UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
(WESTERN DIVISION)

C.A. No.:

ROBERT BAGG, DAVID CROTTY, and KATHLEEN GEISSE, Individually and on Behalf of All Other Persons Similarly Situated,
Plaintiffs,

v.

HIGHBEAM RESEARCH, INC., THE GALE GROUP, INC., and CENGAGE LEARNING, INC.,
Defendants.

COMPLAINT

Plaintiffs, Dr. Robert Bagg, David Crotty, and Kathleen Geisse (together "Plaintiffs"), by their attorneys, allege the following on behalf of themselves and all others similarly situated ("the Class"), on information and belief based, *inter alia*, upon the investigation of their counsel, except as to those allegations which pertain to the named Plaintiffs or their attorneys, which are alleged on personal information and belief. Named as Defendants are Cengage Learning, Inc. ("Cengage"), The Gale Group, Inc. ("Gale"), and HighBeam Research, Inc. ("HighBeam") (together "Defendants").

NATURE OF THE ACTION

This class action complaint seeks to remedy Defendants' design and use of deceptive and misleading "Negative Option Marketing" such as "Free-To-Pay" conversions on the Internet, intending to trick and cause consumers, such as Plaintiffs and the Class, to unknowingly and automatically enroll in unauthorized yearly or monthly "memberships" or "subscriptions" whereby Defendants charged and continued to charge consumers' credit cards without their

knowledge, information, or consent. Defendants' predatory business model utilizes a host of highly misleading, confusing, unlawful, deceptive, and unfair acts or practices that deceived and are likely to deceive consumers. These acts or practices include but are not limited to the following: (1) failing to provide consumers, such as Plaintiffs and the Class, with all the material terms of the "Free-To-Pay" conversion; (2) failing to disclose to consumers, such as Plaintiffs and the Class, all material terms of the "Free-To-Pay" conversion in a clear and conspicuous manner; (3) failing to clearly and conspicuously disclose to consumers, such as Plaintiffs and the Class, all material terms of the transactions before obtaining their billing information; (4) failing to obtain the express informed consent of consumers, such as Plaintiffs and the Class, before charging their credit cards, debit cards, or bank accounts; and (5) failing to provide a simple mechanism for consumers, such as Plaintiffs and the Class, to stop recurring charges from being placed on the their credit cards, debit cards, or bank accounts.

JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), and diversity of citizenship, 28 U.S.C. § 1332(a). Plaintiffs further allege upon information and belief that the number of members of the Class is at least 100 and that the aggregated amount in controversy for Plaintiffs and the Class exceeds $5 million.

2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(a), (b) and/or (c); many of the acts and transactions giving rise to the violations of law complained of herein occurred in this district and Defendants:

a. Conduct business themselves or through an agent(s) in this district; and/or

b. Are licensed or registered to do business in this district.

3. Plaintiff Dr. Robert Bagg ("Bagg") is a resident of this district.

PARTIES

4. Bagg is, and at all relevant times was, a resident of 611 Huntington Road, Worthington, MA 01098.

5. Plaintiff David Crotty ("Crotty") is, and at all relevant times was, a resident of 92 St. Marks Place, Apartment #3, Brooklyn, NY 11217.

6. Plaintiff Kathleen Geisse ("Geisse") is, and at all relevant times was, a resident of 405 Davis Street, Apartment #1708, San Francisco, CA 94111.

7. Defendant HighBeam is a Delaware corporation, owns the website www.highbeam.com, and has a principal place of business at 1 N. State Street, Suite 900, Chicago, IL 60602.

8. Defendant Gale is a Delaware corporation registered to do business in Massachusetts and has an office in Massachusetts at Cambridge Park Drive, Cambridge, MA 02140.

9. Defendant Cengage is a Delaware corporation registered to do business in Massachusetts.

"FREE-TO-PAY" CONVERSIONS

10. A "Free-To-Pay" conversion is a practice whereby consumers are automatically billed for a service or membership if consumers do not take affirmative steps to cancel during the "Free Trial" period.

11. Under the Federal Trade Commission (the "FTC") Guide Concerning the Use of the Word "Free" and Similar Representations, a business, in using the word "free," must exert "extreme care so as to avoid any possibility that consumers will be misled or deceived."

