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Attorney for Plaintiff

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MAR 5 - 2014

SUPERIOR COURT OF NEW JERSEY
COUNTY OF BERGEN
FINANCE DIVISION

GENERATION III

Plaintiff(s),

v.

ServiceMagic, et, al,
ServiceMaglo Home Advisor
Home Advisor tm, Inc.
Home Service Pro
Wikipedia Business Solutions, John Doe:
Weblinks and Solutions,

Defendant(s)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION BERGEN COUNTY

COMPLAINT

Case No. 03CVE-fde

VERIFIED COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF

Parties

1. Plaintiff, Generation II, in a business complaint on behalf of the owners, directors and shareholders (hereinafter referred to as Plaintiff) is domiciled in the State of New Jersey, City of Jersey City, herein after, also, Plaintiff.

2. Defendant, as pleaded herein individually or jointly, (hereinafter referred to as Defendant). This includes all Defendants individually

3. Jurisdiction arises under 15 USC 1640, Title 12, Regulation Z, Part 226.1(c)(3), Title 24 CFR, Regulation X, Part 3500. This court also has authority to hear Federal Law.

General Background

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4. *This is an action for rescission of an illegal and void contract.*
5. *The facts require discovery to determine the true nature of losses suffered.*
6. *The parties entered into a binding executor contract. Inclusive in the contract did not understand that the defendant would assume the business identity of plaintiff.*
7. *Plaintiff has suffered substantial business losses, earned good will and all other damages as pleaded.*
8. *Defendants have elected to unilaterally destroy a substantial component of the business.*
9. *The defendant has "complete knowledge of the serious nature of the illegal acts". The defendant's advertisements on behalf of Plaintiff establish a basis for the earned good will and the legacy behind it.*
10. *The defendant's actions have caused the Plaintiff loss of future business, losses in profits and a substantial impairment of the unblemished reputation.*
11. *The defendant's action are an ongoing tortious interference with right to do business.*
12. *The defendant engaged in collusion with one another to defraud this Plaintiff*
13. *The defendant's actions were calculated, intentional and with the intent on converting the well earned business reputation, clients, profits and good will.*
14. *The defendants are being pursued for the foregoing and a judgment for treble damages under the consumer fraud act.*
15. *Defendant also seeks recovery for damages for non-disclosure of defendants right to cancel, non-disclosure of certain Truth and disclosures and Federal violations of numerous consumer rights.*
16. *On or before the date herein, Plaintiff and Defendant purported to execute a binding performance based contract.*
17. *Defendant also intentionally failed and/or refused to provide defendant various disclosures that would indicate to defendant that the contract entered into was void and illegal. For instance, Plaintiff failed to disclose that they were diverting calls for business to there own use.*
18. *Plaintiff never during the duration of the entire contract did not authorize the defendants individually or collectively to acquire any business profits.*

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19. The defendants herein and at all times relevant thereto, were under legal obligation as a fiduciary and had the responsibility of overseeing and protecting the Plaintiff business.

COUNT I

(UNFAIR TRADE PRACTICES INVOLVING NON-COMPLIANCE, 15 USC SECTIONS 1601, ET. SEQ.)

The facts made above in paragraphs are hereby alleged as though fully set out and incorporated by reference herein.

1. The above-mentioned constitutes a false representation of the settlement agreement as prescribed above.

2. The facts as alleged constitute a violation of 15 USC, Section 1501.

COUNT II

(DISCLOSURE VIOLATION PURSUANT TO 15 U.S.C. 1635, ET. SEQ.)

The facts made above in paragraphs are hereby alleged as though fully set out and incorporated by reference herein.

The present case credit transaction is governed by the disclosure requirements of Title 15 USC 1635.

This Defendant is specifically in the class of persons this statute was designed to protect.

As a direct, proximate, and foreseeable result of Plaintiffs failure to provide proper notices, defendant is subject to substantial losses.

COUNT III

(MISSING STATEMENTS VIOLATION, PURSUANT TO 15 U.S.C. SECTION 1635, ET. SEQ.)

The facts made above in paragraphs are hereby alleged as though fully set out and incorporated by reference herein.

As a direct, proximate, and foreseeable result of Plaintiffs failure to provide proper notices, defendant is subject to substantial losses.

