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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MATTHEW BEBBINGTON, Individually and)
on Behalf of all Others Similarly Situated,)
)
Plaintiff,)
)
v.)
INTELIUS, INC., A Delaware Corporation; and)
INTELIUS SALES, LLC, A Nevada Limited)
Liability Company.)
)
Defendant.)

No.
**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE
WASHINGTON CONSUMER
PROTECTION ACT AND FOR
DECLARATORY RELIEF**
JURY TRIAL DEMAND

I. NATURE OF ACTION

Plaintiff Matthew Bebbington, individually and on behalf of a class of similarly situated parties, complains and alleges the following:

1. Intelius, Inc. and its wholly-owned subsidiary/affiliate, Intelius Sales LLC, (collectively, Intelius, Inc. and Intelius Sales LLC are referred to as “Intelius”) market products and services on the Internet. Among the services Intelius offers on the Internet are “reverse” cell phone and land-line directories, “people search” directories and “background check” information. When class members sign up for such services, they provide their credit/debit card information. Through Intelius’ misleading “in-cart marketing” and “post-transaction marketing”

1 efforts on its website, when the consumer purchases an Intelius product, the consumer also
2 unknowingly enrolls in a subscription-based service with Intelius or Adaptive Marketing, LLC.
3 The details and/or benefits of those subscription services generally are never made known to the
4 consumer, yet the consumer is then later billed a significant monthly fee -- often \$19.95/month --
5 in perpetuity.
6

7 2. The situation described above is a result of a July 10, 2007 marketing agreement
8 (the "Marketing Agreement") between Intelius Sales, LLC and Adaptive Marketing that provides
9 for Intelius to transmit to Adaptive all the credit card and customer information it receives from
10 selling Intelius products. For its part, Adaptive pays Intelius a "bounty" -- an undisclosed fee for
11 each customer. In this way, Adaptive is able to foist unwanted services (and the related monthly
12 charges) on unsuspecting consumers without full or adequate disclosure. Upon information and
13 belief, this alliance between Intelius and Adaptive has caused consumers to unknowingly pay
14 Adaptive (and thus, indirectly, Intelius) millions of dollars in non-existent and/or unwanted
15 services.
16

17 3. Plaintiff, on behalf of himself and all others similarly situated, brings claims
18 against Defendants based on Defendants' practice of collecting money from consumers through
19 the deceptive practice involving the promotion and delivery of unauthorized subscriptions by
20 Intelius and Adaptive. Defendants' conduct constitutes a violation of the Washington Consumer
21 Protection Act.
22

23 II. JURISDICTION AND VENUE

24 4. This Court has jurisdiction over this class action pursuant to 28 U.S.C. § 1332. In
25 the aggregate, the claims of Plaintiff and the members of the Class exceed the jurisdictional
26 minimum amount in controversy of \$5,000,000.00, exclusive of costs and interests, 28 U.S.C.

1 § 1332(d)(2)(A) and § 1332(6). Additionally, this is a class action in which some of the
2 members of the Class are citizens of a different state than the Defendants.

3 5. This Court has jurisdiction over Defendants because Intelius, Inc. maintains its
4 principal headquarters in Washington. Both Defendants conduct business in Washington, and
5 otherwise intentionally avail themselves of the markets within Washington, through promotion,
6 marketing and sale of their products in Washington, rendering the exercise of jurisdiction by this
7 Court appropriate.

8
9 6. Venue is proper in this District of Washington pursuant to 28 U.S.C. § 1391
10 because Defendants are domiciled in this District and/or because they provide services to Class
11 members located in this District, conduct substantial business in this District, or otherwise have
12 sufficient contacts with this District to justify them being fairly brought into court in this District.

13 III. PARTIES

14 A. Plaintiffs

15
16 7. Plaintiff Matthew Bebbington is a resident of Washington state. On November 6,
17 2009, Mr. Bebbington believed he purchased three “people searches” from Intelius for \$.99 each
18 using a debit card. Unbeknownst to him, at the time he purchased the Intelius reports, Mr.
19 Bebbington incurred a \$21.85 charge for an “ID Theft” service that he did not knowingly order.
20 When Mr. Bebbington read his debit card statement he learned that he had been billed \$1.92,
21 \$1.04 and \$1.92 for the People Search services he thought he had ordered, but he also discovered
22 a \$21.85 charge noted only as “ID Protect.” This \$21.85 charge was for the “ID Theft” service.