12. The Attorneys General of the states of Arkansas, Illinois, Kansas, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Mexico, Ohio, Oregon, Tennessee, Vermont, and West Virginia have stressed to the FTC the following: "Free to pay conversion marketing uses a form of trickery, and sleight of hand as it were, to reap millions from consumers in a manner flatly contrary to the ordinary rules of consumer transactions. There is an inherent deception built into these plans by the marketers … ." See Vermont, et.al.'s comment to FTC's "Prenotification Negative Option Rule" (Oct. 13, 2009) (hereinafter "AGs' Comment Letter"), attached hereto as **Exhibit A**. The AGs' Comment Letter highlights and details the "significant problems inherent in negative option trial conversions … ." See id. The problems include, but are not limited to, the following:

a. The misleading character of negative options advertised as involving "free" or "trial" offers. The long-term impression created by this type of terminology is that consumers have *no obligation* to do anything, not that their silence after acceptance of the offer will open them to recurrent charges of unlimited duration;

b. Consumers' lack of awareness as to the existence of ongoing periodic charges to their credit cards, debit cards and/or bank accounts, in connection with trial conversions; and

c. The piling up of trial conversion charges over long periods of time, amounting to substantial amounts of money, even where consumers make little or no use of the goods or services offered.

13. The AGs' Comment Letter further states that "[t]he complaints we receive underscore the inherently deceptive nature of trial conversions, render retailers' disclosures meaningless and confuse and dupe even the most sophisticated consumer." See id.

14. The AGs' Comment Letter further states that "[w]hereas in continuity sales plans, consumers receive regular notification with every shipment of merchandise, prompting them to take affirmative steps to cancel the plan if that is their preference, with trial conversions the recurrent charges are the subject of no notification from the seller and continue on silently and without limit." See id.

15. Compounding the problems for consumers is their inability to cancel, obtain a refund, or pro-rate charges once they realize their credit cards, debit cards, and/or bank accounts has been charged.

16. Because of consumer complaints about aggressive sales tactics by many businesses against online users were so pervasive, Senator John D. Rockefeller IV, Chairman of the U.S. Senate Committee on Commerce, Science, and Transportation ("the Senate Committee"), launched an investigation into e-commerce marketing practices in May of 2009.

17. The Senate Committee opened its investigation after thousands of online consumers complained to state Attorneys Generals, the Better Business Bureau, and other consumer advocates of misleading and deceptive enrollment in membership plans. Similar to Plaintiffs, these consumers complained that they did not consent to enrolling in membership plans and only learned that they were enrolled in membership plans after eventually seeing unauthorized charges on their credit card or checking account statements.

18. The investigation by the Senate Committee found abundant evidence that the aggressive sales tactics many companies use against consumers have undermined consumer confidence in the Internet and thereby harmed American society.

19. The Senate Committee also found that sellers used a "free trial" period to automatically enroll members, after which they periodically charged consumers until consumers affirmatively canceled the memberships. These marketing schemes took advantage of consumers' expectations that they would have an opportunity to accept or reject the membership at the end of the "free trial" period.

20. As a result of the investigation and findings, it was determined that "Free-To-Pay" conversions require a heightened level of disclosure to avoid misleading the reasonable consumer.

21. In an effort to protect consumers against these "Free-To-Pay" conversions, legislation entitled Restore Online Shoppers' Confidence Act ("ROSCA") was enacted and signed into law on December 29, 2010.

22. ROSCA prohibits sellers from charging or attempting to charge any consumer for services over the Internet unless the seller:

a. clearly and conspicuously discloses all material terms to consumers before obtaining billing information;

b. obtains the consumer's express and informed consent before charging the consumer; and

c. provides "simple mechanisms" for consumers to stop recurring charges.

23. Guidance from the FTC indicates that the "material terms" in "Free-To-Pay" conversions include, but are not limited to, the following:

a. the fact that the consumer will be charged a specified amount each payment period (e.g., each month) until he or she cancels;

b. the fact that the amount of the charge may change, if true, and the amount to which it will change, if known;

c. the date on or about which the consumer will be charged each payment period;

d. how the consumer may cancel, including necessary contact information, such as an e-mail address or phone number;

e. the fact that the site has a no-refund policy, if true;

f. the minimum purchase obligation, if any;

g. the length of the free trial period; and

h. the date by, or the time period within, which a cancellation request must be received to avoid being charged at all.

