

**SUMMONS IN A CIVIL ACTION COURT OF COMMON PLEAS, CUYAHOGA COUNTY JUSTICE CENTER
CLEVELAND, OHIO 44113**

CASE NO.
CV07625465

D1 CM

SUMMONS NO.
10622411

Rule 4 (B) Ohio

Rules of Civil
Procedure

SUMMONS

POWERMARK HOMES INC. ET AL
VS
JOHN DOE ET AL

PLAINTIFF

DEFENDANT

JOHN DOE (REAL NAME UNKNOWN)
% EDWARD A.ICOVE
TERMINAL TOWER
50 PUBLIC SQUARE SUITE 627
CLEVELAND OH 44113-0000

You have been named defendant in a complaint (copy attached hereto) filed in Cuyahoga County Court of Common Pleas, Cuyahoga County Justice Center, Cleveland, Ohio 44113, by the plaintiff named herein.

You are hereby summoned and required to answer the complaint within 28 days after service of this summons upon you, exclusive of the day of service.

Said answer is required to be served on:



Plaintiff's Attorney

BRUCE W MCCLAIN
1900 SUPERIOR AVENUE
SUITE 307
CLEVELAND, OH 44114-0000

Said answer is required to be served on Plaintiff's Attorney (Address denoted by arrow at left.)

Your answer must also be filed with the court within 3 days after service of said answer on plaintiff's attorney.


If you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint.

Case has been assigned to Judge:

TIMOTHY MCCORMICK
Do not contact judge. Judge's name is given for attorney's reference only.

DATE
Aug 10, 2007

GERALD E. FUERST
Clerk of the Court of Common Pleas

By 
Deputy



COMPLAINT FILED 05/25/2007



COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

POWERMARK HOMES,
25053 Saddlehorn
Columbia Station, Ohio

44028
2007 AUG -9 P 12: 54
GERALD E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY

CASE NO. CV 07-625465

and

JUDGE: TIMOTHY MCCORMICK

MARK POWERS
25053 Saddlehorn
Columbia Station, Ohio

44028

AMENDED COMPLAINT

and

LISA POWERS
25053 Saddlehorn
Columbia Station, Ohio

44028

JURY DEMAND ENDORSED

Plaintiffs

vs.

JOHN DOE (real name unknown)
c/o Ed Icové
50 Public Square
Terminal Tower, Suite 627
Cleveland, Ohio 44113

and

DOMAINS BY PROXY, INC.
c/o Christopher M. Bechhold
Thompson Hine LLP
312 Walnut Street, Suite 1400
Cincinnati, OH 45202-4089

Defendants.

Now come the plaintiffs, Powermark Homes Inc. ("Powermark") an Ohio corporation, and Mark and Lisa Powers, and for their complaint against the defendants do hereby state and aver as follows:

1. During Spring, 2007, up to and including the date of May 22, 2007, the defendants did create and maintain a website at the Internet address www.powermarkhomes.net ("the false internet site").
2. During July 2007, Defendants John Doe and Domains by Proxy published a new website at the Internet address www.powermarkhomessucks.com containing content from the website described in paragraph 1 above.
3. The defendant Domains by Proxy is the listed registrant for both websites and is involved in hosting and maintaining the websites.

COUNT I - DEFAMATION

4. All prior paragraphs and averments are included as if fully restated herein.
5. The statements, allegations, pictures and other representations contained in the false Internet sites are in many or most instances false and misleading against some or all of the plaintiffs, and assert false allegations of fact which directly harm the reputation and public appearance of some or all of the plaintiffs.
6. The statements, allegations, pictures and other representations contained in the false Internet sites were, via the posting of the sites, widely distributed and published to third parties, resulting in direct and material harm to some or all of the defendants.
7. As a result of such statements, allegations, pictures and other representations contained in the false Internet sites, the plaintiffs have been severely harmed, ridiculed, and suffered

direct loss to reputation, loss of business, shame and dishonor and other egregious harm and damage.

COUNT II - INVASION OF PRIVACY - APPROPRIATION

8. All prior paragraphs and averments are included as if fully restated herein.
9. The statements, allegations, pictures and other representations contained in the false Internet sites invaded the privacy of one or more of the plaintiffs by misappropriating photos, and the name, logotype, tradename and trademark of the plaintiffs, in violation of their privacy and their right to use these solely for their personal benefit.
10. As a result of such invasion of privacy, widely distributed via the Internet, the plaintiffs have been severely harmed, ridiculed, and suffered direct loss to reputation, loss of business, shame and dishonor and other egregious harm and damage.

COUNT III - INVASION OF PRIVACY - FALSE LIGHT

11. All prior paragraphs and averments are included as if fully restated herein.
12. The statements, allegations, pictures and other representations contained in the false Internet sites invaded the privacy of one or more of the plaintiffs by casting them in a false light, including but not limited to characterizing the plaintiff Lisa Powers falsely as an owner of Powermark Homes Inc., in violation of their privacy and their right not to be cast falsely in the public eye.
13. Such casting in false light was done on a widely publicized basis, including a national and international posting on the false Internet sites.
14. As a result of such invasion of privacy, widely distributed via the Internet, the plaintiffs have been severely harmed, ridiculed, and suffered direct loss to reputation, loss of

business, shame and dishonor and other egregious harm and damage.

COUNT IV - DISPARAGEMENT

15. All prior paragraphs and averments are included as if fully restated herein.
16. All or part of the statements, allegations, pictures and other representations contained in the false Internet sites were are in many or most instances false and misleading against some or all of the plaintiffs, and assert false allegations of fact which directly harm, disparage, and interfere with the business and business relationships of some or all of the plaintiffs.
17. The statements, allegations, pictures and other representations contained in the false Internet sites were, via the posting of the sites, widely distributed and published to third parties, resulting in direct and material harm to the business and business relationships of some or all of the plaintiffs.
18. As a result of such statements, allegations, pictures and other representations contained in the false Internet sites, the plaintiffs' business and business relationships have been disparaged and severely harmed, ridiculed, and suffered direct and serious loss.

WHEREFORE, the plaintiffs pray for relief as follows:

1. An order that the false websites be immediately canceled, removed and terminated.
2. For an award of damages against the defendants, jointly and severally, in an amount in excess of \$25,000.00.
3. For an award of punitive damages against the defendants in an amount to be determined by the Court.
4. For costs, interest and attorney fees.



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