

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN AND
FOR MIAMI-DADE COUNTY, FLORIDA.

GENERAL JURISDICTION DIVISION

CASE NO.:

09-81725 CA 13

Class Action Representation

CARLOS A. CUETO, individually
and on behalf of all others similarly situated,

Plaintiff,

vs.

SNAPNAMES.COM INC., a foreign corporation,
and OVERSEE.NET INC., a foreign corporation,

Defendants.

FILED
ON NOV 09 2009
IN THE OFFICE OF
CLERK OF DISTRICT COURT
MIAMI, FLORIDA

CLASS ACTION COMPLAINT

Plaintiff, CARLOS A. CUETO, (hereinafter "CAC") individually, and on behalf of a class of persons similarly situated, by and through his undersigned counsel, brings this action pursuant to Florida Rule of Civil Procedure 1.220 against the Defendant, SNAPNAMES.COM INC., (hereinafter "SNAPNAMES") a foreign corporation, and Defendant OVERSEE.NET, INC., (hereinafter "OVERSEE") a foreign corporation, and as grounds thereof, states as follows:

GENERAL ALLEGATIONS

1. This is an action for an amount in excess of Fifteen Thousand (\$15,000) Dollars, exclusive of attorneys' fees, costs and interest, and jurisdiction properly lies with this court.
2. At all relevant times, Plaintiff CAC, was and is a Florida resident residing in Miami-Dade County, Florida and is in all respects *sui juris*.
3. At all relevant times, Defendant SNAPNAMES, was an Oregon corporation with its principle place of business at 1600 SW 4th Ave Suite 400 Portland, Oregon. Defendant

SNAPNAMES is in the business of acquiring and offering, by auction, the majority of expired domain names from each of the major top-level domains. More than 100 million names worldwide expire and delete each year, giving its customers access to literally millions of domain names the moment they come back on the market. Defendant SNAPNAMES closes hundreds of auctions each day at prices ranging up to tens of thousands of dollars for each domain name.

4. At all relevant times, Defendant, OVERSEE, was a California corporation with its principle place of business at 515 S. Flower Street, Suite 4400, Los Angeles, California and doing business and maintaining an office in the State of Florida at 20 S.W. 27th Avenue, Suite 201, Pompano Beach, FL.

5. This Court has personal jurisdiction over Defendant SNAPNAMES by virtue of the extensive amount of business Defendant SNAPNAMES regularly conducts within the State of Florida and, further, because of the specific conduct at issue relating to Plaintiff and the Class. Defendant SNAPNAMES is amenable to service under the Florida long-arm statute and the exercise of jurisdiction does not offend traditional notions of fair play and substantial justice. Moreover, Defendant SNAPNAMES is a subsidiary of its parent company, OVERSEE, which has an office located in Florida. In addition, the Chief Executive Officer of both Defendants is the same individual.

6. At all relevant times, Venue was and is proper in this court because the causes of action accrued in Miami-Dade County, Florida. In addition, Defendants were doing business in Miami-Dade County, Florida by, *inter alia*, soliciting bids from Plaintiff and other prospective purchasers of domain names.

7. At all relevant times, Defendants solicited bids for online domain name auctions from Plaintiff and all other similarly situated members of the Class.

8. At all relevant times, Defendants improperly collected revenue for domain name auctions as a result of an insider bidding scheme perpetrated by an executive of Defendant SNAPNAMES. Specifically, Defendant SNAPNAMES' former vice president bid on tens of thousands of domain name auctions over the past four years, driving up costs for other bidders. As a result of the internal employee bidding, the prices to purchase a domain name were falsely inflated, leading to higher cost to buyers and greater profit for Defendants.

CLASS REPRESENTATION ALLEGATIONS

9. Pursuant to F.R.C.P. 1.220(b)(1)(B) and 1.220(b)(3), Plaintiff CAC brings this action on behalf of himself and all others similarly situated, *i.e.* those who placed bids for the purchase of domain names with the Defendants prior to the filing of the instant class action complaint.

Commonality

10. This Class consists of: All persons who bid on domain name auctions through Defendant SNAPNAMES and who were either outbid or caused to bid higher amounts by employees of Defendant SNAPNAMES prior to the filing of the instant action.