PLAINTIFFS' SPECIFIC STATEMENTS OF FACTS

24. Plaintiff Bagg is a retired University of Massachusetts English Professor. In October of 2010, Bagg received his VISA credit card statement and discovered an unauthorized and unknown $199.95 charge from highbeam.com. In October, before the charge, Bagg had visited the highbeam.com website, which purports to be an Internet service for research professionals, but had not authorized highbeam.com to charge his credit card, nor did he want a yearly highbeam.com "membership" or any membership with highbeam.com for that matter. Nonetheless, without Bagg's knowledge, authorization, consent, or notice, highbeam.com. charged his credit card for a yearly membership to its website service. Bagg reported the matter to his credit card company, requested that his account be credited the $199.95 and directed his credit card company to block any further unauthorized charges from highbeam.com. Bagg's

credit card company said it was reporting highbeam.com's fraud to a Consumer Protection Bureau.

25. Plaintiff Crotty is the owner and director of Recovery House. In or about November of 2010, he accessed highbeam.com while doing research for a psychology class paper on Attention Deficit Disorder. Crotty did a Google search which pulled up a highlighted article title and the first portion of an article of possible interest. Wanting to read the rest of the article, he clicked on the highlighted title but was prevented from viewing any more of the article unless he clicked on a large "FREE TRIAL" button. Crotty was then enticed by and fell victim to Defendants' "free-to-pay" conversion with their "hook": "**Read all of this article with a Free Trial.**" Wanting to read all of the article with a free trial, Crotty clicked on the large, brightly-colored "**FREE TRIAL**" button. Crotty was then directed to sign up for a "**7-Day FREE Trial**" with highbeam.com, which required him to input his credit card and other personal information. Crotty entered the required information in order to access the "Free Trial." After reviewing the article on highbeam.com, Crotty exited the highbeam.com website and did not have any intent to utilize and/or access and did not utilize and/or access the highbeam.com website again.

26. In or about December of 2010, Crotty was shocked when he saw a $199.95 charge on his credit card from "HighBeam Research." Crotty called HighBeam about the unauthorized charge, and asked them what the charges were for. Crotty was told that the charge was payment for his one year "membership" to highbeam.com. Crotty demanded a full refund since the charges and membership were fraudulent, unauthorized, and unwanted. HighBeam's customer service representative, however, told him that he signed up for a full year membership and that HighBeam does not issue any refunds. Crotty requested to speak with a HighBeam manager and

was put on hold for an unreasonable amount of time and was never connected to any manager. PCrotty reported the matter to his credit card company.

27. Plaintiff Geisse is a Japanese-to-English Medical Translator and a graduate of Stanford University. In or about 2006, Geisse accessed highbeam.com while doing some work-related medical research utilizing a search engine which pulled up a highlighted article title and the first portion of an article of possible interest. Wanting to read the rest of the article, Geisse clicked on the highlighted title but was prevented from viewing any more of the article unless she clicked on a large "FREE TRIAL" button. Geisse was then enticed by and fell victim to Defendants' "free-to-pay" conversion with their "hook": "**Read all of this article with a Free Trial.**" Wanting to read all of the article with a free trial, Geisse clicked on the large, brightly-colored "**FREE TRIAL**" button. Then, Geisse was directed to sign up for a "**7-Day FREE Trial**" with highbeam.com, which required her to input her credit card and other personal information. Geisse entered the required information in order to access the "Free Trial." After reviewing the article on highbeam.com, Geisse exited the highbeam.com website and did not have any intent to utilize and/or access and did not utilize and/or access the highbeam.com website again.

28. In or about January of 2011, Geisse's credit card company telephoned her, questioning a $29.95 charge to her account on a Saturday. Geisse was shocked when further inquiry revealed that highbeam.com had fraudulently charged her credit card $29.95 each month for more than three years. She was shocked to learn that highbeam.com had billed her hundreds of dollars for an automatic-renewal membership that she never wanted or accessed beyond that one article viewed during the "Free Trial." When Geisse questioned HighBeam about the unauthorized charges, and asked them what the charges were for, she was told that the charge was payment for her "membership" to highbeam.com and that her "membership" had an "automatic renewal."

Geisse demanded a full refund since the charges, membership, and automatic-renewal, were fraudulent, unauthorized, and unwanted. HighBeam's customer service representative, however, told her that HighBeam "does not pro-rate fees."

