

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT, IN AND FOR PALM
BEACH COUNTY, FLORIDA

CASE NO.:

SCHULER, HALVORSON,
WEISSER, & ZOELLER, P.A.,
and SCOTT ADDLESBERGER,
on behalf of themselves, and all
persons similarly situated,

Plaintiff(s),

v.

COMPEX LEGAL SERVICES, INC.,

Defendant.

CLASS REPRESENTATION

2012 CA 017558XXXX MB

FILED
2012 SEP 21 PM 3:31
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL

**CLASS ACTION COMPLAINT FOR CIVIL DAMAGES,
DECLARATORY AND INJUNCTIVE RELIEF**

COME NOW, the Plaintiffs, SCHULER, HALVORSON, WEISSER, & ZOELLER, P.A., and SCOTT ADDLESBERGER on behalf of themselves and all other persons similarly situated, by and through their undersigned attorneys and hereby brings this Complaint to obtain declaratory and injunctive relief, civil damages, costs of suit, and attorneys' fees, and any and all damages, pursuant to Florida Rule of Civil Procedure 1.220. Plaintiffs complain and allege, upon information and belief, as follows:

NATURE OF ACTION

1. This is a class action brought by Plaintiffs who are or were involved in litigation in the State of Florida, along with other similarly situated law firms (herein after referred to as "The Firms"), who provide or provided to clients legal representation for litigation in Florida.

2. The Firms received subpoenas for records of various entities from the law firms representing the opposing party in the respective litigations.

3. The law firms that filed these subpoenas have retained, contracted, assigned, transferred, or otherwise engaged Defendant, COMPEX LEGAL SERVICES, INC., to respond to the requests from the opposing parties for copies of the requested records from said subpoenas.

4. Florida Rule of Civil Procedure 1.351 establishes the costs of copying records made pursuant to a request for copies of a duly issued subpoena, and specifies that a party requesting a copy of records can only be charged a "reasonable cost" for the preparation of the copies.

5. Attached hereto as Exhibit "A" are two invoices that were received in relation to SCOTT ADDLESBERGER, which establish that the Defendant, COMPEX LEGAL SERVICES, INC., has been and is charging an unreasonable amount for their copy services, to wit: charged a \$12.50 charting fee; charged a basic charge of \$46.00; charged \$8.00 for shipping and handling; and charged a \$10.00 late processing fee; charged \$0.40 per page copied.

JURISDICTION AND VENUE

6. Jurisdiction in this Court is proper pursuant to Florida Statute Section 26.012 and Section 86.001, 86.021, 86.051, 86.101. This Court has jurisdiction over Defendant, COMPEX LEGAL SERVICES, INC., because the Company has sufficient minimum contacts with the State of Florida, Palm Beach County, and they intentionally availed themselves of the consumers or markets within the State of Florida, and more specifically, Palm Beach County. The acts complained of herein occurred in Palm Beach County, in the State of Florida. Plaintiffs seek declaratory and injunctive relief, along with civil damages.

7. Venue is proper in this Court pursuant to Florida Statutes §§47.022, 46.021, and 47.041. Venue is proper in this Court because the transactions complained of herein occurred within the State of Florida, more specifically Palm Beach County. The Company has received substantial compensation from the copy charges of records from Law Firms and individuals in Palm Beach County, Florida. Defendant does business here and has committed unfair and improper business practices, which conduct and practices have had a profound effect on the Plaintiffs and those similarly situated.

8. That at all times material hereto, the Defendant, COMPEX LEGAL SERVICES, INC., was and is a California corporation, authorized to do business and doing business in Palm Beach County, Florida, with its principle office located in Torrance, California. As a result of its business activities in the State of Florida, and its many sundry activities related to the consumer industry, Defendant, COMPEX LEGAL SERVICES, INC. is subject to the jurisdiction of the Courts of Florida pursuant to the provisions of Florida Statute 48.081, 48.181, and 48.193.

9. That at all times material, Defendant Company, continuously and systematically engaged in the business of responding to requests for records by retrieving, copying, and/or shipping said records, including the records requested by the Plaintiffs. The above Company's actions were done for profit and said company received revenue in the form of fees for the copy services provided to Plaintiffs and all other persons similarly situated.