23 B. Defendants

24
25 8. Defendant Intelius, Inc. is a Delaware Corporation with its principal place of
26 business at 500 108th Avenue, NE, 25th Floor, Bellevue, WA 98004. Intelius provides

1 intelligence services to consumers over the Internet. At all times relevant to this complaint,
2 Intelius controlled Intelius Sales, LLC on a day-to-day basis. Upon information and belief,
3 Intelius, Inc. owns and operates the Intelius.com website and receives a substantial portion of the
4 monies obtained by Intelius Sales from Adaptive as the result of the Marketing Agreement
5 described above.
6

7 9. Defendant Intelius Sales, LLC (“Intelius Sales”) is a Nevada limited liability
8 company with its principal place of business at 500 108th Avenue, NE, 25th Floor, Bellevue, WA
9 98004. Intelius Sales is a wholly-owned subsidiary/affiliate of Intelius, Inc. and was party to the
10 Marketing Agreement with Adaptive Marketing described above.

11 IV. FACTUAL ALLEGATIONS

12 A. Intelius Improperly Enrolls Class Members in Subscription Services, Netting 13 Defendants Millions of Dollars

14 10. Describing itself as an “information commerce company,” Intelius provides on-
15 line intelligence services and search and marketing services to consumers and enterprises.
16 Among other things, Intelius generates revenue from consumers who purchase its intelligence
17 services on a pay-per-use basis.
18

19 11. Among other products, Intelius offers such services as “reverse” cell phone
20 directories, “people searches” and “background checks.” Intelius sells its services through its
21 network of websites, which Intelius claims was one of the top 100 most visited web properties in
22 the U.S. for April 2008. According to Intelius, it has established relationships with leading
23 online portals and directories, including Idea, Microsoft, Yahoo! and YELLOWPAGES.COM,
24 that market its services on their websites and direct visitors to Intelius websites. According to
25 Intelius, since its inception in January 2003, it has processed more than 16 million orders and
26 over four million customer accounts have purchased its services.

1 12. When a consumer purchases an Intelius service, Intelius makes available an
2 “Intelius Consumer Site Terms and Conditions” page which purportedly governs the use of the
3 Intelius databases. According to the terms and conditions, the Agreement is governed by
4 Washington law.

5 13. Although Intelius derives revenue by directly offering services to customers, it
6 also derives substantial revenue from “in-cart marketing” and “post-transaction marketing.”

7 14. “In-cart marketing” and “post-transaction marketing” have several deceptive
8 features in common, including: (1) an offer made after the customer has selected the product(s)
9 he wants; (2) confusing incentives; (3) disclosures minimized on the screen and buried in the
10 middle of the transaction and not repeated at the end or in confirmatory emails; (4) negative
11 pricing and/or free-to-pay conversion features; and (5) billing done in amounts and under names
12 that make detection less likely.
13

14 15. “In-cart marketing” is a process by which Intelius offers other services to
15 customers, often offering a discount on the purchase price of the previous selected Intelius
16 product, and without an explanation until later webpages that the additional service is “free” only
17 for a set period of time. The consumer’s credit or debit card is then later billed, often 7 days
18 later, if the consumer does not actively cancel the service, and is billed thereafter on a monthly
19 basis. This is called a “free-to-pay” conversion feature.
20

21 16. “Post-transaction marketing” is the process by which Intelius offers at least one
22 third party, Adaptive Marketing (“Adaptive”), the opportunity to use Intelius’ website for
23 purchases after the consumer has completed his or her transaction of purchasing an Intelius
24 product. Adaptive offers a variety of membership programs (the “Adaptive Programs”) on the
25
26

