

STATE OF NEW YORK
COUNTY OF RENSSELAER SUPREME COURT

Charles E. Collins, III,

Plaintiff,

- against -

AMENDED
VERIFIED COMPLAINT 2

Yodle, Inc., Scott Long and
Brad Leitch,

Index No.: 233271

Defendants.

STATE OF NEW YORK)
COUNTY OF RENSSELAER) ss.:

Charles E. Collins, III, being duly sworn, deposes and says:

I. Parties:

1. Plaintiff - Charles E. Collins, III resides at 108 Brunswick Road, Troy, New York 12180.

2. Defendant - Yodle, Inc. has a business address of Suite 401, 50 West 23rd Street, New York, New York 10010.

3. Defendant Scott Long is an Interactive Marketing Specialist for Yodle and has a business address of Suite 401, 50 West 23rd Street, New York, New York 10010.

4. Defendant Brad Leitch is an Account Director - Charlotte Region for Yodle, Inc. and has a business address of Suite 100, 9140 Arrowpoint Boulevard, Charlotte, North Carolina 28273.

5. That at all times the defendants Scott Long and Brad Leitch were employed by and acting as agents for Yodle, Inc.

II. Statement of Facts:

Plaintiff, complaining of the defendants, alleges:

6. The defendant's have illegally set up a mirror image of plaintiff's web site to intercept and read his e-mails and possibly record his phone conversations even though they were expressly told not to as documented by his e-mails to the defendants on or about May 3, 2010.

7. That the defendants are running a scam in that they tell

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clients that the management fee to do the advertising is \$69.00 per month and then claim they need \$750 per month for the advertising. The defendants do some advertising and then pocket what they do not spend and do not refund what wasn't spent in order to pocket hundreds of dollars extra each month from each client. This is where they are making the money, not on the management fees.

8. May 11, 2010 Received e-mail from Scott stating "Brad and I have received your requests, but as we do have an agreement for an initial 3 months of advertising at \$750 per month and a \$69 per month management fee, we are unable to refund any monies already placed toward advertising. ..."

9. That the defendant's never spent the \$750 for the month on advertising and never rolled it over.

10. May 28, 2010 received e-mail from Scott - Monthly performance report.

a. According to the report, plaintiff had 28 Unique visitors, 75 page views, 21 clicks, 8 calls & e-mails. Google charges by the number of clicks. At 21 clicks, means plaintiff paid \$35.71 per click. Google runs from pennies to a couple of dollars a click. Even assuming they are paying \$3 per click Plaintiff's advertising should have been around \$63 for the month. What happened to the other \$690 of advertising they were suppose to do? In Yodle's pocket? Commissions? It is fraud for them to keep this extra \$690.

b. The defendants were also suppose to be advertising on other search engines including Yahoo. According to Yahoo, they did no advertising as of May 27, 2010. According to their Monthly Report they only advertised with Google. How much did they pay Google for each click?

c. The monthly report does not show what was spent on advertising for plaintiff and does not show what amount was "rolled over".

d. Upon information and belief, even assuming they spent \$100 on advertising that would mean that the defendants still had \$650 of the plaintiff's first months advertising of \$750. They then charged his account \$813 (\$750 + 69) which means they now have \$1,300 of his money. They spend another \$100.00 which means in two month they have a profit of \$1,200 plus the management fees. After the third month you stop using their service, they are going to keep the money they were suppose to be advertising or you keep paying them \$69 per month management fees in order for them to spend \$100 of your money they have "rolled over".

11. Plaintiff offered to pay defendant's management fees for

the three months totaling \$207.00 (3 x \$69) as that was how long his contract was for. They refused. After the first charge, Plaintiff told them he did not want them to do the advertising and they were not to spend any of his money on advertising.

12. The defendants then charged Plaintiff's account again for \$813.00 on May 28, 2010 knowing that this was not authorized as plaintiff did not want them to do any advertising and the defendants knew that they had no intention of spending the full \$750 on advertising for the plaintiff.