BACKGROUND

10. Defendant, COMPEX LEGAL SERVICES, INC., has engaged and continues to engage in the business of retrieving, copying and shipping records for law firms, individuals, their duly appointed designees.

11. The Defendant submits its record request forms with correspondence stating the charges for their services are \$0.25 per page for copies and \$7.50 for shipping and handling See attached Exhibit "B". The Defendant does not provide notice of any other charges.

12. After Plaintiffs and those similarly situated requested copies from the Defendant, they receive an invoice for additional and excessive charges as detailed in Paragraph 13..

13. Defendant has violated Florida law, by failing to charge a reasonable fee for its copy services in the following ways:

- a. Charging a basic charge,;
- b. Charging a late processing fee;
- c. Charging a charting fee;
- d. Charging in excess of \$0.25 per page for copies; and
- e. Charging \$8.00 for shipping and handling.

14. SCHULER, HALVORSON, WEISSER, & ZOELLER, P.A. is a West Palm Beach based civil litigation law firm which has been in existence since 1975. The firm practices plaintiff's personal injury and class action law and, as a service to their clients, routinely requests copies of records subpoenaed by opposing counsel pursuant to Florida Rules of Civil Procedure 1.351.

15. Individual Plaintiffs, by and through their attorneys of record, file this Complaint on behalf of themselves and all persons or entities similarly situated within the State of Florida. Plaintiffs make their allegations upon personal knowledge as to themselves and their own acts, and upon information and belief based on investigation of counsel as to all other matters, as set forth below.

16. COMPEX LEGAL SERVICES, INC. issues thousands of invoices and collects funds for copying and mailing records from requestors in the State of Florida.

17. This matter involves the unfair and illegal billing practices of the Defendant, COMPEX LEGAL SERVICES, INC., whose acts constitute unlawful business and reprehensible public policy practices. These practices have resulted in the Defendant's unjust enrichment, which is due to conversion of property belonging to Plaintiffs and those similarly situated.

CLASS REPRESENTATION ALLEGATIONS

18. Pursuant to Florida Rule of Civil Procedure, 1.220, Plaintiffs bring this action both individually and on behalf of all who have been billed and paid the Defendant for providing copies of records, and thus subjected to the Company's wrongful billing or collection practices. Alternatively, Plaintiffs bring this action on behalf of themselves and such subclasses that this Court deems appropriate (collectively "subclasses").

19. The class consists of all persons or entities who have been billed an unreasonable amount by Defendant for copies of records and paid said bill for those charges in excess of those permissible pursuant to Florida law.

20. Plaintiffs' beliefs are based on the fact that:

a. Defendant, COMPEX LEGAL SERVICES, INC., issued thousands of invoices for copies of records from law firms located in Florida for litigation.

b. That Defendant's invoices fail to comply with Florida law;

c. That Defendant regularly violates these laws and continues to do so;

d. The members of the class will be easily ascertainable from the records of the Defendant, COMPEX LEGAL SERVICES, INC., when discovery commences.

21. The class and the subclass of persons described above are so numerous that the non joinder of all members in one action is impracticable. Upon information and belief, Plaintiff estimates that there are many thousands of class members.

22. Questions of fact and law common to the entire class and subclasses predominate over individual questions because the actions of the Defendant complained of herein were generally applicable to the entire class and subclass, as identified within this Complaint.

23. Class Representatives raise questions of law that are common to the claims of each member of the class. Specifically, the central issues raised by this action are whether the Defendant illegally billed and collected revenue for the services of copying, reproducing and mailing the records they provided.

24. All questions as to the representations and improper business practices of the Defendant and the impacts thereof are similarly common. Common questions include, but are not limited to, Defendant's billing practices with respect to the Class and potential subclasses.

25. The claims of the Plaintiffs are typical of the claims of the class and subclasses in that the Plaintiffs and each class member received an invoice from the Defendant that failed to comply with Florida law and resulted in the Plaintiff being overcharged for the services provided.