29. An Internet search of complaints relating to HighBeam Research reveals many additional complaints for misleading, confusing, unlawful, deceptive and unfair acts and practices including, but not limited to, the following:.

a. "They (HighBeam) just got me for $200.00. ... I NEVER received anything regarding renewal, and when I realized what was happening, I called to cancel. I was greeted by someone less than friendly (she probably gets her butt reamed daily, but she deserves it for working for a criminal outfit). I am taking no risk. I am switching banks and canceling my card. By the way, I have a daughter who is critically ill and her hospital bills have nearly bankrupt me. When I explained this, I asked only for the fee they charged me yesterday which threw me into overdraft at a $38 charge, she obviously did not care. There is a special spot in hell for these people. Never fear." By: Christine Clinkenbeard, The Woodlands, Texas, July 2009; complaintsboard.com.

b. "BEWARE AUTOMATIC BILLING WITHOUT NOTIFICAITON. Highbeam Complaint. 'This is an inferior research tool run by a company without ethical principles. Not only are they quick to bill, they will not refund in full when challenged. If you subscribe, watch your credit card statements because they will automatically bill without notifying you. Automatic renewals, they claim, are preceded by ONE email notification, which I did not receive. I had subscribed for one year and found their product virtually worthless. I never

intended to renew and was shocked when I saw my statement with a $299 charge. They refused a full refund. This is a company with a product so insufficient they feel they can make money by scamming subcribers who wish to cancel. Avoid at all costs." By: Cindyhaz, March 2, 2009; pissedconsumer.com.

c. "DO NOT use High Beam research. It is a TOTAL SCAM. It purports to be a service for research professionals, but in fact it is little more than a credit card scam. I used the 'free trial' option on their website. They charged me $200 for reading a single article and claimed I authorized an annual membership. (I did not, but I didn't have a printout of my online session to prove it.). When I contacted customer service, they would not even discuss the matter. Just kept repeating that they had the right to charge a customer for a year's worth of their service…I never received so much as an email confirmation of any 'purchase' or a warning that I was about to be charged after the free trial. Most websites offering free trials that require you to input your credit card will flag you before they charge you. Not High Beam. They deliberately charge you the maximum (annual, not monthly) without notification. It is, in fact, their business plan. This is a dishonest company with no scruples. Do not use them under any circumstances." By: nytimesjourno, June 26, 2008; epinions.com.

d. "This rip-off company (Highbeam.com) offered a 'no-risk free' one-week trial…my college-aged son signed on for this 'free' trial in September 2009…never used it, and wasn't charged until three months later…that my credit card was charged the $199.95. When I called HighBeam, they said they

could cancel the membership but not provide a refund…" By: Carolyn, New York, February 2011; ripoffreport.com.

e. "Mr. Spain (founder of HighBeam) may be a superb businessman, but the ethical actions of his company certainly tarnish his 'glowing reputation'. When viewing highbeam for an article I found that in order to view the document I had to sign up for a free trial. I did what was required…the abstract I read as a teaser proved not to accurately represent the article I was looking for. Therefore I cancelled my membership, today I get my bank statement and I was billed $199.00 for an annual subscription. Naturally, I contacted Mr. Spain's company…to request termination of my account and a refund, the lady…stated the refund request would be elevated to management. I received an email at 6PM stating that the company does not give refunds for failure to cancel their service…" By: Whistleblower, April 20, 2009; internetnews.com.

f. "Highbeam Research, CREEPY, PREDATORY, UNACCOUNTABLE…A spider web of nasty tricks. Although the website looks legit – uses icons from respectable, high profile newspapers and magazines. Highbeam is a racket and designed to entrap the random person who is just in a hurry to get access to an archived newspaper article. I ordered what I thought was one archived article from a local newspaper and a month later had a charge for $372 on my credit card. I never signed off on such a charge – I simply never would have agreed to it. I never got any email or any other correspondence saying the charge was about to take place. When I called to investigate the surprise charge I waited on hold for about 7 minutes and then got someone who stonewalled me. She said

the manager wasn't in (both times I called) but that this "manager" would take care of my case. Within the hour, I got a really nasty and impersonal form email quoting their terms and conditions…that supposedly apprised me of the big money i'm about to fork over and ending with some statement about how there are no refunds…" By: Happyday, El Paso, TX, September 16, 2010; ripoffreport.com.