13. Plaintiff believes that the defendants may be getting advertising "kick backs" from the different internet providers and that they are paying a higher rate and then getting money back based upon the amount of advertising done.

14. The question is why would they want the full amount including the advertising dollars when Plaintiff offered to pay them their "so called" management fee and they refused. They would be getting paid for doing nothing. Plaintiff believes they are making hundreds of dollars one way or another on the advertising or lack thereof. Why are they allowed to keep the advertising dollars they do not spend? Plaintiff believes they are doing this to thousands of clients and the clients don't know it. Plaintiff believes that the defendants have also committed wire fraud as they collected the money over the internet and never did the advertising they were suppose to do.

The following is a summary of the order of events.

15. April 8, 2010 received e-mail from Scott about setting up account. Annexed as Exhibit 1.

16. April 8, 2010 received e-mail subject - Your Yodle Agreement.

Monthly Advertising Budget - Initial budget will be billed on "Go Live" date. Annexed as Exhibit 1-A.

"Budget will directly affect the number of visitors to your site and the number of customers to our business. Please be aware that prices and market conditions fluctuate without notification and results may vary accordingly. All bills are prepaid and automatically billed for the month & any balance at the end of the month will be applied to the next month as "Roll Over."

17. April 30, 2010 at 11:25 am - Plaintiff sent e-mail to Brad telling him Plaintiff could not afford to do the advertising with him. Annexed as Exhibit 2.

18. On April 30, 2010 received e-mail from Scott showing phone calls made to Plaintiff from web site. Plaintiff's service

was not to have begun until May 3, 2010. That is why Plaintiff only paid the \$69 management fee on April 8 and told them to wait until May 3, 2010. The e-mail shows that they were using Plaintiff's account by April 20, 2010. Annexed as Exhibit 3.

19. May 3, 2010 Plaintiff sent e-mail to Scott as a followup to Brad's e-mail. Annexed as Exhibit 4.

20. May 3, 2010 Plaintiff sent e-mail to Scott that they were not to use a mirror image of his web site or recording of his conversations. Further, Plaintiff stated that the advertising was not to have begun until May 3, 2010. Annexed as Exhibit 5.

21. May 3, 2010 received e-mail from Scott to talk on phone. Annexed as Exhibit 6.

22. May 4, 2010 sent e-mail to Scott. Plaintiff discovered that defendants had charged my account \$750 on April 30, 2010. Plaintiff told defendants that they did not have his permission to record his phone conversations with anyone and they did not have my permission to use a mirror image of his web site. Annexed as Exhibit 7.

23. May 4, 2010 Plaintiff received call from Brad stating that they had charged his account on April 30, 2010 before Plaintiff e-mailed them and that is when they launched his account. (Plaintiff's account was not to have been started until May 3, 2010.)

24. May 6, 2010 - Plaintiff sent e-mail to Scott telling them that they were not to spend any more of his money on any type of ads. Told them Plaintiff was not contesting the management fee of \$69 previously paid. Offered to settle matter. Annexed as Exhibit 8.

25. May 7, 2010 Plaintiff received e-mail from Brad stating Plaintiff signed an agreement for 3 months of their service with budget included and the issues should not be discussed through e-mails but over the phone. Annexed as Exhibit 9.

26. May 11, 2010 Plaintiff received e-mail from Scott stating "Brad and I have received your requests, but as we do have an agreement for an initial 3 months of advertising at \$750 per month and a \$69 per month management fee, we are unable to refund any monies already placed toward advertising. ..." Annexed as Exhibit 10.

27. Upon information and belief only a few dollars were actually placed toward advertising with Google and that defendants pocketed most of the advertising dollars.

28. With Google, you put so much into your advertising account to start with and then when it runs low, they notify you

that it needs replenishment. Plaintiff is sure the defendants did not put the full \$750 into the Google advertising.