11. Unknown to Plaintiff and all others similarly situated, an executive employed with Defendant SNAPNAMES bid against Plaintiff on at least one domain name, which resulted in Plaintiff and all others similarly situated paying a falsely inflated price for the domain name.

12. Plaintiff learned of Defendants' insider-bidding scheme on November 4, 2009 when the Chief Executive Officer of Defendant SNAPNAMES, who is also the Chief Executive Officer of OVERSEE, sent an email to Plaintiff detailing the insider-bidding scheme.

13. As a result of Defendants' insider bidding scheme, the Plaintiff and other similarly situated class members have suffered economic damages.

Typicality

14. The claims of CAC are typical of the claims of the entire class members which he represents, as he has been damaged in the same manner as the class members. The legal theories asserted by CAC are the same as the legal theories that would be advanced by the class members which he represents.

15. CAC is a resident of Florida who has suffered damages, along with other purchasers or prospective purchasers of domain names due to the actions of the Defendants.

Class Members

16. This cause of action involves one class of persons who have suffered economic loss as a result of Defendants' wrongful and illegal acts in allowing the insider-bidding scheme to take place.

17. Plaintiff CAC alleges on information and belief that the number of Class members is so numerous that joinder of all of them is impractical. Plaintiff's beliefs are based on the fact that: (1) Defendant SNAPNAMES purports to provide domain auction services worldwide including in Florida. Indeed, Defendant SNAPNAMES's own website extols that it closes "hundreds of auctions each day."; (2) that the Defendant SNAPNAMES has organized and held thousands of auctions in which citizens of the State of Florida participated; (3) that such auctions included the participation of at least one of the Defendant's executives who falsely inflated the price of bids for the benefit and gain of Defendants; (4) that each auction in which the executive(s) participated was fraudulent and deceptive trade practice under FDUPTA.; (5) that Defendants regularly engaged in fraudulent and deceptive trade practices in violation of Florida law.

18. The members of this Class will be easily ascertained from the records of the Defendants when discovery commences herein.

19. Plaintiff's claims raise questions of law and fact that are common to claims of each member of the Class. Specifically, the central issues raised by this action are whether the Defendants falsely inflated the price of domain names in violation of FDUPTA and Whether Plaintiff suffered damages.

20. The claim of the Class Representatives are typical of the claim(s) of each member of the Class.

Adequacy of Representation

21. Plaintiff, CAC, is an adequate representative of the class and will fairly and adequately protect the interests of the class. Plaintiff CAC is a member of the aforementioned class and is committed to the vigorous prosecution of this action, and has retained competent counsel, who is experienced in litigation of this nature to represent them. There is no hostility of interests between or among CAC and the class members. Plaintiff CAC anticipates no difficulty in the management of this litigation as a class action.

22. The Class Representatives are Florida residents who will fairly and adequately protect and represent the interest of each member of The Class. Additionally, the Class Representative is fully cognizant of his responsibilities as Class Representative, and has retained experienced counsel fully capable of, and intent upon, vigorously pursuing this action.

Requirement of Rule 1.220

23. The action is maintainable under Rule 1.220(a), (b)(1)(A), (b)(1)(B) and (b)(3) of the Florida Rules of Civil Procedure. As a result of Defendants' wrongful conduct, and the uniformity of the manner of injury and legal issues, a class action is a superior to other available methods for the fair and efficient adjudication of this litigation. Individual joinder of all members of the class is impracticable, if not impossible. Furthermore, the burden of this Court in handling the great multitude of individual cases arising from the same nucleus of facts would be excessive and burdensome. Individual litigation would also increase the expense of the litigation to all parties and to the Court system. A class action will concentrate all of the litigation into one forum with no unusual manageability problems, particularly whereas here, Defendants' liability and the nature of much of the class members' damages may be readily proven through common class-wide proofs.

24. Defendants, its officers, directors, subsidiaries or any other person or entity related to, affiliated with, or employed by Defendants are excluded from the indicated class.