g. "NEVER USE HIGHBEAM RESEARCH. A substantial amount of money was just wiped out of one of my bank accounts through bogus charge on a debit card. The charge was made by HighBeam Research. I reached the company on the phone and was told the money was for an annual subscription fee. I said I was unaware I was a subscriber. I'd received no notice I was going to be charged, and I wanted my money back. … Make a note not to ever use them at all, even for free. It's not an honest company." www.mahablog.com/2008/11/29/never-use-highbeam-research/.

h. "Highbeam Research Free Trial is a Gimmick to Extract Exhorbitant [sic] fees from your bank account . I thought free trial meant just that. When you sign up they make you give credit card number and code and when I called on the phone stating that I never give that info they said that is how they do it for the trial. I never used the site after that, but I began getting billed the $200 plus bill. I called and told them that internet records verify I never used the account past the initial trial period and they did not care. …I told them I did not think that was right, but they assured me it (inputting credit card info) was just the policy

for the trial. This is a scam…Why are they still operating?" By: Miami Florida, June 4, 2009; ripoffreport.com.

i. "Highbeam Research Unscrupulous Auto-renewal practice. My credit card was charged for another year of HighBeam Research access that I don't want and am not being allowed a refund because I agreed to 'terms and conditions' when I subscribed a year ago. I feel it is unreasonable to expect a person to remember a year after initially subscribing that this practice exists and to not give prior notice that the renewal would be occurring…but then, of course, that must be how they make most of their money—otherwise, why would they feel it necessary to engage in such an unscrupulous practice….I am sick—it feels like it is $299.95 'down the drain'." By: Sally, Lusk, Wyoming, February 27, 2011; ripoffreort.com

j. "Like others who have reported this company, I was taken by surprise that they charge a full year-approximately $200—if you don't cancel your membership whithin a very short period of time." By: Brossj54, Stony Creek, NY, March 7, 2009; ripoffreport.com.

PLAINTIFFS' ALLEGATIONS

30. Defendants failed to provide Plaintiffs and the Class with all material terms of the "Free-To-Pay" conversion.

31. Defendants failed to disclose to Plaintiffs and the Class all material terms in an effort to induce consumers to subscribe without their express informed consent and/or refrain from cancelling their subscriptions in a timely and effective manner to avoid charges.

32. Defendants knew or should have known that subscribing and/or not cancelling by Plaintiffs and the Class was a likely result of the failure to disclose all material terms.

33. Defendants failed to disclose to Plaintiffs and the Class all material terms in a clear and conspicuous manner. For example:

a. Defendants placed some material terms in places where a reasonable consumer would not actually perceive and understand the disclosures within the context of the entire website;

b. Defendants placed some material terms in locations on web pages where they were not likely to be seen;

c. Defendants failed to label some material terms to indicate the importance and relevance of the information;

d. Defendants used text that was not easy to read on the screen;

e. Defendants required consumers to scroll on certain web pages to read some material terms;

f. Defendants placed some material terms in the terms and conditions form that it knew or should have known that consumers did not typically read;

g. Defendants prominently featured and highlighted non-material terms and advertisements in large font size and color highlights to distract attention away from the material terms;

h. Defendants prominently featured and highlighted a "Free trial" hyperlink, "Take a FREE trial" button, and a "7-day trial" hyperlink and failed to indicate anywhere on the same web page that consumers have the right to cancel within a period of time or charges will apply;

i. Defendants buried key language concerning the cost, charge to credit/debit cards used to sign up for the "7-day FREE trial", the "free-to-pay" conversion feature, and process for cancelling the "7-day FEEE trial" and subscription; and/or

j. Defendants failed to clearly and conspicuously inform consumers about how to cancel by putting the cancellation information away from any information relating to the membership cost.

34. Defendants by intentional concealment of material terms prevented consumers, including Plaintiffs and the Class, from acquiring material information.

35. Defendants failed to clearly and conspicuously disclose to Plaintiffs and the Class all material terms before obtaining their billing information.