29. Plaintiff expected that the full \$750 was spent on advertising each month which the defendants failed to do.

30. May 13, 2010 - Plaintiff stated that the most he would owe them would be \$138 for the two months remaining on the management fee. That they were either getting "kick back" on the advertising or they were pocketing most of the \$750.00. Annexed as Exhibit 11.

31. May 13, 2010 Plaintiff received e-mail from Scott with copy to Brad stating my issues should be discussed over the phone. (Guess they didn't want anything in writing.) Annexed as Exhibit 12.

32. May 14, 2010 Plaintiff received e-mail from Scott stating Plaintiff had an e-mail who it was from and the comments of the e-mail. This is an invasion of privacy and Scott was able to obtain this e-mail because they had a mirror image of Plaintiff's web site which he specifically told them they were not to do 10 days prior to this. Scott had no right to intercept and read Plaintiff e-mail. This was from a client Plaintiff had already filled out some divorce papers for last year and then she moved out of state after getting them. Annexed as Exhibit 13.

33. May 14, 2010 Plaintiff received 2nd e-mail from Scott stating Plaintiff had an e-mail with name of person and their comments. Again this was an invasion of privacy as Scott had no authority to intercept and read Plaintiff's e-mail. Annexed as Exhibit 14.

34. May 27, 2010 Plaintiff received a call from Yahoo checking to see if Plaintiff had given Yodle permission to advertise his web site with them. Plaintiff told them NO. Obviously, the defendants did no advertising with Yahoo for the month of May even though they told him that they would be advertising with Google and Yahoo and other search engine companies.

35. May 28, 2010 Plaintiff received e-mail from Scott - Monthly performance report. According to the report Plaintiff had six calls and it lists the phone numbers and length of call. Annexed as Exhibit 15.

36. More importantly the Monthly Performance report states Plaintiff had 28 Unique visitors, 75 page views, 21 clicks, 8 calls & e-mails. Google charges by the number of clicks. At 21 clicks, means Plaintiff paid \$35.71 per click. Google runs from pennies to a couple of dollars a click. Even assuming they are paying \$3 per click Plaintiff's advertising should have been around \$63 for the month. What happened to the other \$690 of

advertising they were suppose to do? In Yodle's pocket?
Commissions?

37. June 1, 2010 - Plaintiff sent e-mail to Scott on how to get my monthly report as I did not have a user name or password. Annexed as Exhibit 16.

38. June 1, 2010 - sent e-mail to Brad repeating he did not have a user name or password and again repeated that they were not to be using a mirror image of his web site. That Plaintiff's credit card number had been changed so they could not charge him again. Mentioned Yahoo. Annexed as Exhibit 17.

39. June 1, 2010 Plaintiff received e-mail from Brad claiming they were not intercepting his phone calls. No mention of them intercepting Plaintiff's e-mails and reading them. Annexed as Exhibit 18.

40. June 1, 2010 Plaintiff sent e-mail to Brad stating that they are not to spend any of his money and that their service was useless. Annexed as Exhibit 19.

41. June 1, 2010 Plaintiff received e-mail from Brad stating he had notified me previously on how to access my account. Sent e-mail stating never received it. Annexed as Exhibit 20.

42. That on June 14, 2010 the Hon. Christian F. Hummel signed an order to show (Exhibit 21) cause stating:

ORDERED pending determination of this Motion the defendants are hereby prohibited from any further advertising for plaintiff's web site; and it is further

ORDERED that the defendants are to cease and desist from having a mirror image of the plaintiff's web site; and it is further

ORDERED that the defendants are not to intercept plaintiff's e-mails or read his e-mails; and it is further

43. That on July 4, 2010, Yodle attempted to charge plaintiff's credit card in the amount of \$813.00 knowing that they had no authority to do so. Annexed as Exhibit 22.

44. That upon information and belief the defendants were served on July 6, 2010 with the Order to Show Cause, Summons and Amended Verified Complaint.