1 Internet. Among the Adaptive Programs are: “24 Protect Plus,” “Privacy Matters,” “ValueMax,”
2 and “Family Safety.”

3 17. Pursuant to the July 10, 2007 Marketing Agreement, when Plaintiff and any
4 member of the Class pays for one of the Intelius services, Intelius then transfers the consumers’
5 credit/debit card and other billing information to Adaptive. Plaintiff and Class members are then
6 surreptitiously enrolled in one or more of the Adaptive programs, and are billed for these
7 unwanted services on a monthly basis.
8

9 18. While Adaptive may be a separate entity purportedly providing these services to
10 consumers, the consumers end up with these unwanted services through the direct actions of
11 Intelius via the Intelius websites, and the language on the Intelius website has the tendency to
12 mislead customers into unknowingly signing up for these Adaptive Programs. As explained in a
13 March 2009 “Seattle Weekly” article:
14

15 [M]any users apparently failed to realize they are giving such consent,
16 and it’s easy to see why. Say you do a “people search” through Intelius,
17 a service that costs \$1.95 and provides an individual’s phone numbers,
18 addresses, birthday, relatives, and other information. After you enter
19 your credit-card number, a page comes up thanking you for your order in
20 big, bold type. In somewhat smaller and less-bold type, it also says you
21 can get \$10 back as a member of ValueMax (an Adaptive program
22 offering discounts at stores like Kmart and Bed Bath & Beyond). In
23 really small, regular type, it tells you that membership will entail your
24 credit card being charged \$19.95 a month after a “7-day FREE trial
25 period.”

26 Remember, you still haven’t gotten access to the information you paid
for. To get it, you have two choices: Click on the big orange rectangle,
off to the side of all these instructions that says “YES, and show my
report,” or click on the small black one-line link that says “No, show my
report.” The YES button is what gets you monthly ValueMax fees.

19. A May 2008 “TechCrunch” article describes an equally deceptive manner by
which Intelius causes consumers to unknowingly “order” Adaptive products:

1 Every time a customer buys a product at Intelius, they are shown a page telling
2 them “Take our 2008 consumer Credit Survey and claim \$10.00 CASH BACK
3 with Privacy Matters Identity.” The user is then shown two survey questions and
4 asked to enter their email and click a large orange button. They can choose to
5 skip the survey by clicking on a small link at the bottom of the page.

6 Undoubtedly a lot of consumers do the survey and move forward to the next page
7 -- it only takes a second. But what most people don’t do is read the fine print,
8 which gives no real details on the \$10 cash back (in fact, it is never mentioned
9 again, anywhere). Instead, in light gray small text, users are told that by taking
10 the survey they are really signing up to a \$20/month subscription. Intelius
11 forwards your personal information, including your credit card, to Adaptive
12 marketing. The next day a \$20 charge appears on your credit card, and each
13 month afterwards.

14 * * *

15 Of course you never hear from Adaptive Marketing again (why take a chance that
16 you’ll wonder who they are). Instead, the credit card charges keep coming, and
17 the company obviously hopes you never notice.

18 This survey is quite literally a complete and total scam. And since users continue
19 to pay forever (or until they try to stop it), the contribution to Intelius’ revenue
20 grows significantly over time.

21 20. Defendants’ process of “post-transaction marketing” of the Negative Option

22 Programs uniformly proceeds as follows:

23 (a) Consumers select from a menu of Requested Information from Intelius.com and
24 add them to their online shopping cart;

25 (b) Customers enter their credit/debit card and billing information on an order
26 confirmation page and purchase the Requested Information by clicking a button that states
“Complete the Purchase and Show My Report”;

(c) Before the Intelius.com website provides customers their report containing the
Requested Information, the Intelius.com website takes them to an “interstitial” page—a web
page that is displayed before or after an expected content page—containing the post-transaction
upsell marketing for the Negative Option Programs. The interstitial page for the Programs

1 requires customers of www.intelius.com to affirmatively decline the Negative Option Program
2 offer in order to avoid being enrolled and charged, and to confirm their prior purchase of the
3 Requested Information;

