent to Plaintiff, as alleged herein, from Defendant or anyone on Defendant's behalf.

31. Defendant and its employees or agents are excluded from the Class.

32. Plaintiff does not know the exact number of members in the Class but believes the Class members number in the several thousands, if not more.

NUMEROSITY

33. Upon information and belief, Defendant has sent unsolicited commercial electronic mail messages like the ones sent to Plaintiff to thousands of consumers. The members of the Class, therefore, are believed to be so numerous that joinder of all members is impracticable.

34. The exact number and identities of the Class members are unknown at this time and can be ascertained only through discovery. Identification of the Class members is a matter capable of ministerial determination from Defendant's records.

COMMON QUESTIONS OF LAW AND FACT

35. There are numerous questions of law and fact common to the Class which predominate over any questions affecting only individual members of the Class. Among the questions of law and fact common to the Class are:

- (1) Whether Defendant's e-mails constitute unsolicited commercial electronic mail messages;
- (2) Whether Defendant's e-mails contain false or misleading information in the subject line;
- (3) Whether Defendant is liable for damages, and the amount of such damages; and
- (4) Whether Defendant should be enjoined from such conduct in the future.

36. The common questions in this case are capable of having common answers. If Plaintiff's claim that Defendant routinely transmits unsolicited commercial electronic mail messages containing misleading subject lines is accurate, Plaintiff and the Class members will have identical claims capable of being efficiently adjudicated and administered in this case.

TYPICALITY

37. Plaintiff's claims are typical of the claims of the Class members, as they are all based

on the same factual and legal theories.

PROTECTING THE INTERESTS OF THE CLASS MEMBERS

38. Plaintiff is a representative who will fully and adequately assert and protect the interests of the Class and has retained competent counsel. Accordingly, Plaintiff is an adequate representative and will fairly and adequately protect the interests of the Class.

SUPERIORITY

39. A class action is superior to all other available methods for the fair and efficient adjudication of this lawsuit, because individual litigation of the claims of all members of the Class is economically unfeasible and procedurally impracticable. While the aggregate damages sustained by the Class are in the millions of dollars, the individual damages incurred by each member of the Class resulting from Defendant wrongful conduct are too small to warrant the expense of individual lawsuits. The likelihood of individual Class members prosecuting their own separate claims is remote, and, even if every member of the Class could afford individual litigation, the court system would be unduly burdened by individual litigation of such cases.

40. The prosecution of separate actions by members of the Class would create a risk of establishing inconsistent rulings and/or incompatible standards of conduct for Defendant. For example, one court might enjoin Defendant from performing the challenged acts, whereas another may not. Additionally, individual actions may be dispositive of the interests of the Class, although certain class members are not parties to such actions.

COUNT I

**Violation of Florida's Electronic Mail Communications Act
(On Behalf of Plaintiff and the Class)**

41. Plaintiff re-alleges and incorporates the foregoing allegations as if fully set forth herein.

42. Defendant initiated the transmission of an unsolicited commercial electronic mail

message to electronic mail addresses held by residents of this state that contained false or misleading information in the subject line.

43. Defendant failed to secure affirmative or implied consent to transmit the subject e-mails to Plaintiff and members of the Class.

44. Defendant caused harm to Plaintiff and members of the Class, including lost productivity and resources, annoyance, consumption of valuable digital storage space and/or financial costs.

45. Defendant's conduct undermined the integrity of electronic commerce in this state.

46. Plaintiff and members of the Class are therefore entitled to an injunction to prohibit Defendant from further harming consumers, liquidated damages of \$500 for each unsolicited commercial electronic mail message sent by Defendant to Plaintiff and members of the Class, as well as their attorney's fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Dianne Soldevilla, on behalf of herself and the other members of the Class, prays for the following relief:

a. A declaration that Defendant's practices described herein violate Florida's Electronic Mail Communications Act;

b. An injunction to enjoin future violations of Florida's Electronic Mail Communications Act;

c. Liquidated damages of \$500 for each unsolicited commercial electronic mail message sent to Plaintiff and members of the Class;

d. Attorney's fees and other litigation costs reasonably incurred in connection with this action; and

e. Such further and other relief the Court deems reasonable and just.

JURY DEMAND

Plaintiff and Class Members hereby demand a trial by jury.

DOCUMENT PRESERVATION DEMAND

Plaintiff demands that Defendants take affirmative steps to preserve all records, lists, electronic databases or other itemization associated with e-mails alleged herein.

Date: October 10, 2019

Respectfully submitted,

HIRALDO P.A.

/s/ Manuel S. Hiraldo
Manuel S. Hiraldo, Esq.
Florida Bar No. 030380
401 E. Las Olas Boulevard
Suite 1400
Ft. Lauderdale, Florida 33301
mhiraldo@hiraldolaw.com
(t) 954.400.4713

SHAMIS & GENTILE, P.A.

Andrew J. Shamis
Florida Bar No. 101754
ashamis@shamisgentile.com
14 NE 1st Avenue, Suite 400
Miami, Florida 33132
(t) (305) 479-2299
(f) (786) 623-0915

EDELSBERG LAW, PA

Scott Edelsberg, Esq.
Florida Bar No. 0100537
scott@edelsberglaw.com
19495 Biscayne Blvd #607
Aventura, FL 33180
Telephone: 305-975-3320

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [On the Barrelhead Facing Class Action Over Alleged 'Spam' Emails Sent to Florida Residents](#)
