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FILED

NOV 15 2016

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY S. Ulleseit DEPUTY

1 Douglas S. Gilliland, Esq. (SBN 157427)
THE GILLILAND FIRM
2 402 West Broadway, Suite 1760
San Diego, California 92101
3 Tel.: (619) 878-1580, Fax: (619) 878-6630
4 Attorneys for Plaintiff J.D. RESOURCES, LLC

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SANTA CLARA

10 J.D. RESOURCES, LLC, a California limited
liability company,
11 Plaintiff,
12 v.
13 JUSTIN GUARINELLI, an individual,
14 GOOGLE, INC., a Delaware corporation, and
DOES 1-10, inclusive,
15 Defendants.

Case No.: **16CV302895**

COMPLAINT FOR

- 1. **Injunction, and**
- 2. **Declaratory Relief**

THE GILLILAND FIRM
402 West Broadway, Suite 1760
San Diego, California 92101
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1 COMES NOW, J.D. RESOURCES, INC., a California limited liability company, by and
2 through its attorneys of record, and THE GILLILAND FIRM, by Douglas S. Gilliland, Esq., and
3 alleges as follows:

4 **I.**

5 **GENERAL ALLEGATIONS**

6 1. Venue of this lawsuit is proper in the Superior Court of the state of California, in
7 and for the county of Santa Clara, pursuant to Code of Civil Procedure section 395(a), because
8 Defendant GOOGLE, INC. is a corporation with its principal place of business in the county of
9 Santa Clara.

10 2. The Superior Court of the state of California, in and for the county of Santa Clara,
11 has jurisdiction of the subject matter of this civil lawsuit pursuant to California Code of Civil
12 Procedure section 525, *et seq.*

13 3. At all times relevant to this Complaint, Plaintiff J.D. RESOURCES, INC. is
14 informed and believes, and based on that information and belief alleges, that Defendant JUSTIN
15 GUARINELLI, (hereafter "GUARINELLI"), was an individual residing in the county of San
16 Diego.

17 4. At all times relevant to this Complaint, Defendant GOOGLE, INC. (hereafter
18 "GOOGLE") was a Delaware corporation filed on November 7, 2002, Entity Number C2474131,
19 with its principal place of business in the county of Santa Clara, located at 1600 Amphitheatre
20 Parkway, Mountain View, California 94043.

21 5. Plaintiff is ignorant of the true names, identities and capacities of DOES 1
22 through 10, inclusive. Therefore, Plaintiff sues these defendants under the fictitious designations
23 of DOES 1 through 10. Plaintiff will either amend this Complaint, or file a DOE amendment
24 pursuant to Code of Civil Procedure section 474, once their identities have been ascertained as
25 well as the facts giving rise to their liability.

II.

FACTS

1
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3 6. Plaintiff J.D. RESOURCES, LLC (hereafter, "J.D. RESOURCES") is a sole
4 proprietor website building/marketing company. J.D. RESOURCES created a website called
5 Gateway Personal Injury Law Firm for a law firm client. J.D. RESOURCES built the site and
6 then was contracted by the law firm to market the site. Marketing the site means to continually
7 update content and data to make the website relevant in the competitive personal injury law
8 market. J.D. RESOURCES was paid monthly by the law firm for its marketing services.

9 7. Defendant GOOGLE is a multinational technology company specializing in
10 internet-related services that include online searching through GOOGLE's search engine. A
11 search engine is a computerized program that allows users to enter keywords into a search field.
12 The GOOGLE search engine then searches the internet (also known as the World Wide Web) for
13 websites with content or data that correspond with the user's keywords. This enables a user to
14 find websites on the internet with content matching or similar to their keywords. Although many
15 other companies offer search engines on their websites, GOOGLE enjoys massive dominance in
16 the U.S. market share for internet searches. In 2016, GOOGLE owned a 94.53% market share
17 for all U.S. mobile device searches and an 85.28% market share for all desktop computer
18 searches. This means that having one's website appear in GOOGLE's search engine results is
19 one of the most effective advertising methods on the internet.

20 8. GOOGLE also provides a platform for users to post reviews for businesses the
21 user has visited or used. The review appears in the search engine results next to the businesses'
22 website. To post a review, a user chooses a star-rating from one to five. One star is the lowest
23 and five stars is the highest. Then the user can type a comment about the business. This way, all
24 other users, and potential customers, for that business can see the star rating and reviews right
25 next to the businesses' website in the search engine results.

26 9. To write a Google review, GOOGLE requires that users open a Google account.
27 To open a Google account, a user goes to GOOGLE's website and enters their first and last
28 name. GOOGLE also provides a section where the user can upload a picture, often a head-shot

1 or passport-photo-type picture. This picture will appear next to each review posted by that user.
2 The picture is called the user's profile picture.

3 10. GOOGLE's help center advises users that, "Your reviews are public, so anyone
4 can see what you write. You can't add an anonymous review." GOOGLE's User Content and
5 Conduct Policy prohibits "Impersonation or Deceptive Behavior."