4 (d) If the consumer enters their email address and clicks a large, prominent red button
5 on the interstitial page stating: “YES, And show my report” (the “Confirmation Button”), they
6 are taken to another page containing their Requested Information. Defendants do not further
7 mention the Negative Option Program(s) on the Intelius.com website, or provide any kind of
8 confirmation of the purported enrollment or transaction receipt.
9

10 21. Defendants’ interstitial page for the Negative Option Programs uses the
11 following (non-exhaustive) tactics, which, taken together or separately, make the page likely to
12 deceive a reasonable consumer:

13 (a) Prominently featuring, and highlighting certain language on the interstitial page in
14 large font size, and color highlights, including (1) “Thank You your order has been successfully
15 completed” above “\$10.00 CASH BACK,” or (2) “FREE CREDIT REPORT” above “Please
16 type in your email address below” above a large button stating “YES, And show my report.”
17 These highlighted statements distract attention away from any purported disclosures concerning
18 the Negative Option Programs;
19

20 (b) Using a confirmation button that misleadingly states “YES, And show my report”
21 instead of the button Intelius uses for the Requested Information order confirmation page:
22 “Complete the Purchase and Show My Report” that creates the impression that the interstitial
23 page is part of consumers’ prior purchase of the Requested Information;
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1 (c) Failing to format the “No, show my report” link on the interstitial page to appear
2 as a button or the appearance of an internet link, and using small grey lettering that blends in
3 with the page background;

4 (d) Obfuscating any purported disclosures in gray lettering no larger than
5 approximately half the size of other highlighted information;

6 (e) Burying key language concerning the cost, charge to the credit/debit card used to
7 purchase Requested Information, the “free-to-pay” conversion feature, and phone number to
8 cancel the Negative Option Program below unrelated text, in the middle of a block paragraph
9 with extremely low readability scores that require high levels of sophistication and/or education
10 to understand;

11 (f) Using “prerequired account information” and the entry of an email address as a
12 proxy for re-entering payment information to confirm acceptance of the Programs; and

13 (h) Offering the Programs on a “free-to-pay” basis.

14 22. On information and belief, and as alleged in another action against Intelius,
15 Intelius hires psychologists and behavioral specialists to carefully design the interstitial page to
16 hit human psychological cues and obfuscate any purported disclosures, in an effort to cause
17 Plaintiff and the Class to inadvertently enroll in the Negative Option Programs. Testimony
18 before the U.S. Senate similarly discusses how websites such as Intelius’ architecture “is
19 effective in achieving deception by exploiting a series of well-known psychological biases that
20 impede consumers’ abilities to make fully informed choices in online and offline settings.”¹

21 23. The language contained on the Intelius websites has the capacity to deceive a
22 substantial portion of the public to initially purchase Adaptive products. Moreover, pursuant to
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26 ¹ See Statement of Robert Meyer, presented to the United States Senate Committee on Commerce and
Transportation, November 17, 2009.

1 the terms of the Marketing Agreement, Intelius makes it difficult for the reasonable consumer to
2 inquire about or cancel the Adaptive Program even when the consumer discovers that he/she is
3 being charged for the Adaptive Program. For example, the Marketing Agreement specifically
4 prohibits Intelius from communicating with any customer with respect to an Adaptive Program,
5 without Adaptive's prior written consent. The Adaptive Programs are sometimes also listed on
6 the consumer's charge card bill as an "Intelius Subscription" or "Intelius.com" charge, thereby
7 further obfuscating what the charge constitutes.
8

9 24. Intelius thus enrolls the Class members into Adaptive Programs without their
10 consent, and without adequately disclosing, among other things: (1) that the consumers are
11 being enrolled in the Adaptive Programs without their authorization or consent; (2) the amount
12 of the recurring charges by Adaptive and/or Intelius; (3) the terms and conditions involved in the
13 Adaptive Programs; and (4) the manner by which the consumer may cancel those services.
14

15 25. The fact that Intelius website marketing of Adaptive Programs is plainly
16 deceptive to a substantial portion of the public is borne out in, among other things, the hundreds -
17 - if not thousands -- of complaints received by the Washington State Attorney General office and
18 the Better Business Bureau. The Washington State AG is actively investigating Intelius for the
19 unfair and deceptive practices alleged herein.
20