COUNT IV

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COUNT VII (RIGHT TO CANCEL VIOLATIONS, PURSUANT TO TITLE 12 CODE OF FEDERAL REGULATIONS SECTION 226, ET. SEQ.)

The facts made above in paragraphs are hereby alleged as though fully set out and incorporated by reference herein.

There was no separate form to cancel, as required by Title 12 Code of Federal Regulation, Section 226 et seq.

COUNT V

Intentional Violations of Federal Trade commissions

The facts made above in paragraphs are hereby alleged as though fully set out and incorporated by reference herein.

1. The Federal Trade Commission Act allows the FTC to act in the interest of all consumers to prevent deceptive and unfair acts or practices. In interpreting Section 5 of the Act, the Commission has determined that a representation, omission or practice is deceptive if it is likely to mislead consumers and affect them as well

2. In the instant matter the act or practice caused substantial financial and emotional losses.

3. The FTC Act prohibits unfair or deceptive advertising in any medium. That is, advertising must tell the truth and not mislead consumers. A claim can be misleading if relevant information is left out or if the claim implies something that's not true.

4. Advertising agencies or website designers are responsible for reviewing the information used to substantiate ad claims. They may not simply rely on an advertiser's assurance that the claims are substantiated. In determining whether an ad agency should be held liable, the FTC looks at the extent of the agency's participation in the preparation of the challenged ad, and whether the agency knew or should have known that the ad included false or deceptive claims.

5. The FTC periodically joins with other law enforcement agencies to monitor the Internet for potentially false or deceptive online advertising claims.

If your advertisements don't comply with the law, you could face enforcement actions or civil lawsuits. For advertisers under the FTC's jurisdiction, that could mean: I seek on behalf of Plaintiff

- a. An order to cease and desist, with fines immediately paid up to \$16,000 per violation.*
- b. Injunction by federal district courts. Violations of some Commission rules also could result in civil penalties of up to \$16,000 per violation. Violations of court orders will result in civil or criminal contempt proceedings.*
- c. The Federal Trade Commission regulates unfair or deceptive trade practices. Even local trade practices deemed unfair or deceptive may fall within the jurisdiction of FTC laws and regulations when they have an adverse effect on interstate commerce.*
- d. In addition, every state has enacted consumer protection statutes, which are modeled after the Federal Trade Commission Act (15 U.S.C.A. § 45(a)(1)). These acts allow state*

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attorneys, along with general and private consumers, to commence lawsuits over false or deceptive advertisements, or other unfair and injurious consumer practices. Many of the state statutes explicitly provide that courts turn to the federal act and interpretations of the FTC for guidance in construing state laws.

COUNT VI

FALSE ADVERTISING AND INTENTIONAL MISREPRESENTATIONS

The facts made above in paragraphs are hereby alleged as though fully set out and incorporated by reference herein.

Federal Trade Commission Act 15 U.S.C.A. § 45(a)(1). These acts allow state attorneys, along with general and private consumers, to commence lawsuits over false or deceptive advertisements, or other unfair and injurious consumer practices. Many of the state statutes explicitly provide that courts turn to the federal act and interpretations of the FTC for guidance in construing state laws.

- a. *An order to cease and desist, with fines immediately paid up to \$16,000 per violation.*
- b. *Injunction by federal district courts. Violations of some Commission rules also could result in civil penalties of up to \$16,000 per violation. Violations of court orders will result in civil or criminal contempt proceedings.*
- c. *The Federal Trade Commission regulates unfair or deceptive trade practices. Even local trade practices deemed unfair or deceptive may fall within the jurisdiction of FTC laws and regulations when they have an adverse effect on interstate commerce.*
- d. *In addition, every state has enacted consumer protection statutes, which are modeled after the Federal Trade Commission Act (15 U.S.C.A. § 45(a)(1)). These acts allow state attorneys, along with general and private consumers, to commence lawsuits over false or deceptive advertisements, or other unfair and injurious consumer practices. Many of the state statutes explicitly provide that courts turn to the federal act and interpretations of the FTC for guidance in construing state laws.*

COUNT VII

Consumers' Right to Sue for False and Deceptive Advertising

Consumers often have the right to sue advertisers under state consumer protection laws.

