

SUMMONS IN A CIVIL ACTION

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HEALTH SOLUTIONS NETWORK, LLC +  
RALPH PENTON  
v.

JERRY M. BAKER

CIVIL ACTION NO.

TO: (NAME AND ADDRESS OF DEFENDANT)

JERRY M. BAKER  
346 LEMON AVENUE  
APT. 4  
MONROVIA, CA 91016

YOU ARE HEREBY SUMMONED and required to serve upon

Plaintiff's Attorney (Name and Address)

LOUIS J. PETRIELLO  
PETRIELLO + ROYAL LLC  
526 TOWNSHIP LINE ROAD SUITE 200  
BLUE BELL, PA 19422

an answer to the complaint which is herewith served upon you, within \_\_\_\_\_ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Michael E. Kunz, Clerk of Court

Date:

(By) Deputy Clerk

APPENDIX I

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

|                               |   |              |
|-------------------------------|---|--------------|
| HEALTH SOLUTIONS NETWORK, LLC | : | CIVIL ACTION |
| RALPH PENTON                  | : |              |
|                               | : |              |
| JERRY M. BAKER                | : | NO.          |
|                               | : |              |

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks.

|                     |                           |                           |
|---------------------|---------------------------|---------------------------|
| <u>1/26/07</u>      | <u>LOUIS J. PETRIELLO</u> | <u>PLAINTIFFS</u>         |
| Date                | Attorney-at-law           | Attorney for              |
| <u>215-646-9119</u> | <u>215-646-9669</u>       | <u>LPETRIELLO@ADL.COM</u> |
| Telephone           | FAX Number                | E-Mail Address            |

**CIVIL COVER SHEET**

**APPENDIX H**

JS 44 (Rev. 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

HEALTH SOLUTIONS NETWORK, LLC  
RALPH PENTON

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) LOUIS J. PETRIELLO  
PETRIELLO + ROYAL LLC  
526 TOWNHILL LANE ROAD - SUITE 200  
BLUE BELLS, PA. 19422

**DEFENDANTS**

JERRY M. BAKER

County of Residence of First Listed Defendant LOS ANGELES  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |   |   |  |
|---|---|---|--|
| <b>PTF</b>                              | <b>DEF</b>  | <b>PTF</b>  | <b>DEF</b>   |
| Citizen of This State                   | <input type="checkbox"/> 1 <input type="checkbox"/> 1                       | Incorporated or Principal Place of Business in This State     | <input checked="" type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3                       | Foreign Nation  | <input type="checkbox"/> 6 <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

| CONTRACT   | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES   |
|--|--|--|---|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other<br><br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY  | CIVIL RIGHTS   | PRISONER PETITIONS   |   |  |
| <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 440 Other Civil Rights  | <input type="checkbox"/> 510 Motions to Vacate Sentence<br><b>Habeas Corpus:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition  |   |  |

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgement

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

28 U.S.C. § 1367(a)  
DEFAMATION AND TRADEMARK INFRINGEMENT

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ EXCESS OF \$150,000.00 CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

1/26/07

SIGNATURE OF ATTORNEY OF RECORD

*[Signature]*

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553  
Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

APPENDIX G

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

HEALTH SOLUTIONS NETWORK, LLC  
AND  
RALPH DEATON  
V.  
JERRY M. BAKER

Civil Action  
No: \_\_\_\_\_

DISCLOSURE STATEMENT FORM

Please check one box:

The nongovernmental corporate party, HEALTH SOLUTIONS NETWORK, LLC in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.

The nongovernmental corporate party, \_\_\_\_\_, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1/26/07  
Date

[Signature]  
Signature

Counsel for: HEALTH SOLUTIONS NETWORK, LLC + RALPH DEATON

**Federal Rule of Civil Procedure 7.1 Disclosure Statement**

(a) WHO MUST FILE: NONGOVERNMENTAL CORPORATE PARTY. A nongovernmental corporate party to an action or proceeding in a district court must file two copies of a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.

(b) TIME FOR FILING; SUPPLEMENTAL FILING. A party must:

- (1) file the Rule 7.1(a) statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court, and
- (2) promptly file a supplemental statement upon any change in the information that the statement requires.