21 26. The Intelius site is so deceptive, that even "sophisticated" consumers are being
22 misled. As reported in the "Seattle Weekly" article:

23 Stephen Kropp of Renton says he inadvertently signed up for an Intelius identity-
24 theft subscription last summer after purchasing a phone number from the
25 company. Sometime later, he says, he noticed a \$19.95 charge on his debit card.
26 Looking through past statements, he realized the company had been charging him
for six months, collecting a total of \$120. "I just wanted a phone number," says
Kropp. "The service they were offering was completely unrelated to what I was
asking for" and hadn't provided him any benefits that he could see. He says

1 Intelius initially refused to refund all but one month of the fees, but agreed to
2 return the rest after he wrote to [the Attorney General's] office.

3 Like many of those complaining, Kropp is not a computer neophyte. A civil
4 engineer, he works for an environmental consulting firm called Entrix, where he
5 designs salmon habitat restoration projects, among other things -- all using
6 software, of course. "I'm pretty much a computer nerd," he says.

7 That's the thing that bothers Brenda Piampiano, a Maine attorney who was hit
8 with \$40 worth of charges for an Adaptive service she says she never
9 intentionally signed up for. The service is called "Family Safety," and promises
10 to allow consumers the ability to monitor sex offenders in their neighborhoods.
11 "I'm a relatively savvy person with a law degree, and I use the computer
12 absolutely all the time," she says. "I feel like if I can get taken into these things,
13 anybody can."

14 27. Intelius derives substantial revenue as the result of its deceptive sale of Adaptive
15 Programs. According to its SEC data, by the end of first quarter 2008, 38.9% of Intelius'
16 revenue was the result of its agreement with Adaptive.

17 28. Intelius' October 19, 2009 Form S-1 filed with the SEC (the "Form S-1"), states
18 that:

19 Sales of ... post-transaction advertising of other subscription services, appear to be the
20 focus of many customer complaints, and our efforts to reduce the incidence of complaints
21 may also reduce our revenues from ... our advertising.

22 * * *

23 [W]e are currently on probation with one of our payment card associations as a result of
24 elevated levels of chargebacks.

25 * *

26 The office of the Washington State Attorney General has started a formal inquiry,
including depositions of some of our executives, about some of our business practices,
particularly those involving our business relationship with Adaptive Marketing and
associated with our sales of subscription services.

27 29. Defendants recognize that the misleading manner in which the Negative Option
28 Programs are disclosed, and by which customers are enrolled therein is the primary reason for

1 the revenue resulting from these Negative Option Programs. Intelius' Form S-1 states that: "if
2 the manner in which [Adaptive] advertises its services on our websites is changed so that fewer
3 customers accept the offers, our financial results could be harmed."

4 **B. CONGRESSIONAL TESTIMONY AND FINDINGS SUPPORTS THE**
5 **DECEPTIVENESS OF INTELIOUS' POST-TRANSACTION MARKETING**

6 30. On November 16, 2009, the Senate Committee on Commerce, Science and
7 Transportation, Office of Oversight and Investigations issued a Staff Report for Chairman John
8 D. Rockefeller on post transaction marketing titled Aggressive Sales Tactics on the Internet and
9 Their Impact on American Consumers (the "Rockefeller Report" by the "Senate Committee").
10 The Rockefeller Report was followed by a hearing on the matter before the entire Senate
11 Committee. The Rockefeller Report focused on, *inter alia*, Adaptive and its parent company,
12 Vertrue, Inc., and concluded that "It is clear at this point that [Adaptive] use[s] highly aggressive
13 sales tactics to charge millions of American consumers for services the consumers do not want
14 and do not understand they have purchased."

15
16 31. On November 17, 2009, Robert Meyer, a professor of marketing at the Wharton
17 School testified before the United States Senate Committee on Commerce and Transportation.
18 Professor Meyer specifically targeted the Intelius website as an example of deceptive post-
19 transaction sales tactics, attaching Intelius' webpages and highlighting step by step how Intelius
20 deceives its customers.