- a. *An order to cease and desist, with fines immediately paid up to \$16,000 per violation.*
- b. *Injunction by federal district courts. Violations of some Commission rules also could result in civil penalties of up to \$16,000 per violation. Violations of court orders will result in civil or criminal contempt proceedings.*
- c. *The Federal Trade Commission regulates unfair or deceptive trade practices. Even local trade practices deemed unfair or deceptive may fall within the jurisdiction of FTC laws and regulations when they have an adverse effect on interstate commerce.*
- d. *In addition, every state has enacted consumer protection statutes, which are modeled after the Federal Trade Commission Act (15 U.S.C.A. § 45(a)(1)). These acts allow state attorneys, along with general and private consumers, to commence lawsuits over false*

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or deceptive advertisements, or other unfair and injurious consumer practices. Many of the state statutes explicitly provide that courts turn to the federal act and interpretations of the FTC for guidance in construing state laws.

COUNT VIII

Intentional Violations of Federal Trade Appointment Special Master

(a) CAPACITY OR AUTHORITY TO SUE; LEGAL EXISTENCE.

(1) In General. Except when required to show that the court has jurisdiction, a pleading need not allege:

(A) A party's capacity to sue or be sued;

(B) A party's authority to sue or be sued in a representative capacity; or

(C) the legal existence of an organized association of persons that is made a party.

(2) Raising Those Issues. To raise any of those issues, a party must do so by a specific denial, which must state any supporting facts that are peculiarly within the party's knowledge.

(b) FRAUD OR MISTAKE; CONDITIONS OF MIND. *In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally.*

(c) CONDITIONS PRECEDENT. *In pleading conditions precedent, it suffices to allege generally that all conditions precedent have occurred or been performed. But when denying that a condition precedent has occurred or been performed, a party must do so with particularity.*

(d) OFFICIAL DOCUMENT OR ACT. *In pleading an official document or official act, it suffices to allege that the document was legally issued or the act legally done.*

(e) JUDGMENT. *In pleading a judgment or decision of a domestic or foreign court, a judicial or quasi-judicial tribunal, or a board or officer, it suffices to plead the judgment or decision without showing jurisdiction to render it.*

(f) TIME AND PLACE. *An allegation of time or place is material when testing the sufficiency of a pleading.*

COUNT IX

Intentional Violations of Federal Trade commissions

N.J.S.A. 12A:3-420

12A:3-420. Conversion of Instrument

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- a. *The law applicable to conversion of personal property applies to instruments. An instrument is also converted if it is taken by transfer, other than a negotiation, from a person not entitled to enforce the instrument or a bank makes or obtains payment with respect to the instrument for a person not entitled to enforce the instrument or receive payment. Therefore any attempt by your client to assert a right to the proceeds is not supported by the facts and/or the relevant case law.*
1. *Section 3-420 is a modification of former Section 3-419. The first sentence of Section 3-420(a) states a general rule that the law of conversion applicable to personal property also applies to instruments. Paragraphs (a) and (b) of former Section 3-419(1) are deleted as inappropriate in cases of noncash items that may be delivered for acceptance or payment in collection letters that contain varying instructions as to what to do in the event of nonpayment on the day of delivery. It is better to allow such cases to be governed by the general law of conversion that would address the issue of when, under the circumstances prevailing, the presenter's right to possession has been denied. The second sentence of Section 3-420(a) states that an instrument is converted if it is taken by transfer other than a negotiation from a person not entitled to enforce the instrument or taken for collection or payment from a person not entitled to enforce the instrument or receive payment. This covers cases in which a depository or payer bank takes an instrument bearing a forged endorsement. It also covers cases in which an instrument is payable to two persons and the two persons are not alternative payees, e.g., a check payable to John and Jane Doe. Under Section 3-110(d) the check can be negotiated or enforced only by both persons acting jointly. Thus, neither payee acting without the consent of the other is a person entitled to enforce the instrument. If John indorses the check and Jane does not, the endorsement is not effective to allow negotiation of the check. If Depository Bank takes the check for deposit to John's account, Depository Bank is liable to Jane for conversion of the check if she did not consent to the transaction. John, acting alone, is not the person entitled to enforce the check because John is not the holder of the check. Section 3-110(d) and Comment 4 to Section 3-110. Depository Bank does not get any greater rights under Section 4-205(1). If it acted for John as its customer, it did not become holder of the check under that provision because John, its customer, was not a holder.*

Therefore your frivolous attempt to avoid legal culpability for this matter is without a legal basis. The law is clear and your client's violation is absolute. I intend to seek punitive damages, interest, attorney fees and treble damages for the emotional distress caused by her actions.