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 656 East Swedesford Road, Ste 214, Wayne PA 19087 & 10823 206th St., Snohomish WA

Address of Defendant: 346 Lemon Ave. Apt 4, Monrovia, CA 91016

Place of Accident, Incident or Transaction: Wayne, PA, Snohomish, WA, Monrovia, CA

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))  Yes  No

Does this case involve multidistrict litigation possibilities?  Yes  No

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
 Yes  No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
 Yes  No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
 Yes  No

CIVIL: (Place  in ONE CATEGORY ONLY)

A. Federal Question Cases:

1.  Indemnity Contract, Marine Contract, and All Other Contracts
2.  FELA
3.  Jones Act-Personal Injury
4.  Antitrust
5.  Patent
6.  Labor-Management Relations
7.  Civil Rights
8.  Habeas Corpus
9.  Securities Act(s) Cases
10.  Social Security Review Cases
11.  All other Federal Question Cases  
(Please specify) Trademark

B. Diversity Jurisdiction Cases:

1.  Insurance Contract and Other Contracts
2.  Airplane Personal Injury
3.  Assault, Defamation
4.  Marine Personal Injury
5.  Motor Vehicle Personal Injury
6.  Other Personal Injury (Please specify)
7.  Products Liability
8.  Products Liability — Asbestos
9.  All other Diversity Cases  
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Louis J. Petriello, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: January 26, 2007

Louis J. Petriello  
Attorney-at-Law

PA 40913  
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: January 26, 2007

Louis J. Petriello  
Attorney-at-Law

PA 40913  
Attorney I.D.#

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HEALTH SOLUTIONS NETWORK, LLC  
656 East Swedesford Road  
Suite 214  
Wayne, PA 19087

And

RALPH PENTON  
10823 206<sup>th</sup> Street, SE  
Snohomish, WA 98296

Plaintiffs,

v.

JERRY M. BAKER  
346 Lemon Avenue  
Apt. 4  
Monrovia, CA 91016

Defendant.

C.A. NO.

CIVIL ACTION - LAW

**COMPLAINT**

**JURY TRIAL DEMANDED**

**PARTIES**

1. Plaintiff, Health Solutions Network, LL (“HSN”), is a Delaware limited liability company with an administrative office located at 656 Swedesford Road, Suite 214, Wayne, Pennsylvania, 19087.

2. Plaintiff, Ralph Penton (“Penton”), is an adult individual who resides at an address of 10823 206<sup>th</sup> Street, SE, Snohomish, Washington, 98296.

3. Defendant, Jerry M. Baker is an adult individual who resides at an address of 346 West Lemon Avenue, Apartment 4, Monrovia, California, 91016.

### **JURISDICTION**

4. HSN brings this action pursuant to the Lanham Act 15 U.S.C. §1051, et seq. trademark infringement and Trademark dilution. This Court has original jurisdiction over both plaintiff's federal claims pursuant to 28 U.S.C. § 1331. Plaintiffs also invoke the supplemental jurisdiction of this Court pursuant to 28 U.S.C. § 1367(a) for their State law claims of for defamation and tortious interference with contracts. There is complete Diversity of citizenship between Plaintiffs and Defendant pursuant the U.S.C.

### **NATURE OF ACTION**

5. HSN operates an "On-Line Pharmacy" whereby perspective patients are put in contact with a licensed physician via the HSN Web Cite and the Internet. Said perspective patient communicates with a licensed physician by completing a questionnaire issued through the HSN Web Cite and the Internet. After reviewing the questionnaire, the physician will either issue a prescription to the patient or deny the patient the prescription. If the prescription is approved, HSN will notify a licensed pharmacy located in the United States which will fill the prescription and ship it directly to the patient. Ralph Penton is president of HSN.

6. Defendant, Jerry M. Baker, ("BAKER") caused economic damage to HSN and damage to Ralph Penton's reputation when he targeted both Plaintiffs and wrote a BLOG called "Miscellaneous Debris" (attached hereto as Exhibit A) (the "BLOG") and posted it on the Internet. Said BLOG contains numerous instances of false and misleading information about HSN and Penton, including but not limited to:



“TRACKING DOWN A SPAMMER”

“I am constantly receiving image spam fro an online pharmacy called RXCart.org. This is the story of how I tracked down the man responsible and called him at home.

1. When you place an order at RXCart.org you are directed to hsnsecure.com. It so happens that this is an SSL-enabled site complete with Versign Certificate.
2. Using Firefox I examined the SSL certificate for the site and find that its issued to a A “Heath Solutions Network, LLC” with an address in Washington.
3. I got to Washington Secretary of state’s Web Site and look up this corporation. I see it is registered to a Ralph R. Penton of Snohomish, WA (he’s probably one of the the pricks threatening the boy who was almost killed by the cannon too.)
4. I take this information over to Zabasearch.com and find that Mr. Penton’s home Phone number is (425)-489-9776.
5. I called the prick up and tell him that I am receiving a lot of spam advertising his Web site and he hangs up.

HSN is not a Spammer. RXCart.org is not and has never been affiliated with HSN in any way. Plaintiff, HSN has lost business and has had its name and reputation damaged as a result of the above false and defamatory statements. Plaintiff, Ralph Penton has received hundreds of harassing and threatening phone calls as a direct result of the above false and defamatory statements and has had his name and reputation damaged as a result of the above false and defamatory statements.