21
22 32. Also on November 17, 2009, Robert McKenna, the Washington State Attorney
23 General submitted testimony about the state's investigation into certain Internet companies. The
24 Washington State AG's office is currently conducting an investigation of Intelius, and has
25 conducted depositions of Intelius executives. Mr. McKenna, describing Intelius' website,
26 testified in prepared statement that:

1 After a consumer places an order for a product or service and enters his or her
2 payment information on an ecommerce site, an offer for \$10 cash back for filling
3 out a survey appears on the screen. The impression left on the consumer by the
4 Web page is that he or she should fill in the survey, enter his or her email address
5 (sometimes twice) and click on the button to complete his or her purchase and
6 claim the \$10 cash back. In fact, by clicking on the button, the consumer is
7 purportedly agreeing to be enrolled in a free trial for a membership program that
8 will be charged automatically on a recurring monthly (or, in some cases, annual)
9 basis to the account the consumer used to make the purchase of the product or
10 service. The fine print on the Web page discloses that by clicking on the button
11 associated with completing the purchase or submitting the survey, the consumer is
12 purportedly authorizing the e-commerce site to transmit the consumer's financial
13 account information to an undisclosed third party. Despite the disclosures, the
14 offer misleads consumers into believing that the offer is for \$10 cash back for
15 taking a survey, not an offer for a trial in a membership program, which is the
16 "true" offer and is disclosed only in the fine print. In general, the offers appear to
17 be coming from the e-commerce site and do not disclose the third party that is
18 actually making the offer.

19 The Washington Attorney General's Office has been able to identify several
20 hundred consumer complaints filed with our office in the last two years alone that
21 involve the consumer having been enrolled in a membership program without his
22 or her knowledge and having been automatically billed for the program without
23 his or her authorization.

24 Based upon these complaints and extensive investigations, we have observed a
25 number of significant problems with this form of marketing, including:

26 1. Consumers do not expect that the financial account information that they
provide for one transaction will result in ongoing charges placed by a third-party
company;

2. Consumers have difficulty identifying and contacting the seller of the
membership program to cancel or otherwise terminate any ongoing or recurring
obligation because the sellers frequently do not identify themselves in the offers;

3. Sellers use a variety of distractions to obscure the "true" offer, e.g., offering
cash back on the consumer's primary purchase and using "consumer surveys";
and

4. The use of words "free" or "trial offer" to market free-to-pay conversions leads
consumers to believe that they do not have to take further action in order to avoid
ongoing charges.

1 33. The Senate Committee in a 35-page investigative report, "Aggressive Sales
2 Tactics on the Internet and Their Impact on American Consumers" outlines the process by which
3 aggressive online sales tactics, such as those used by Intelius, dupes consumers. The Staff
4 Report states that Intelius has received over \$10 million in income from post-transaction
5 marketing.
6

7 **V. CLASS ACTION ALLEGATIONS**

8 34. Plaintiff and the Class incorporates the preceding paragraphs as if fully set forth
9 herein.

10 35. This class action is brought and may be maintained under Fed. R. Civ. P. 23
11 (b)(2) and (b)(3). Plaintiff brings this action on behalf of the following nationwide class:

12 All persons located within the United States who provided credit, or debit card
13 information to an Intelius website from July 17, 2007 to the present and thereafter
14 had charges debited to such card by or for the benefit of Intelius and/or Adaptive
15 Marketing LLC without the consumers' prior informed authorization or consent.

16 36. Plaintiff reserves the right to modify the class definition before moving for class
17 certification, including a reservation of the right to seek to certify subclasses, if discovery reveals
18 that modifying the class definition or seeking subclasses would be appropriate.

19 37. Excluded from the Class are governmental entities, Defendants, Defendants'
20 affiliates, agents, parents, subsidiaries, employees, officers, directors, and immediate family
21 members. Also excluded from the Class is any judge, justice or judicial officer presiding over
22 this matter and the members of their immediate families and judicial staff.

23 38. Plaintiff does not know the exact number of Class members, because such
24 information is within the exclusive control of Defendants. Intelius boasts that it has sold to over
25 four million customer accounts. The members of the Class include Washington residents and are
26

1 so numerous and geographically dispersed across the United States that joinder of all Class
2 members is impracticable.