26. Plaintiffs, Class Representatives, are Florida residents who will fairly and adequately represent and protect the interests of the entire class or subclass because of the common injuries and interests of the class and subclass members and the common conduct of Defendant applicable to all class and subclass members. The Class Representative is fully cognizant of his/her responsibilities as Class Representative, and Plaintiff has retained competent counsel, who are experienced in the prosecution of class action litigation and who have no

interest that are contrary to, or in conflict with those of the class or subclass they seek to represent.

27. Further, class counsel satisfies both prongs of the "Adequacy of Representation" test. Class Counsel Jason D. Weisser and Richard D. Schuler are partners in the well-established West Palm Beach civil litigation firm of Schuler, Halvorson, Weisser & Zoeller, P.A., which has been in existence for over thirty years. Both Mr. Schuler and Mr. Weisser are Board Certified in Civil Trial Lawyer by the Florida Bar. Additionally, Class Counsel Jason D. Weisser, and Class Counsel David M. Kerner, an associate of the firm, have prosecuted over 25 separate "Red Light Camera" class actions. Many of these cases have been settled and others have been litigated to the District Court of Appeal with an appeal to the Florida Supreme Court pending. The firm, with 5 attorneys and nearly 30 support staff, is capable of conducting the litigation due to the firm's prior experience in class action representation. Mr. Schuler filed one of the first class actions ever under FRCP 1.220 in 1976- "Rapallo South, Inc. v. Jack Taylor Development Corp", Case # 76-676 CA(L) 01 G in Palm Beach County Circuit Court representing a condominium association with over 192 plaintiffs. The firm has actively litigated, through final resolution, Class claims against Merck for drug products liability for Vioxx. Schuler, Halvorson and Weisser, P.A. represented over 1000 clients in Class claims against Baxter Healthcare, Bristol Myers Squibb, Dow Corning, Dow Chemical and others for silicone gel defects in breast implant claims over a 15 year time period. The firm filed over 85 lawsuits against various tobacco companies for the Post-Engle Tobacco claims. The firm handled, through resolution, numerous MDL Claims against Depuy/Johnson & Johnson for defects in knee prosthesis.

Also relevant to the "Adequacy of Representation" prong of the Court's analysis, possible class members and the Representative Plaintiff do not have interests that are

antagonistic to one another. The Representative Plaintiffs, like the unnamed members of the putative class, simply seek relief from being charged unlawful fees, in conflict with well settled general and administrative law.

28. The Defendant has acted and refused to act on grounds generally applicable to the entire class or subclasses thereby making it appropriate for this Court to grant final injunctive and declaratory relief with respect to the class and subclasses as a whole.

29. A class action is superior to all other available methods for fair and efficient adjudication of this controversy. Plaintiff knows of no difficulty to be encountered in the management of this action that precludes its maintenance as a class action.

30. The prosecution of separate actions by individual class or subclass members will create a risk of inconsistent and varying adjudications concerning individual members of the class or subclasses which would, as a practical matter, be dispositive of the interests of other members of the class or subclass who are not parties to the adjudication or substantially impair or impede the ability of other members of the class or subclass who are not parties to the adjudications to protect their interests, which adjudication could establish incompatible standards of conduct of Defendant under the laws alleged herein. This Court has jurisdiction over this class action involving wrongfully issued bills from the Defendant, and it may award damages as well as an injunction.

31. Plaintiffs' claims and all other persons similarly situated against the Defendant are typical and common of the claims asserted against the individually named Defendant. The defenses to the Plaintiffs' claims that could be raised by the Defendant are typical.

32. The common questions of law and fact raised by the Plaintiffs' claims against the Defendant and raised by possible defenses that could be asserted by the Defendant predominate over any issues relating to individual members of the Plaintiffs' Class.

33. The Defendant has acted in a manner that is common to Plaintiffs and members of the Plaintiffs' Class making permanent injunctive and equitable relief appropriate against the Defendant.

COUNT I – UNJUST ENRICHMENT

34. The Plaintiff(s) reallages paragraphs 1 through 33 above as if hereinafter set forth in full.

35. As a result of the conduct described above, the Defendant has been and will continue to be unjustly enriched at the expense of the Plaintiffs and members of the class and subclasses. Specifically, the Defendant has improperly billed and been paid by the Plaintiffs for copies of records, which is an unfair and illegal billing practice.