**VENUE**

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) in that the cause of action arose in Wayne, Pennsylvania, and, at all relevant times, HSN has a permanent place of business within and has done business within the Eastern District of Pennsylvania.

**COUNT I**

**RESTRAINT OF TRADE**

**15 U.S.C. §§ 1 AND 15**

8. HSN and Ralph Penton incorporate by reference paragraphs 1 through 7 as if fully set forth at length, verbatim.

9. Defendant's attempt to label HSN as a "Spammer" constitutes an illegal conspiracy in restraint of trade or commerce in violation of 15 U.S.C. § 1. This conduct by Defendant had a substantial likelihood of causing noncompetitive effects, including the reduction of provider choices, increased prescription costs, and reduction of the quality prescriptions available in the defined market.

10. As a result of the anticompetitive conduct of Defendant, HSN has suffered harm to his reputation, humiliation, loss of past and future income, attorneys fees, expert witness fees, and other economic loss.

**WHEREFORE**, Plaintiff, HSN, requests relief as follows:

- a. A declaration of rights declaring that Defendant's conduct as alleged in this Complaint violates such statutes;
- b. Compensatory damages;

- c. An award of three times the damages, plus costs and reasonable attorneys fees pursuant to 15 U.S.C.A. § 15; and,
- d. Such other and further relief as the Court may deem necessary and proper.

## **COUNT II**

### **DEFAMATION**

11. HSN and Ralph Penton incorporate by reference paragraphs 1 through 10 as if fully set forth at length, verbatim.
12. Defendant's publication, misrepresentation and disclosure of false and misleading information concerning HSN and Ralph Penton to any person with access to the Internet adversely reflected upon HSN as an On Line Pharmacy and Ralph Penton as HSN's President.
13. The publication of a statement that HSN and Ralph Penton are "Spammer[s]", is false and defamatory "*per se.*"
14. Defendant's false publication that RXCart.org is an affiliate of HSN is false and defamatory.
15. As a result of the defamation by defendant, Ralph Penton and HSN have suffered harm to their reputation, humiliation, loss of income, attorneys' fees, expert witness fees, and other economic loss.

**WHEREFORE**, Plaintiffs, HSN and Ralph Penton, request relief as follows:

- a. Compensatory damages;
- b. An appropriate award of punitive damages sufficient to punish Defendants and deter them from engaging in the conduct alleged above;
- c. An award of costs, including reasonable attorneys fees; and

- d. Such other and further relief as the Court may deem necessary and proper.

### **COUNT III**

#### **TRADEMARK INFRINGEMENT AND TRADEMARK DILUTION**

16. HSN incorporates by reference paragraphs 1 through 15 as if set forth at length herein.

17. HSN has spent substantial sums of money to protect its proprietary name "Health Solutions Network":

18. As a result Defendant's false and defamatory statements against HSN, the tradename "Health Solutions Network" has been damaged. HSN has suffered harm to its trade name, lost income, attorneys' fees, expert witness fees, and other economic loss.

**WHEREFORE**, Plaintiff, HSN, requests relief as follows:

- a. Compensatory damages;
- b. An award of costs, including reasonable attorneys fees; and,
- c. Such other and further relief as the Court may deem necessary and proper.

### **COUNT IV**

#### **TORTIOUS INTERFERENCE WITH EXISTING AND POTENTIAL CONTRACTS**

19. HSN incorporates by reference paragraphs 1 through 18 are incorporated herein as if set forth at length.

20. The aforementioned conduct of defendants in disseminating false information about HSN constitutes an unlawful interference with HSN's existing and potential contracts with its current and future customers.

21. As a result of defendant's interference with existing and potential contracts, HSN has suffered harm to its reputation, humiliation, lost income, attorneys fees, expert witness fees, and other economic loss.

**WHEREFORE**, Plaintiff, HSN, requests relief as follows:

- a. Compensatory damages;
- b. An appropriate award of punitive damages sufficient to punish Defendant and deter him and others from engaging in the conduct alleged above;
- c. An award of costs, including reasonable attorneys fees; and,
- d. Such other and further relief as the Court may deem necessary and proper.

**COUNT V**

**FRAUD**

**PLAINTIFFS HSN AND RALPH PENTON AGAINST DEFENDANT, JERRY BAKER**

22. HSN and Ralph Penton incorporate by reference paragraphs 1 through 21 are incorporated herein as if set forth at length.

23. Plaintiffs allege that defendant intentionally printed and published on the Internet false and misleading information in the BLOG for the purpose of defrauding HSN and Ralph Penton.