6 11. Approximately four years ago, a Google account was opened under the user name
7 JUSTIN GUARINELLI. The user uploaded the following as their profile picture:¹



11 12. JUSTIN GUARINELLI's profile picture actually depicts a person named Justin
12 Guarini. Justin Guarini is an American singer/musician that was the runner-up on the first
13 season of the reality television show American Idol over 14 years ago (in 2002). The website
14 Pinterest.com has a board (collection of photos) exclusively containing pictures of Justin Guarini
15 including the following picture:



27
28 ¹ This picture is small because it is an actual copy of the profile picture from the JUSTIN
GUARINELLI account which is quite small.

1 13. JUSTIN GUARINELLI then posted a review to Plaintiff J.D. RESOURCES'
2 website Gateway Personal Injury Law Firm. In *verbatim*, the review states:

3 This guy is young, clueless and is a terrible lawyer. If you want to get a tiny
4 settlement or to possibly lose your case, go ahead and choose this guy as your
5 lawyer. There are tons of other better choices. Don't be fooled by the name
6 "Gateway personal injury". [sic] It's just this one young guy who just started
7 trying to handle personal injury cases. He will most likely refer you out to
8 another attorney since he has so little experience. Avoid him like the plague and
9 choose someone with experience actually winning cases otherwise you will regret
10 your decision.

11 14. For the last four years, this review, and its two-star rating, appear each time the
12 Gateway Personal Injury Law Firm website appears in the Google search results.²

13 15. The attorneys using the Gateway Personal Injury Law Firm website were not a
14 young attorney with little experience. They were two attorneys that had practiced personal
15 injury law for 21 and 19 years, respectively. They were members of the Million Dollar
16 Advocates Forum, Top Trial Lawyers in America® and the Multi-Million Dollar Advocates
17 Forum.® They had recently settled a 12 million dollar case and had million dollar jury verdicts
18 or settlements in each of the four largest counties in the state of California as well as published
19 opinions at the United States Court of Appeals for the Ninth Circuit and California Court of
20 Appeals.

21 16. The review posted by JUSTIN GUARNELLI is a false review intended to harm
22 the Gateway Personal Injury Law Firm website. It was one of three reviews ever posted by
23 JUSTIN GUARINELLI. JUSTIN GUARINELLI's Google account has not posted another
24 review in over four years.

25 17. J.D. RESOURCES reported the false review to GOOGLE. At one point,
26 GOOGLE took down the picture of Justin Guarini. However, the picture is back up and the
27 review has never been taken down. The attorneys using the Gateway Personal Injury Law Firm
28 website cancelled their business relationship with J.D. RESOURCES because of this false
29 review. Plaintiff J.D. RESOURCES has not been able to get any other lawyers interested in the

² The website has a total of 11 reviews. All other reviews are five-star ratings with very favorable comments.

1 website in over four years because of the JUSTIN GUARINELLI review.

2 **III.**

3 **FIRST CAUSE OF ACTION**

4 **[Injunction - Against Defendant GOOGLE and JUSTIN GUARINELLI]**

5 18. Plaintiff J.D. RESOURCES reincorporates all prior allegations pled in this
6 complaint by this reference.

7 19. Commencing approximately four years ago, and continuing to this day, the false
8 Google review posted through GOOGLE's review platform by Defendant JUSTIN
9 GUARINELLI remains on Defendant GOOGLE's servers. It appears when the Gateway
10 Personal Injury Law Firm website is located through the GOOGLE search engine. The review is
11 false and damaging to Plaintiff J.D. RESOURCES' business because it caused the termination of
12 the business relationship with the law firm using the website and no other lawyers are interested
13 in the website with the false review.

14 20. Plaintiff J.D. RESOURCES has informed Defendant GOOGLE that the review is
15 false and has stated the reasons upon which it can be shown that the review is false. Plaintiff
16 J.D. RESOURCES has requested that Defendant GOOGLE remove the review based on these
17 reasons. Defendant GOOGLE has refused to remove the false review posted on its review
18 platform and maintained on its servers.

19 21. The conduct of GOOGLE and JUSTIN GUARINELLI, unless enjoined, will
20 continue to cause Plaintiff J.D. RESOURCES irreparable harm because the Gateway Personal
21 Injury Law Firm website is rendered worthless. Plaintiff J.D. RESOURCES has invested
22 significant resources, financial and otherwise, in the Gateway Personal Injury Law Firm project
23 just to get the site running properly. It has not been able to receive marketing payments from
24 any prospective u because the site contains the false review.

25 22. No adequate remedy at law exists for the injuries currently being suffered by
26 Plaintiff J.D. RESOURCES and it is impossible to determine the precise amount of damage
27 Plaintiff J.D. RESOURCES will suffer if the defendants' wrongful conduct continues.

28

1 IV.

2 SECOND CAUSE OF ACTION

3 [Declaratory Relief – Against GOOGLE and JUSTIN GUARINELLI]

4 23. Plaintiff J.D. RESOURCES reincorporates all prior allegations pled in this
5 complaint by this reference.

