

**THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

CHRISTOPHER HOLLY,

Plaintiff,

GOOGLE, LLC.,
A Delaware corporation,

Defendant.

Case No. *5:18-cv-442-OC-30PRK*

Violation Of The CAN-SPAM Act 2003

Demand for Jury Trial

2018 AUG 22 PM 3:13
CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FL
OCALA, FLORIDA

FILED

COMPLAINT

NOW COMES the Plaintiff, Christopher Holly, *Pro Se*, and submits his Complaint against
The Defendant, Google, LLC., and alleges as follows:

1. This is an action for damages for violations of the Federal Trade Commission (“FTC”) CAN-SPAM Act 2003 .

PARTIES

- 2. Plaintiff is an adult resident of Ocklawaha, Florida.
- 3. Defendant is a foreign with its principal place of business in California. With an established business located 340 Main Street, Venice, California 90291; and 19510 Jamboree Road, Irvine, California 92612
- 4. The actions forming the basis of the Complaint took place via Plaintiff’s various Yahoo e-mail “inboxes” while he resided at various address in Marion County, Florida. .

JURISDICTION AND VENUE

- 5. The Court has subject matter jurisdiction based on diversity under 28 U.S. Code § 1331 for the FTC claim.
- 6. Venue is proper in this District pursuant to U.S.C. § 1391(b)(2), in that the acts giving rise to this action occurred in the District,
- 7. This claim is not based on Plaintiff having a “Google G-Mail” user account, therefore any “Google” user “Terms Of Service” does not apply in this pending action.

FACTUAL ALLEGATIONS

8. That being at all times relevant, and on or about January 1, 2016, and continuing through August 20, 2018, Plaintiff has received **1000's** of e-mails in his various Yahoo e-mail accounts (ch_services, NSL_2015, CGH1963, shadows_pub, east_coat_innovation, singtix_exp), that being generated and sent from various "**G-Mail**" accounts.

9. The various e-mails in question originate from countries like "Nigeria", containing **fraudulent financial claims**, and requesting personal information from Plaintiff.

COUNT I
(VIOLATIONS OF THE CAN-SPAM Act 2003)

10. Plaintiff incorporates by reference paragraphs 1 through 9 of this Complaint as though fully stated herein.

11. It is a violation of the CAN-SPAM Act 2003 to use "false or misleading header information" when sending a electronic mail.

12. Plaintiff alleges the aforesaid "fraudulent" e-mails in question are in direct violation of the CAN-SPAM Act 2003.

13. Plaintiff alleges the Defendant has done **very little** to "stop", i.e. identify these criminals, and block their computer **IP Address's** from creating and/or using G-Mail accounts to send aforesaid fraudulent e-mails in question to Plaintiff, including but not limited to e-mail users worldwide.

14. That at all times relevant, the Defendant, Google, LLC, by and through its agents and employees, owed a duty to "identify" the IP Address of persons and/or persons continually sending fraudulent e-mails to Plaintiff.

15. That, notwithstanding that duty, the Defendant, Google, LLC, by and through its agents and employees, was then and there guilty of the following acts and/or omissions:

- A) Failed to stop aforesaid fraudulent e-mails in violation of the CAN-SPAM Act 2003.

16. That as a direct and proximate result of the aforesaid acts and/or omissions of the Defendant, Google, LLC, by and through its agents and employees, Plaintiff's rights have been substantially violated.

17. That as a direct and proximate result of the aforesaid acts and/or omissions of the Defendant, Google, LLC, by and through its agents and employees, Plaintiff, Chris Holly, has suffered and continually suffers extreme emotional distress and extreme aggravation.

WHEREFORE, the Plaintiff, CHRIS HOLLY, prays that a judgment be entered against the Defendant, Google, LLC, finding the acts and practices complained herein constitutes a violation of the CAN-SPAM Act 2003 of the Federal Trade Commission; awarding Plaintiff monetary damages totaling \$100,000; awarding Plaintiff compensatory damages totaling \$100,000; awarding Plaintiff punitive damages totaling \$1,000,000; together with his reasonable costs and legal fees in this action and granting Plaintiff such other and further relief this Court deems necessary and proper.