45. That on July 9, 2010 the defendants were still operating the www.makedivorceeasy.net web site. They list plaintiff's phone number as 518-309-6708. This is not and has never been plaintiff's phone number and is not the phone number on his web site. Annexed as Exhibit 23.

46. Annexed as Exhibit 24 is a copy of plaintiff's web site, www.makedivorceeasy.com with plaintiff's correct phone number of 518-274-0380.

47. The plaintiff then did a reverse phone line search for 518-309-6708 and it stated that the carrier was Level 3 Communications and that it was a land line in Ballston Spa, New York. Plaintiff resides in Troy. Plaintiff never authorized this number or any other number to be used with his web site except for his phone number. A copy is annexed as Exhibit 25.

48. That plaintiff on July 9, 2010 called the 518-309-6708 number and there was a greeting that stated that the phone conversation may be recorded for quality assurance. That Yodie had no right to put this message on the phone for people trying to contact the plaintiff as the prospective client would not want their personal information being recorded and would hang up. In fact the defendants were specifically told not to record the plaintiff's phone conversations.

49. This action by the defendants stating that the phone calls may be recorded on plaintiff's phone calls was never authorized and was an invasion of his privacy and his potential clients privacy.

50. The plaintiff's web site does not have an area for an e-mail to be sent. Annexed as Exhibit 26.

51. That the defendants' mirror image of plaintiff's web site included an area for an e-mail to be sent to him with their phone number 518-309-6708 in the contact us section. Annexed as Exhibit 27.

52. That on July 9, 2010, plaintiff had someone e-mail him a message using the defendants' e-mail box on the mirror image of his web site. Plaintiff never received the e-mail. The defendants interfered with plaintiff receiving his e-mails. Further, the defendants were previously told not to interfere with his e-mails.

53. The defendants were operating an illegal mirror image of plaintiff's web site pursuant to Court Order on July 9, 2010 and were under court order not to interfere with his e-mails which they did.

54. That on July 12, 2010 the defendant's finally took down the mirror image of plaintiff's web site.

55. That the defendants phone number 518-309-6708 was still operational as of July 16, 2010.

III. Relief Requested:

56. Plaintiff seeks damages of at least \$300,000 from each defendant.

57. Plaintiff seeks a refund of all monies paid to Yodle, Inc.

58. Plaintiff seeks punitive damages in an amount to be determined by a jury.

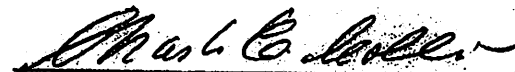
59. Plaintiff seeks treble damages under the Racketeering Influence and Corruption Act or any other applicable state or federal law.

60. Plaintiff seeks injunctive relief to keep the defendant's from interfering with his web site, e-mails, phone calls or having a mirror image of his web site.

61. Plaintiff seeks costs and disbursements for this action.

62. Plaintiff demands a jury trial.

WHEREFORE, Plaintiff respectfully prays that said relief requested in this verified complaint be granted as hereinbefore set forth and for such other and further relief as this Court may deem just and proper.



Charles E. Collins, III
Plaintiff
108 Brunswick Road
Troy, New York 12180
(518) 274-0380

STATE OF NEW YORK)
COUNTY OF RENSSELAER)ss:

I, Charles E. Collins, III, am the Plaintiff in the within action. I have read the foregoing complaint and know the contents thereof. The contents are true to my own knowledge except as to

matters therein stated to be alleged upon information and belief,
and as to those matters I believe them to be true.

Charles E. Collins, III
Charles E. Collins, III

STATE OF NEW YORK)
COUNTY OF RENSSELAER)ss.:

This 16th day of July, 2010, before me, the subscriber,
personally appeared Charles E. Collins, III to me known and known
to me to be the same person described in and who executed the
within instrument, and he duly acknowledged to me that he executed
the same.

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JARA FLAHERTY
Notary Public - State of New York

JARA FLAHERTY
Notary Public, State of New York
Reg. No. 01FL0102535
Qualified in Rensselaer County
Commission Expires Sept. 2, 2010