3 39. Defendants have acted with respect to the Class in a manner generally applicable
4 to each Class member. There is a well-defined community of interest in the questions of law and
5 fact involved in the action, which affect all Class members. The questions of law or fact
6 common to the Class predominate over any questions affecting only individual members and
7 include, but are not limited to, the following:
8

9 A. Whether Defendants misstated, omitted or concealed material facts concerning
10 their own subscription services or Adaptive Programs, and whether such misstatements,
11 omissions or concealment of material facts deceived, or are likely to mislead and deceive
12 consumers using Intelius websites;

13 B. Whether Defendants' acts and omissions as described above constitute a violation
14 of the Washington Consumer Protection Act (the "CPA");

15 C. Whether Plaintiff and the members of the Class have been damaged by
16 Defendants' wrongs complained of herein, and if so, whether Plaintiffs and the Class are entitled
17 to injunctive relief;

18 D. Whether Plaintiff and the members of the Class have been damaged by
19 Defendants' wrongs complained of herein, and if so, the measure of those damages and the
20 nature and extent of other relief that should be afforded;

21 E. Whether treble damages should be awarded to Plaintiff and the members of the
22 Class for Defendants' violations of the Washington CPA, as alleged herein;

23 F. Whether Plaintiff and the members of the Class should be awarded attorneys' fees
24 and the costs of suit for Defendants' violation of the Washington CPA, as alleged herein; and
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1 G. Whether Plaintiff and the members of the Class are entitled to declaratory relief
2 for Defendants' statutory violations alleged herein.

3 40. Plaintiff's claims are typical of the claims of the other members of the Class in
4 that all members of the Class have been harmed in substantially the same way by Defendants'
5 acts and omissions.

6 41. Plaintiff is an adequate representative of the Class. Plaintiff is committed to
7 prosecuting this action and have retained competent counsel experienced in litigation of this
8 nature. Plaintiff seeks no relief that is antagonistic or adverse to other members of the Class.

9 42. A class action is superior to other available methods for the fair and efficient
10 adjudication of the controversy. The prosecution of separate actions by individual members of
11 the Class would create the risk of inconsistent or varying adjudications with respect to individual
12 members of the Class. Moreover, litigation on an individual basis could be dispositive of the
13 interests of absent Intelius customers, and substantially impair or impede their ability to protect
14 their interests.

15 43. In view of the complexity of the issues presented and the expense that an
16 individual Plaintiff would incur if he or she attempted to obtain relief from Intelius, the
17 individual claims of Class members are monetarily insufficient to support separate actions.
18 Because of the size of the individual Class members' claims, few, if any, Class members could
19 afford to seek legal redress for the wrongs complained of in this Complaint.

20 44. Plaintiff does not anticipate any difficulty in managing this action as a class
21 action. The identities of the Class members are known by Defendants, and the measure of
22 monetary damages can be calculated from Defendants' records. The claims will be governed
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1 under Washington law in accordance with Intelius' Terms and Conditions. This action poses no
2 unusual difficulties that would impede its management by the Court as a class action.

3 VI. CLAIMS FOR RELIEF

4 A. FIRST CAUSE OF ACTION

5 1. Violation of Chapter 19.86 RCW, Washington Consumer Protection Act 6 (Against All Defendants)

7 45. Plaintiff and the Class reallege the preceding paragraphs as if fully set forth
8 herein.

9 46. This cause of action is asserted on behalf of Plaintiffs and the Class.

10 47. The Washington Consumer Protection Act, RCW 19.86 *et seq.*, provides
11 consumers with a comprehensive procedure for redressing Defendants' unfair and/or deceptive
12 business practices.

13 48. RCW 19.86.090 provides a private right of action to any person injured in his
14 property by an "unfair or deceptive act or practice."

15 49. Defendants' acts and omissions as alleged herein violate the Washington CPA
16 because they: (1) are unfair or deceptive acts or practices; (2) are committed in the course of
17 Defendants' business; (3) have a pervasive public interest impact and have the potential to
18 deceive a substantial portion of the public; and (4) have caused injury to Plaintiff in his business
19 and/or property and to the members of the Class.