COUNT II
(FAILURE TO PROTECT THE PUBLIC)

18. Plaintiff incorporates by reference paragraphs 1 through 13 of this Complaint as though fully stated herein.

19. Plaintiff alleges the Defendant has the "technology" to identify and stop these never ending fraudulent e-mails, however does basically nothing to protect the public, i.e. Plaintiff, from continually receiving aforesaid fraudulent e-mails in question, that being from countries like "Nigeria".

20. Plaintiff alleges, while the Defendant did not "personally" forward any fraudulent e-mails to the Plaintiff, Defendant's action turning a "blind eye" to the repetitive G-Mail accounts used and/or setup by aforesaid criminals to forward aforesaid fraudulent e-mails, that being via, Google's electronic e-mail delivery system, makes the Defendant "Complicit" in aforesaid criminal activity in question.

21. That at all times relevant, the Defendant, Google, LLC, by and through its agents and employees, owed a duty to take the necessary security steps to “protect” the public, i.e. Plaintiff from continually receiving fraudulent e-mails.

22. That, notwithstanding that duty, the Defendant, Google, LLC, by and through its agents and employees, was then and there guilty of the following acts and/or omissions:

- A) Failed to stop aforesaid fraudulent e-mails in violation of the CAN-SPAM Act 2003.
- B) Failed to take the necessary steps and security measures to identify and restrict aforesaid criminals from using, accessing and/or creating G-Mail accounts, that being for fraudulent activity.

23. That as a direct and proximate result of the aforesaid acts and/or omissions of the Defendant, Google, LLC, by and through its agents and employees, Plaintiff's rights have been substantially violated.

24. That as a direct and proximate result of the aforesaid acts and/or omissions of the Defendant, Google, LLC, by and through its agents and employees, Plaintiff, Chris Holly, has suffered and continually suffers extreme emotional distress and extreme aggravation.

WHEREFORE, the Plaintiff, CHRIS HOLLY, prays that a judgment be entered against the Defendant, Google, LLC, finding the acts and practices complained herein constitutes a violation of the CAN-SPAM Act 2003 of the Federal Trade Commission; awarding Plaintiff monetary damages totaling \$100,000; awarding Plaintiff compensatory damages totaling \$100,000; awarding Plaintiff punitive damages totaling \$1,000,000; together with his reasonable costs and legal fees in this action and granting Plaintiff such other and further relief this Court deems necessary and proper.

PRAYER FOR RELIEF

WHEREFORE, Christopher Holly, prays for judgment against the Defendant, Google LLC, Inc. as follows:

- A. enter a ruling Defendant has violated the CAN-SPAM Act 2003;

- B. enter a ruling Defendant was complicit in aforesaid fraudulent e-mail activity, by turning a "blind eye";
- C. enter an order the Defendant has failed to take any steps to identify, stop and/or restrict criminals from sending aforesaid e-mails to the public, i.e. Plaintiff;
- D. further order the Defendant to pay Plaintiff, monetary damages totaling \$100,000; compensatory damages totaling \$100,000 & punitive damages totaling \$1,000,000; that being on each count;
- E. granting Plaintiff such other and further relief this Court deems necessary and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all counts

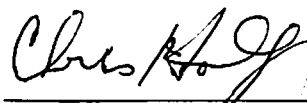
CERTIFICATION

As required by Federal Rule of Civil Procedure 11, I certify by signing below that to the best of my knowledge, information, and belief, this petition:

(1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a non-frivolous argument for extending; (3) the factual contentions have evidentiary support or, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to timely notify the Clerk's Office if there is any change to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Respectfully Submitted,



CHRIS HOLLY, *Pro Se*
PO BOX 1
OCKLAWAHA, FL 32183
(352) 322-7442

Date: August 24, 2018,