36. Defendants failed to obtain the express informed consent of Plaintiffs and the Class before charging their credit cards, debit cards, and/or bank accounts. For example:

a. Guidance from the Massachusetts Attorney General, Illinois Attorney General and other Attorney Generals indicate that in a "Free-To-Pay" conversion, express informed consent cannot be given at the outset of a trial period because the trial period is most often touted without obligation or risk free and because it can and does lull customers into a state of forgetfulness; rather, only at the end of the trial does the relationship between consumer and business transform into one in which the consumer is actually being charged;

b. Defendants did not obtain the express informed consent of Plaintiffs and the Class before charging their credit cards, debit cards, and/or bank accounts

because Defendants did not first notify the consumers or otherwise obtain any consent from the consumers at the end of the "free trial";

c. Defendants did not obtain the express informed consent of Plaintiffs and the Class before charging their credit cards, debit cards, and/or bank accounts because Defendants did not send any reminder or any periodic reminder to help prevent the continuation of unknowing or unwanted memberships and charges to their credit cards, debit cards, and/or bank accounts;

d. Defendants did not obtain the express informed consent of Plaintiffs and the Class because the consumers did not give any affirmative statement agreeing to purchase the goods or services and/or were not aware that the charges would be billed to their credit cards, debit cards, and/or bank accounts;

e. Defendants did not obtain the express informed consent of Plaintiffs and the Class to charge their credit cards, debit cards, and/or bank accounts because they did not perform any affirmative action to demonstrate their consent to be charged;

f. Defendants did not obtain the express informed consent of Plaintiffs and the Class to charge their credit cards, debit cards, and/or bank accounts because their silence or inaction is not express informed consent;

g. Defendants did not obtain the express informed consent of Plaintiffs and the Class to charge their credit cards, debit cards, and/or bank accounts because they did not receive all material terms before giving any asserted express informed consent; and

h. Defendants did not obtain the express informed consent of Plaintiffs and the Class to charge their credit cards, debit cards, and/or bank accounts because Defendants relied on a pre-checked box as evidence of express informed consent.

37. Defendants failed to provide Plaintiffs and the Class with a simple mechanism for them to stop recurring charges from being placed on their credit cards, debit cards, and/or bank accounts. For example:

a. Defendants did not provide a simple mechanism because Plaintiffs and the Class could not cancel by the same method that consumers enrolled in the subscription service such as by merely clicking on a confirmation button on the website;

b. Defendants did not provide a simple mechanism for cancelling because Defendants did not provide Plaintiffs and the Class a toll-free phone number to call and cancel; and

c. Defendants refused to refund or pro-rate membership fees.

CLASS ACTION ALLEGATIONS

38. This action is brought pursuant to Rule 23 of the Massachusetts Rules of Civil Procedure and/or Rule 23 of the Federal Rules of Civil Procedure

39. Plaintiffs bring this action on their own behalf and on behalf of a Class of all others similarly situated. The Class Period is limited to the applicable statute of limitations for claims at issue and runs until the date of entry of final judgment in this action.

40. The Class is composed of at least a few thousand people, the joinder of whom is impracticable except by means of a class action. The disposition of their claims in a class action

will benefit the parties and the Court. Defendants sell thousands of memberships per month, and thus the Class is sufficiently numerous to make joinder impracticable, if not completely impossible.

41. There is a well-defined community of interest in the questions of law and fact involving and affecting the parties to be represented. Common questions of law and fact exist and such common questions predominate over any questions of law or fact which may affect only individual Class members. Such common questions include but are not limited to the following:

a. Whether Defendants violated Massachusetts General Laws ch. 93A, § 2, the Illinois Consumer Fraud and Deceptive Business Practices Act and/or the Illinois Automatic Contract Renewal Act through their common course of deceptive conduct alleged herein;

b. Whether, by reason of Defendants' violations of M.G.L. c. 93A, the Illinois Consumer Fraud and Deceptive Business Practices Act and/or the Illinois Automatic Contract Renewal Act, Plaintiffs and the Class are entitled to recover actual or statutory damages;

c. Whether, by reason of Defendants' violations of M.G.L. c. 93A, the Illinois Consumer Fraud and Deceptive Business Practices Act and/or the Illinois Automatic Contract Renewal Act, Defendants should be required to either refund all sums which Plaintiffs and the Class paid for "memberships" during the Class Period, or disgorge all profits which they made on account of any such memberships;

d. Whether Defendants were unjustly enriched at the expense of Plaintiffs and the Class; and

e. The nature and extent of any additional relief which the Class is entitled to recover under M.G.L. c. 93A, the Illinois Consumer Fraud and Deceptive Business Practices Act, the Illinois Automatic Contract Renewal Act and/or the common law.