36. This had resulted in the Plaintiff's conferring a monetary benefit to Defendants, *who have accepted these monetary benefits under inequitable circumstances.*

37. The Defendant should be required to disgorge their unjust enrichment by the Court's powers of equity.

WHEREFORE, Plaintiffs, and all other persons similarly situated, demands judgment for damages in excess of Fifteen Thousand Dollars (\$15,000.00), including, but not limited to, the return of fees paid, attorneys fees to be determined by the Court, costs and any and all other damages the Court deems just and proper and further demands trial by jury.

COUNT II – TORT OF CONVERSION

38. The Plaintiff(s) realleges paragraphs 1 through 33 above as if hereinafter set forth in full.

39. By their actions described above, the Defendant has converted the Plaintiffs' property (money), in the unjustified, willful interference with property of the Plaintiffs which deprived the Plaintiffs of their entitlement to the possession of their property.

40. The Defendant's conversion was of specific monies, readily identifiable from the Defendant's invoices and accounts receivable from the Defendant.

41. The Defendant should be required to disgorge their improperly converted profits by the Court's powers in equity.

WHEREFORE, Plaintiffs, and all other persons similarly situated, demands judgment for damages in excess of Fifteen Thousand Dollars (\$15,000.00), including, but not limited to, the return of fees paid, attorneys fees to be determined by the Court, costs and any and all other damages the Court deems just and proper and further demands trial by jury.

COUNT III – VIOLATION OF FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT (codified at Fla. Stat. §§ 501.201 et seq.)

42. The Plaintiff realleges Paragraphs 1 through 33 and incorporates them by reference herein.

43. The Plaintiff has been aggrieved and has suffered losses as a result of unfair and deceptive acts by Defendant, COMPEX LEGAL SERVICES, INC., in the conduct of their trade or commerce.

44. Defendant has violated Florida law, by failing to charge a reasonable fee for its copy services in the following ways:

- a. Charging an unreasonable basic fee, additional consultation charge;

b. Charging a late processing fee.

45. As a result of Defendant's deceptive and unfair trade practices, the Plaintiff has suffered damages, including, but not limited to, the financial loss for being overcharged for copies and mailing of records in contravention to Florida law.

WHEREFORE, Plaintiffs, and all other persons similarly situated, demands judgment for damages in excess of Fifteen Thousand Dollars (\$15,000.00), including, but not limited to, the return of fees paid, attorneys fees to be determined by the Court, costs and any and all other damages the Court deems just and proper and further demands trial by jury.

REQUEST FOR RELIEF

The Plaintiffs request the Court award to them the following relief:

46. Economic, compensatory, and general damages on behalf of all members of the Plaintiff class and the subclasses.

47. The equitable remedy of Restitution from the Defendant.

48. The equitable remedy of Declaratory and injunctive relief against the Defendant from further unfair and illegal billing practices as alleged herein.

49. Reasonable attorneys' fees and reimbursement of all costs for the prosecution of this action, based upon the creation of a common fund/common benefit recovery, and based upon other theories and statutory bases.

50. A declaratory judgment declaring that the Defendant's billing was in violation of Florida Rules of Civil Procedure 1.351.

51. Pre-judgment and post-judgment interest on the damages claims against the Defendant.

52. That the court determine and order that this action may proceed as a class action and certify a class either as described above or as otherwise found by the to be appropriate.

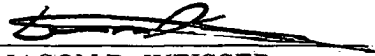
53. Such other relief as the Court may deem equitable and just.

WHEREFORE, Plaintiffs, and all other persons similarly situated, demands judgment for damages in excess of Fifteen Thousand Dollars (\$15,000.00), including, but not limited to, the return of fees paid, attorneys fees to be determined by the Court, costs and any and all other damages the Court deems just and proper and further demands trial by jury.

Dated this 21st day of September, 2012.

SCHULER, HALVORSON,
WEISSER & ZOELLER, P.A.
Attorneys for Plaintiff
1615 Forum Place, Ste. 4-D
Barristers Building
West Palm Beach, FL 33401
(561)-689-8180

By: _____


JASON D. WEISSER
Fla. Bar No.: 101435
DAVID M. KERNER
Fla. Bar No.: 084388