25. There are numerous questions of law and fact that are common to the claims of CAC and members of the class. Among these common questions of law and facts are the following:

- a) Whether Defendants violated FDUPTA as alleged herein;
- b) Whether Defendants' acts or omission caused Plaintiff CAC and class members to incur economic damages;
- c) Whether Defendant SNAPNAMES manipulated auctions causing class members to pay more for domain names;
- d) To What extent the members of the class have sustained damages and the proper measure of damages.

26. The question of law or fact common to Class Representatives' claim and the claim of each member of the Class predominate over any question of law or fact affecting only individual members of the Class. Additionally, the prosecution of separate claims by or against individual members of the Class would create a risk of the Class which would, as a practical matter, be dispositive of the interest of other members of the Class who are not parties to the adjudication(s), or would substantially impair or impede the ability of other members of the class who are not parties to the adjudication(s) to protect their interest. Class Representation is therefore clearly superior to other available methods for the fair and efficient adjudication of this controversy.

27. As a direct and proximate result of Defendants' wrongful acts, the Plaintiff, CAC, and members of the class have been damaged.

**COUNT I
VIOLATION OF FLORIDA DECEPTIVE AND
UNFAIR TRADE PRACTICES ACT**

Class Representative, CAC hereby adopts, re-alleges and reaffirms each and every allegation contained in paragraphs 1 through 27 of this Class Action Complaint and further alleges:

28. The Florida Deceptive and Unfair Trade Practices Act ("FDUPTA") renders unlawful unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce. Section 501.204 Fla. Stat.

29. At all relevant times, Defendants solicited, advertised, offered and provided goods and services by engaging Plaintiff and others similarly situated in the purchase of online domain names by way of auction and thereby were engaged in trade or commerce as defined by Section 501.203 Fla. Stat.

30. At all relevant times, Plaintiff and the members of the Class were consumers as defined by Section 501.203 Fla. Stat.

31. Defendants' conduct, as described in detail in paragraphs 1 – 27 above, is unfair and deceptive.

32. As a result of Defendants' unfair and deceptive practices, Plaintiff and members of the class were damaged.

WHEREFORE, Plaintiff, CARLOS A. CUETO, individually and as Class Representative, respectfully requests this Honorable Court to: 1) enter a declaratory judgment that Defendants violated the Act; 2) enter an injunction enjoining future violations of the Act pursuant to 501.211(1), Fla. Stat.; 3) award actual damages for violation of the Act pursuant to Section 501.211(2), Fla. Stat.; 4) award monetary damages; 5) award attorneys' fees and costs pursuant to Section 501.211(2) and 501.2105 Fla. Stat.; and 6) award such other relief this court deems just and proper.

COUNT II UNJUST ENRICHMENT

Class Representative, CAC hereby adopts, re-alleges and reaffirms each and every allegation contained in paragraphs 1 through 27 of this Class Action Complaint and further alleges:

33. Defendants have been unjustly enriched and knowingly received monies under circumstances where it would be unjust for Defendants to retain the monies and benefits received by it at the expense of Plaintiff and all others similarly situated.

34. Defendants have benefited from their improper conduct, *i.e.* the insider bidding scheme, by retaining monies belonging to Plaintiff and all others similarly situation for the benefit of their own use.

34. Defendants received and accepted the benefit of Plaintiff's monies and knowingly and voluntarily retained the benefit of the monies.

35. It would be inequitable for Defendants to be permitted to retain the funds belonging to Plaintiff as a result of Defendants' insider-bidding scheme.

36. Defendant has failed to compensate Plaintiff and all others similarly situated for the monies Defendants received from the insider-bidding scheme.

37. Plaintiff and all others similarly situated do not have an adequate remedy at law.

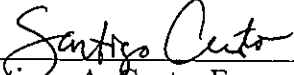
WHEREFORE, Plaintiff, CARLOS A. CUETO individually and as Class Representative, respectfully requests this Honorable Court to enter judgment in favor of the Plaintiff and award damages and such other relief this Court deems just and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, CARLOS A. CUETO, individually and on behalf of the class members, demands a trial by jury on all issues so triable.

Respectfully submitted,

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