COUNT X

Before a business can establish commercial relations with its customers, it must create an identity for itself, as well as for its goods and services. Economic competition is based on the premise that consumers can distinguish between products offered in the marketplace. Competition is made difficult when rival products become indistinguishable or interchangeable. Part of a business's identity is the good will it has established with consumers, while part of a product's identity is the reputation it has earned for quality and value. As a result, businesses spend tremendous amounts of resources to identify their goods, distinguish their services, and cultivate good will.

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When competitors share deceptively similar trade names, trademarks, service marks, or trade dress, a cause of action for infringement may exist. The law of unfair competition forbids competitors from confusing consumers through the use of identifying trade devices that are indistinguishable or difficult to distinguish. Actual confusion need not be demonstrated to establish a claim for infringement, so long as there is likelihood that consumers will be confused by similar identifying trade devices. Greater latitude is given to businesses that share similar identifying trade devices in unrelated fields or in different geographic markets. For example, a court would be more likely to allow two businesses to share the name "Hot Handguns," where one business sells firearms downtown, and the other business runs a country western theater in the suburbs. Claims for infringement are cognizable under both state and federal law. At the federal level, infringement claims may be brought under the Lanham Trademark Act (15 U.S.C.A. §§ 1051 et seq.). At the state level, claims for infringement may be brought under analogous intellectual statutes and miscellaneous common-law doctrines. Claims for infringement can be strengthened through registration. The first business to register a trademark or a service mark with the federal government is normally protected against any subsequent appropriation by a competitor. Although trade names may not be registered with the federal government, most states require businesses to register their trade names, usually with the Secretary of State, and provide protection for the first trade name registered. Trade dress typically receives legal protection by being distinctive and recognizable without any formal registration requirements of the state or federal level.

COUNT V

Intentional Violations of Federal Trade commissions

COUNT XI

False advertising

A business that successfully protects its creative works from theft or infringement may still be harmed by false advertising need not be entirely false to be actionable under the law of unfair competition, so long as it is sufficiently inaccurate to mislead or deceive consumers in a manner that inflicts injury on a competitor. In general, businesses are prohibited from placing ads that either unfairly disparage the goods or services of a competitor or unfairly inflate the value of their own goods and services. False advertising deprives consumers of the opportunity to make intelligent comparisons between rival products. It also drives up costs for consumers who must spend additional resources in examining and sampling products.

Both federal and state laws regulate deceptive advertising. The Lanham Trademark Act regulates false advertising at the federal level. Many states have adopted the Uniform Deceptive Trade Practices Act, which prohibits three specific types of representations: (1) false representations that goods or services have certain characteristics, ingredients, uses, benefits,

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or quantities; (2) false representations that goods or services are new or original; and (3) false representations that goods or services are of a particular grade, standard, or quality. Advertisements that are only partially accurate may give rise to liability if they are likely to confuse prospective consumers. Ambiguous representations may require clarification to prevent the imposition of liability. For example, a business that accuses a competitor of being "untrustworthy" may be required to clarify that description with additional information if consumer confusion is likely to result.

COUNT XII

Trade Defamation

Trade Defamation is a close relative of false advertising. The law of false advertising regulates inaccurate representations that tend to mislead or deceive the public. The law of trade defamation regulates communications that tend to lower the reputation of a business in the eyes of the community.

Trade libel generally refers to written communications that tend to bring a business into disrepute, whereas trade slander refers to defamatory oral communications. Before a business may be held liable under either category of trade defamation, proof that a defamatory statement was published with "actual malice," which the Supreme Court defines as any representation that is made with knowledge of its falsity or in reckless disregard of its truth (*NEW YORK TIMES v. SULLIVAN*, 376 U.S. 254, 84 S. Ct. 710, 11 L. Ed. 2d 686 [1964]). The actual malice standard places some burden on businesses to verify, prior to publication, the veracity of any attacks they level against competitors in print or electronic media.