20 50. As a result of Defendants' deceptive acts and practices as alleged herein. Plaintiff
21 and the members of the Class paid for unwanted and unused services.

22 51. Defendants' actions and inactions as alleged herein are the proximate cause of
23 injury to Plaintiff and the Class in an amount to be proven at trial.
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1 52. Pursuant to RCW 19.86.090, Plaintiff seeks damages on behalf of himself and
2 each Class member against all Defendants for Plaintiff's damages sustained as a result of
3 Defendants' actions and inactions alleged herein, in an amount to be determined at trial, but not
4 less than \$5,000,000, as well as the costs of this suit and reasonable attorneys' fees.
5

6 53. Further, pursuant to RCW 19.86.090, Plaintiff seeks treble damages on behalf of
7 himself and each Class member for their actual damages sustained as a result of Defendants'
8 unfair and deceptive acts in the amount to be determined at trial, but not less than \$5,000,000.

9 **B. SECOND CAUSE OF ACTION**

10 **1. Declaratory Relief Under the Declaratory Judgments Act, 28 U.S.C. § 2201**
11 **(Against All Defendants)**

12 54. Plaintiff and the Class reallege the preceding paragraphs as if fully set forth
13 herein.

14 55. Defendants' in-cart and post-transaction marketing statements on the Intelius
15 websites have a tendency to mislead and deceive members of the Class.

16 56. Plaintiff and the Class are entitled to have this Court establish by declaration their
17 rights and legal relations under the Washington CPA.
18

19 **VII. PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff requests for himself and the members of the Class that the Court
21 enter an order and judgment against Defendants as follows:

22 1. Allowing this action to be brought as a Class action pursuant to Fed. R. Civ. P.
23 23(b)(2) or 23(b)(3);

24 2. Adjudging and decreeing that Defendants have engaged in the conduct alleged
25 herein;
26

1 3. Declaring that Defendants have violated the Washington CPA by their unfair and
2 deceptive business acts or practices that have caused injury to Plaintiff and the members of the
3 Class;

4 4. Awarding Plaintiff and the Class actual damages for Defendants' violations of the
5 Washington CPA;

6 5. Awarding Plaintiff and the Class treble damages under the Washington CPA;

7 6. Awarding Plaintiff and the Class injunctive and declaratory relief against all
8 Defendants for violation of the Washington CPA;

9 7. Awarding Plaintiff and the Class injunctive and declaratory relief against all
10 Defendants to ensure that Defendants will not continue to market services with deceptive or
11 materially misleading information;

12 8. Awarding Plaintiff and the Class injunctive and declaratory relief against all
13 Defendants to ensure that Defendants will not continue to engage in unfair or deceptive business
14 acts or practices;

15 9. Awarding Plaintiff and the Class restitution damages for Defendants' unfair and
16 deceptive acts and practices in violation of the Washington CPA;

17 10. Awarding Plaintiff and the Class pre- and post-judgment interest at the highest
18 allowable rate;

19 11. Awarding Plaintiff and the Class their costs and expenses;

20 12. Awarding Attorneys' fees pursuant to the Washington CPA, the Common Fund
21 Doctrine, as set forth by statute, or as otherwise allowed by law; and

22 13. Granting such other and further relief as this Court may deem just and proper, and
23 equitable.
24
25
26

1 **JURY TRIAL DEMANDED**

2 Plaintiffs hereby demand a trial by jury on all issues so triable.

3 DATED this 24th day of March, 2010.

4
5
6 By /s/ Karin Swope

7 **KELLER ROHRBACK L.L.P.**

8 Mark A. Griffin, WSBA #16296
9 Karin B. Swope, WSBA #24015
10 1201 Third Avenue, Suite 3200
11 Seattle, WA 98101
12 Tel:(206) 623-1900
13 Fax: (206) 623-3384
14 mgriffin@kellerrohrback.com
15 kswope@kellerrohrback.com

16 *Counsel for Plaintiff Matthew Bebbington*