42. Plaintiffs assert claims that are typical of the claims of the entire Class. They will fairly and adequately represent and protect the interest of the Class. Plaintiffs have no interests antagonistic of those of the Class. Plaintiffs have retained counsel who are competent and experienced in class action litigation.

43. Defendants have acted or refused to act on grounds generally applicable to all members of the Class, thereby making final relief concerning the Class as a whole appropriate.

44. Plaintiffs and the Class have suffered injury and damages as a result of Defendants' wrongful conduct as alleged herein. Absent a class action, the Class will continue to suffer injury, thereby allowing these alleged violations of law to proceed without remedy, and allowing Defendants to retain the proceeds of their ill-gotten gains.

45. Plaintiffs anticipate that there will be no difficulty in the management of this litigation. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

COUNT I – (Massachusetts General Laws, chapter 93A)

46. Plaintiffs reassert and incorporate herein each and every allegation in the preceding paragraphs of this Complaint as if set forth fully herein.

47. Plaintiffs and the Class are persons.

48. Defendants were engaged in trade or commerce.

49. Plaintiffs and the Class entered into consumer transactions with Defendants.

50. Defendants engaged in unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices, in the conduct of trade or commerce.

51. Defendants' acts, practices, and conduct were willful and knowing violations and invaded the rights of Plaintiffs and the Class to be free from deceptive business practices.

52. More than thirty days prior to filing the initial Complaint, Plaintiffs made a written demand for relief on Defendants.

53. Plaintiffs did not receive a reply.

54. Defendants' refusal to reply and grant relief to the demand was in bad faith and with knowledge or reason to know that the acts or practices complained of herein violated M.G.L. c. 93A, § 2.

55. As a proximate and foreseeable consequence of Defendants' violations, Plaintiffs and the Class sustained damages.

COUNT II – Violation of the Illinois Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/1 *et seq.*)

56. Plaintiffs reassert and incorporate herein each and every allegation in the preceding paragraphs of this Complaint as if set forth fully herein.

57. The Illinois Consumer Fraud and Deceptive Business Practices Act ("ICFA") (815 ILCS 505/1 *et seq.*) protects both consumers and competitors by promoting fair competition in commercial markets for goods and services.

58. The ICFA prohibits any unlawful, unfair or fraudulent business acts or practices including the employment of any deception, fraud, false pretense, false promise, misrepresentation, or the concealment, suppression, or omission of any material fact.

59. Defendants' continued utilization of misleading, confusing, unlawful, deceptive, and unfair practices that deceived and are likely to deceive consumers constitutes a deceptive act or practice by Defendants in violation of the ICFA.

60. Defendants have violated the unfair prong of the ICFA.

61. The injury caused by Defendants' conduct is not outweighed by any countervailing benefits to consumers or competition.

62. The injury caused by Defendants' conduct is one that consumers themselves could not reasonably have avoided.

63. Defendants have violated the "fraudulent" prong of the ICFA.

64. Defendants' deception occurred in the course of trade and commerce.

65. Plaintiffs suffered harm as a result of the violations of law and wrongful conduct of Defendants in the form of actual monetary damages.

66. Defendants violated the ICFA because, among other things, their conduct violates the Illinois Automatic Contract Renewal Act (815 ILCS 601/1 *et seq.*).

COUNT III – Violation of the Illinois Automatic Contract Renewal Act (815 ILCS 601/1 *et seq.*)

67. Plaintiffs reassert and incorporate herein each and every allegation in the preceding paragraphs of this Complaint as if set forth fully herein.

68. Defendants are a person, firm, partnership, association, or corporation that sells or offers to sell products or services to consumers, such as Plaintiffs and the Class, pursuant to a contract.

69. The contract automatically renews unless the consumers, such as Plaintiffs and the Class, cancel the contract.

70. Defendants failed to disclose the automatic renewal clause clearly and conspicuously in the contract, including the cancellation procedure.

71. The contract term is a specified term of twelve months or more.

72. The contract automatically renews for a specified term of more than one month unless consumers, such as Plaintiffs and the Class, cancel the contract.