It is also considered tortious for a business to use the name or likeness of a famous individual for commercial advantage. All individuals are vested with an exclusive property right in their identity. No person, business, or other entity may appropriate an individual's name or likeness without permission. Despite the existence of this common-law TORT, businesses occasionally associate their products with popular celebrities without first obtaining consent. A business that falsely suggests that a celebrity has sponsored or endorsed one of its products will be held liable for money damages equal to the economic gain derived from the wrongful appropriation of the celebrity's likeness.

COUNT XIII

Unfair Competition

Unfair competition n. wrongful, fraudulent and/or business methods to gain an unfair advantage over competitors, including: a) untrue or misleading advertising or promotion which misrepresent the nature, characteristics, qualities or geographic origin (such as where wine comes from), b) misleading customers by imitative trademark, name, or package, including trademark infringement, c) falsely disparaging another's product. Under federal statute (*Lanham Act*) and many state laws, unfair competition is the basis for a legal action (suit) for damages and/or an injunction to halt the deceptive practices against an unfair competitor if the practices tend to harm one's business

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COUNT XIII

Fraudulent, deceptive, or dishonest trade practice that is prohibited by statute, regulation, or common law.

The law of unfair competition serves five purposes. First, the law seeks to protect the economic, intellectual, and creative investments made by businesses in distinguishing themselves and their products. Second, the law seeks to preserve the good will that businesses have established with consumers. Third, the law seeks to deter businesses from appropriating the good will of their competitors. Fourth, the law seeks to promote clarity and stability by encouraging consumers to rely on a merchant's good will and reputation when evaluating the quality of rival products. Fifth, the law seeks to increase competition by providing businesses with incentives to offer better goods and services than others in the same field.

Although the law of unfair competition helps protect consumers from injuries caused by deceptive trade practices, the remedies provided to redress such injuries are available only to business entities and proprietors. Consumers who are injured by deceptive trade practices must avail themselves of the remedies provided by state laws. In general, businesses and proprietors injured by unfair competition have two remedies: injunctive relief (a court order restraining a competitor from engaging in a particular fraudulent or deceptive practice) and money damages (compensation for any losses suffered by an injured business).

COUNT XIV

FAILURE TO GIVE PROPER NOTICE OF DEFAULT AND RIGHT TO CURE AND ACCELERATION NOTICE, IN VIOLATION OF 12 USC 2601 ET SEQ, 15 USC SECTION 1601, ET. SEQ. AND TITLE 12 CODE OF FEDERAL REGULATIONS, SECTION 226.18

The facts made above in paragraph are hereby alleged as though fully set out and incorporated by reference herein.

Plaintiff has further failed to give proper notice of Notice of Default and Right to Cure and acceleration of the loan transaction as required by 12 USC 2601 et seq. and 15 USC 1601 et seq.

Defendant is specifically in the class of persons this statute was designed to protect.

As a direct, proximate, and foreseeable result of Plaintiffs failure to provide proper notice, Defendant is subject to loss of property and loss of use of property and other damages as a result of Plaintiffs failure.

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COUNT XV

VIOLATION FAILURE TO DISCLOSE INTEREST RATE PURSUANT TO REGULATION Z, PART 226.4

The facts made above in paragraphs alleged as though fully set out and incorporated by reference herein.

Plaintiff failed to disclose beginning interest rates and the adjustable rate rider.

Defendant is specifically in the class of persons this statute was designed to protect.

As a direct, proximate, and foreseeable result of Plaintiff's failure to provide proper notice, Defendant is subject to loss of property and loss of use of property and other damages as a result of Plaintiff's failure.

COUNT XVI

(INJUNCTIVE RELIEF)

The facts made above in paragraphs as alleged though fully set out and incorporated by reference herein.

Defendant seeks an injunction to enjoin from doing business in this capacity. Prayer for Relief Rescission of the contract.