6 24. An actual controversy exists relating to the legal rights and duties of Plaintiff J.D.
7 RESOURCES, Defendant GOOGLE and Defendant JUSTIN GUARINELLI. The controversy is
8 causing irreparable harm to Plaintiff J.D. RESOURCES and Plaintiff J.D. RESOURCES has no
9 adequate remedy at law.

10 25. Plaintiff J.D. RESOURCES seeks a judicial determination and declaration of
11 rights and duties of Plaintiff J.D. RESOURCES, Defendant GOOGLE and Defendant JUSTIN
12 GUARINELLI relative to the controversy, to wit, the false review posted using GOOGLE's
13 review platform, to the Gateway Personal Injury Law Firm website, posted by Defendant
14 JUSTIN GUARINELLI and its continued maintenance on GOOGLE's servers.

15 WHEREFORE Plaintiff J.D. RESOURCES prays as follows:

16 1. For an injunction enjoining Defendants GOOGLE and JUSTIN GUARINELLI
17 from continuing to maintain the false Google review on its servers and Google account as it
18 relates to the Gateway Personal Injury Law Firm website referenced above;

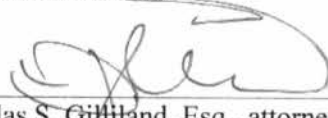
19 2. For a finding and declaration of rights between the parties regarding the Google
20 review at issue herein, including a finding that the Google review is false, is harming Plaintiff
21 J.D. RESOURCES' business and must no longer be posted on the servers maintained by
22 GOOGLE and the Google account of Defendant JUSTIN GUARNELLI.

23 3. For any further equitable or declaratory relief according to proof; and

24 4. For costs of suit incurred herein.

25 DATED: November 11, 2016

THE GILLILAND FIRM

26
27 By: 
28 Douglas S. Gilliland, Esq., attorneys
for Plaintiff J.D. RESOURCES, LLC

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

JUSTIN GUARINELLI, an individual, GOOGLE, INC., a Delaware corporation, and DOES 1-10, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

J.D. RESOURCES, LLC, a California limited liability company

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

NOV 15 2016

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara

BY S. Ulleseit DEPUTY

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Santa Clara Superior Court
191 North First Street, San Jose, CA 95113

CASE NUMBER:
(Número del Caso) **16CV302895**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Douglas S. Gilliland, Esq., 402 West Broadway, Suite 1760, San Diego, CA 92101, (619) 878-1580

DATE: **NOV 15 2016**
(Fecha)

DAVID H. YAMASAKI
Chief Executive Officer, Clerk

Clerk, by
(Secretario)

S. Ulleseit

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 Douglas S. Gilliland, Esq. (SBN 157427)
 The Gilliland Firm
 402 West Broadway, Suite 1760
 San Diego, CA 92101
 TELEPHONE NO.: (619) 878-1580 FAX NO.: (619) 878-6330
 ATTORNEY FOR (Name): Plaintiff J.D. Resources

FOR COURT USE ONLY

FILED
 UCS
 NOV 15 2016

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara
 STREET ADDRESS: 191 North First Street
 MAILING ADDRESS: Same
 CITY AND ZIP CODE: San Jose, CA 95113
 BRANCH NAME: Downtown Superior Court (DTS)

DAVID H. YAMASAKI

Chief Executive Officer/Clerk
 Superior Court of CA County of Santa Clara

CASE NAME:
 J.D. Resources, LLC v. Justin Guarinelli, et. al

BY S. Ujles DEPUTY

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000) **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation

Counter **Joinder**

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: 16cv002895

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort

- Auto (22)
- Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
- Product liability (24)
- Medical malpractice (45)
- Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- Business tort/unfair business practice (07)
- Civil rights (08)
- Defamation (13)
- Fraud (16)
- Intellectual property (19)
- Professional negligence (25)
- Other non-PI/PD/WD tort (35)

Employment

- Wrongful termination (36)
- Other employment (15)

Contract

- Breach of contract/warranty (06)
- Rule 3.740 collections (09)
- Other collections (09)
- Insurance coverage (18)
- Other contract (37)

Real Property

- Eminent domain/Inverse condemnation (14)
- Wrongful eviction (33)
- Other real property (26)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38)

Judicial Review

- Asset forfeiture (05)
- Petition re: arbitration award (11)
- Writ of mandate (02)
- Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

- Antitrust/Trade regulation (03)
- Construction defect (10)
- Mass tort (40)
- Securities litigation (28)
- Environmental/Toxic tort (30)
- Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- Enforcement of judgment (20)

Miscellaneous Civil Complaint

- RICO (27)
- Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- Partnership and corporate governance (21)
- Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. Large number of separately represented parties
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c. Substantial amount of documentary evidence
- d. Large number of witnesses
- e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): Two (2)

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: November 11, 2016
 Douglas S. Gilliland, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2