73. Defendants did not notify consumers, such as Plaintiffs and the Class, in writing of the automatic renewal.

74. Defendants did not provide written notice to consumers, such as Plaintiffs and the Class, not less than thirty days and no more than sixty days before the cancellation deadline pursuant to the automatic renewal clause.

75. The written notice, if any, provided to consumers, such as Plaintiffs and the Class, did not disclose clearly and conspicuously that unless consumers, such as Plaintiffs and the Class, cancel the contract it will automatically renew.

76. The written notice, if any, provided to consumers, such as Plaintiffs and the Class, did not disclose clearly and conspicuously where consumers, such as Plaintiffs and the Class, can obtain details of the automatic renewal provision.

77. The written notice, if any, provided to consumers, such as Plaintiffs and the Class, did not disclose clearly and conspicuously the cancellation procedure.

78. Upon information and belief, Defendants have not established and implemented written procedures to comply with the Illinois Automatic Contract Renewal Act and enforce compliance with its procedures.

79. Upon information and belief, Defendants' failure to comply with the Illinois Automatic Contract Renewal Act was not the result of error.

80. Upon information and belief, Defendants did not provide a full refund or credit for all amounts billed to or paid by consumers, such as Plaintiffs and the Class, from the date of the renewal until the date of the termination of the account, or the date of the subsequent notice of renewal.

COUNT IV – Unjust Enrichment

81. Plaintiffs reassert and incorporate herein each and every allegation in the preceding paragraphs of this Complaint as if set forth fully herein.

82. Defendants' practices described above resulted in Plaintiffs and the Class purchasing subscriptions.

83. The monies paid by Plaintiffs and the Class to Defendants conferred substantial benefits upon Defendants.

84. Defendants knew of the benefits conferred upon them by Plaintiffs and the Class.

85. Defendants appreciated the benefits conferred upon them by Plaintiffs and the Class.

86. Defendants accepted the benefits conferred upon them by Plaintiffs and the Class.

87. Defendants retained the benefits conferred upon them by Plaintiffs and the Class.

88. By reason thereof, Defendants were unjustly enriched.

89. Plaintiffs and the Class sustained damages.

CLAIMS FOR RELIEF

Wherefore, Plaintiffs and the Class respectfully request that the Court:

A. Certify this action as a class action pursuant to Rule 23 of the Massachusetts Rules of Civil Procedure and/or Rule 23 of the Federal Rules of Civil Procedure and designate Plaintiffs as the representatives of the Class;

B. Determine the damages sustained by Plaintiffs and the Class as a result of Defendants' violations of M.G.L. c. 93A, § 9(2) and common law, and award any actual damages proved or statutory damages in the amount of $25.00 per class member, whichever is greater, tripled, and direct that Defendants either (a) refund all sums paid by Plaintiffs and the Class for memberships during the Class Period, or (b) disgorge all profits which Defendants made on account of any such memberships sold to Plaintiffs and the Class during the Class Period;

C. Determine the damages sustained by Plaintiffs and the Class as a result of Defendants' violations of the Illinois Consumer Fraud and Deceptive Business Practices Act and direct that Defendants either (a) refund all sums paid by Plaintiffs and the Class for memberships during the Class Period, or (b) disgorge all profits which Defendants made on account of any such memberships sold to Plaintiffs and the Class during the Class Period;

D. Determine the damages sustained by Plaintiffs and the Class as a result of Defendants' violations of the Illinois Automatic Contract Renewal Act and direct that Defendants either (a) refund all sums paid by Plaintiffs and the Class for memberships during the Class Period, or (b) disgorge all profits which Defendants made on account of any such memberships sold to Plaintiffs and the Class during the Class Period;

E. Award Plaintiffs and the Class their costs and disbursements of this suit, including, without limitation, reasonable attorneys' fees, expenses and costs;

F. Award pre-judgment and post-judgment interest as provided by law; and

G. Grant Plaintiffs and the Class such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiffs, on behalf of themselves and all others similarly situated, hereby demand a trial by jury on all issues so triable.

Dated: July 18, 2011

By their attorneys,

/s/ Jeffrey S. Morneau

Jeffrey S. Morneau, Esquire (BBO# 643668)
CONNOR, MORNEAU & OLIN, LLP
73 State Street
Springfield, Massachusetts 01103
Tel: (413) 455-1730
Fax: (413) 455-1594
jmorneau@cmolawyers.com