Damages

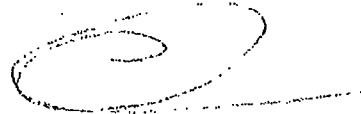
Damages in the amount of three times the losses

- i. Lost Profits*
- ii. Lost Earned Good Will*
- iii. Intentional Interference with the contract*
- iv. Treble damages as provided in law*
- v. Equitable rescission of the contract*
- vi. Finding the contract is voidable by law*
- vii. Emotional suffering*
- viii. Financial costs for business losses*
- ix. Incidental Damages*
- x. Consequential damages*
- xi. Actual Damages*
- xii. Damages for all losses including personal and business*
- xiii. Judgment against Plaintiff for return of the down payment, and other payments, as well as interest on the above amount, and*

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- xiv. *Cost of litigation as provided in Title 15 United States Code, Section 1601 et. seq., and*
- xv. *Any other relief the court deems just and proper.*
- xvi. *Punitive Damages*
- xvii. *Consequential Damages*
- xviii. *Incidental Damages*



LOUIS A. CAPAZZI, JR. ESQ.

EXHIBIT B

BUCHANAN INGERSOLL & ROONEY PC

Incorporated in Pennsylvania
Christopher J. Dalton, Esq. (024481994)
Justin Pierce Berutich, Esq. (017422008)
550 Broad Street, Suite 810
Newark, NJ 07102-4582
Tel: 973-273-9800
Fax: 973-273-9430
Attorneys for Defendant HomeAdvisor, Inc.

GENERATION III

Plaintiff,

v.

HOMEADVISOR, INC., et al.

Defendants.

) SUPERIOR COURT OF NEW JERSEY

) LAW DIVISION: BERGEN COUNTY

)

) DOCKET NO. BER-L¹

)

)

NOTICE OF FILING OF

NOTICE OF REMOVAL

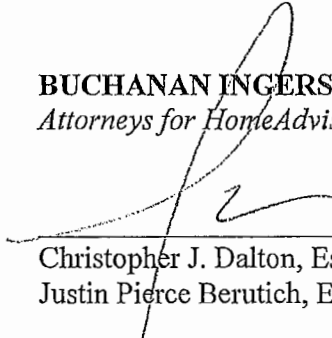
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TO: Clerk of Court
Superior Court of New Jersey
Law Division, Bergen County
10 Main Street
Hackensack, New Jersey 07601

PLEASE TAKE NOTICE that on April 16, 2014, Defendant HomeAdvisor, Inc. filed a notice of removal pursuant to 28 U.S.C. 1331, 1441, and 1446 with the Clerk of the United States District Court for the District of New Jersey to effect the removal of this action to the United States District Court. Accordingly, no further proceedings should be had in this matter in the Superior Court of New Jersey. A copy of the Notice of removal is annexed hereto as **Exhibit A**.

BUCHANAN INGERSOLL & ROONEY
Attorneys for HomeAdvisor, Inc.



Christopher J. Dalton, Esq. (024481994)
Justin Pierce Berutich, Esq. (017422008)

Date: April 16, 2014

¹ Undersigned counsel has reviewed the docket for the Superior Court of New Jersey, Law Division, Bergen County, and was unable to locate any Docket Number associated with the Complaint. Accordingly, it appears that such Complaint has been rejected by the New Jersey state court, possibly for failure by the Plaintiff to comply with requisite procedures for commencing a civil action, such as payment of the case filing fee.

CERTIFICATION OF SERVICE

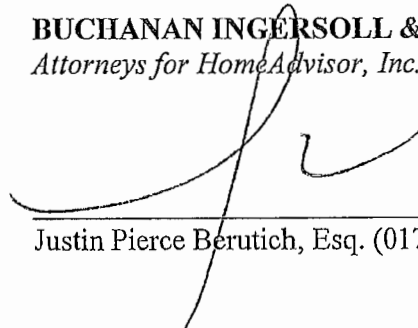
I, JUSTIN PIERCE BERUTICH, certify as follows:

1. On the date set forth below, I mailed a copy of the Notice of Filing of Notice of Removal from State Court in the above captioned action via overnight delivery upon the following:

Louis A. Capazzi, Jr., Esq.
660 Kinderkamack Rd
Oradell, NJ 07649
Attorney for Plaintiff

2. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishments.

BUCHANAN INGERSOLL & ROONEY
Attorneys for HomeAdvisor, Inc.



Justin Pierce Berutich, Esq. (017422008)

Date: April 16, 2014

General Information

Court	United States District Court for the District of New Jersey
Nature of Suit	Personal Property: Truth in Lending
Docket Number	2:14-cv-02446