24. As a result of defendant's fraudulent statements and actions intended to induce third parties HSN and Ralph Penton have suffered harm to their reputation, humiliation, lost income, attorneys' fees, expert witness fees, and other economic loss.

**WHEREFORE**, Plaintiff, HSN, requests relief as follows:

- a. Compensatory damages;

b. An appropriate award of punitive damages sufficient to punish Defendant and deter him and others from engaging in the conduct alleged above;

c. An award of costs, including reasonable attorneys fees; and,

25. Such other and further relief as the Court may deem necessary and proper

## **COUNT VI**

### **HARASSMENT BY PHONE**

#### **PLAINTIFF RALPH PENTON AGAINST DEFENDANT, JERRY BAKER**

26. HSN and Ralph Penton incorporate by reference paragraphs 1 through 25 are incorporated herein as if set forth at length.

27. Plaintiff, Ralph Penton's alleges that Defendant intentionally printed and published on the Internet Ralph Penton's home telephone number for the purpose of harassing Ralph Penton.

28. Ralph Penton has received numerous harassing phone calls at his home as a direct result of the BLOG published by Defendant.

29. As a result of Defendant's harassment, Ralph Penton has suffered harm to his reputation, humiliation, lost income, attorneys' fees, expert witness fees, and other economic loss.

**WHEREFORE**, Plaintiff, Ralph Penton requests relief as follows:

a. Compensatory damages;

b. An appropriate award of punitive damages sufficient to punish Defendant and deter him and others from engaging in the conduct alleged above;

- c. An award of costs, including reasonable attorneys fees; and,
- 30. Such other and further relief as the Court may deem necessary and proper

**PETRIELLO & ROYAL, LLC**



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*Attorneys for Plaintiffs,*

Date:



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# MISCELLANEOUS DEBRIS

THURSDAY, DECEMBER 21, 2006

## Tracking Down a Spammer

From time to time a spammer will annoy me enough to track them down and call them at home to let them know how I feel about their spam. Today's story is about tracking down a spammer at home.

I am constantly receiving image spam for an online pharmacy called RXCart.org. This is the story of how I tracked down the man responsible and called him at home.

1. When you place an order at RXCart.org you are directed to hssecure.com. It so happens that this is an SSL-enabled site complete with Versign certificate.
2. Using Firefox I examined the SSL certificate for the site and find that it's issued to a "Health Solutions Network, LLC" with an address in Washington state.
3. I got to the Washington Secretary of State's Web site and look up this corporation. I see who it is registered to. Turns out he's in Snohomish, WA (he's probably one of the pricks threatening the boy who was almost killed by the cannon too).
4. I take this information over to zabasearch.com and find his home address and phone number.

So, you see, it can be very easy to track a spammer down if you know which tools to use.

EDIT: I did change this post. I have to protect myself legally, but you can find out the information by following the steps I list here.

POSTED BY DEPUTY BILL AT 9:50 PM



PREVIOUS POSTS

Perceptions

EXHIBIT "A"



5 COMMENTS:

Carl said...

This RXcart dude is using one of my domains as his fake return address, why me I don't know, but I'm getting all the "mail returned" from the bastard. Glad you called him, I wish I could blow up his freaking computer.

11:59 AM

HealthSolNet said...

Ralph Penton is not part of the RXCart organization. He is receiving harassing and threatening phone calls at his home. This has been reported to Washington state law enforcement who are working to track the individual down. We ask that you remove the phone number from your post until a resolution has been reached.

10:28 AM

HealthSolNet said...

I would also like to bring your attention to a much easier way of handling a spam complaint against any website that links to our order form.

<http://www.hsnsecure.com/Report-Spam.php>

This is our spam reporting page and lists the number of the phone that sits on my desk. I will take your complaints directly.

10:52 AM

Jerry said...

I cannot comment on whether Mr. Penton is or is not part of the RXCart organization. What I do know is that he is the owner of Health Solutions Network. This is the company that processes orders for RXCart. You don't have to take my word for it, you can look at the SSL certificate for yourself. If the SSL certificate has been issued through fraud of some sort, Mr. Penton should contact Verisign, not me.

7:50 PM

Deputy Bill said...

Now it appears that Health Solutions Network no longer processes the orders for RxCart.org.

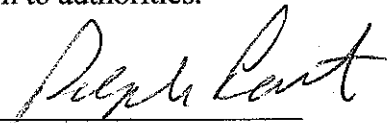
8:48 AM

POST A COMMENT

<< Home

VERIFICATION

I, RALPH PENTON verify and affirm that the statements contained in the foregoing COMPLAINT are true and correct to the best of his knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

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RALPH PENTON

January 19, 2007