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15 **BYLSMA**

16 **UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF**  
17 **CALIFORNIA, WESTERN DIVISION**

18 **ROD SOSA, GARY WHITTAKER ) Case No. CV-03-5972-AHM (RZx)**  
19 **and RODNEY BYLSMA, on behalf )**  
20 **of themselves and all persons )**  
21 **similarly situated, )**

22 **Plaintiffs, )**

23 **CLASS ACTION**

24 **v. )**

25 **) **COMPLAINT FOR DAMAGES AND****  
26 **DIRECTV, INC., HUGHES ) **EQUITABLE RELIEF** (pursuant to**  
27 **ELECTRONICS CORPORATION, ) Racketeer Influenced and Corrupt**  
28 **GENERAL MOTORS ) Organizations Act of 1970 “RICO,”**  
29 **CORPORATION, YARMUTH ) 18 U.S.C. § 1961 et. seq.)**  
30 **WILSDON CALFO, PLLC, ) 1. 18 U.S.C. § 1962 (c)**  
31 **GREER, HERZ & ADAMS, L.L.P., ) 2. 18 U.S.C. § 1962 (a)**  
32 **STUMP, STOREY, CALLAHAN ) 3. 18 U.S.C. § 1962 (d)**  
33 **& DIETRICH, P.A., DIRECTV )**  
34 **END USER DEVELOPMENT )**  
35 **GROUP, DIRECTV END USER )**

1 RECOVERY PROJECT, LLC, )  
2 SECURE SIGNALS )  
3 INTERNATIONAL, and MCGINNIS )  
4 GROUP INTERNATIONAL, LLC, )  
5 )  
6 Defendants. )

7 Plaintiffs Rod Sosa, Gary Whittaker, and Rodney Bylsma, on behalf of  
8 themselves and all similarly situated persons, allege and complain against  
9 defendants, and each and every one of them, as follows:

10 **INTRODUCTION**

- 11
- 12 1. This is a class action brought pursuant to the provisions of the Racketeer  
13 Influenced and Corrupt Organizations Act of 1970 (“RICO”), Title 18 U.S.C.  
14 §§ 1961, et seq., by plaintiffs, individually, and on behalf of all persons  
15 similarly situated, against defendants DIRECTV, INC., HUGHES  
16 ELECTRONICS CORPORATION, GENERAL MOTORS CORPORATION,  
17 YARMUTH WILSDON CALFO, PLLC, GREER, HERZ & ADAMS, L.L.P.,  
18 STUMP, STOREY, CALLAHAN & DIETRICH, P.A., DIRECTV END USER  
19 DEVELOPMENT GROUP, DIRECTV END USER RECOVERY PROJECT,  
20 LLC, SECURE SIGNALS INTERNATIONAL, and MCGINNIS GROUP  
21 INTERNATIONAL, LLC.  
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- 26 2. Plaintiffs seek damages and injunctive and other appropriate relief for  
27 defendants’ violations of RICO as alleged more fully below.  
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3. Throughout the Class Period, as defined below, the defendants conspired to extort millions of dollars from plaintiffs and the members of the Class by forcing them to pay enormous penalties, unrelated to any actual damages, for purported unauthorized interception of satellite television programming, or “piracy” violations. DIRECTV, with the aid and assistance of Hughes Electronics Corporation, and General Motors Corporation, originated, designed, implemented, and executed a policy, a form of established pattern of practice and/or course of conduct, by and through which their co-conspirators and confederates would transmit, via federal interstate wires, including electronic messaging (“e-mail”), and federal mails, a series of “Demand Letters” to all those persons whose names had been ascertained within DIRECTV business records.

4. The purpose and intent of sending these Demand Letters was to coerce and/or to extort and defraud, and/or attempt to extort and defraud, payments of money from these victims, by threatening to initiate and prosecute suit against these individuals to recover monies allegedly due as a proximate result of purported “piracy” should they refuse to pay. Defendants mutually agreed to accomplish their illegal objectives, by and through a scheme or artifice to defraud, employing various material misrepresentations and/or material nondisclosures

1 and causing injury to plaintiffs and the Class members in their interest in  
2 business and/or property.

3  
4 **VENUE ALLEGATIONS**

5 5. Competent subject matter jurisdiction and venue exists, in whole and/or in part,  
6 pursuant to section 1964 (a), (b), (c), and section 1965 (a), (b), (d) of the  
7 Racketeer Influenced and Corrupt Organizations Act of 1970 (hereinafter,  
8 “RICO”); pursuant to 28 United States Code section 1331 (federal question);  
9 pursuant to 28 United States Code section 1337 (regulation of commerce); and  
10 pursuant to 28 United States Code §1391(b) (venue).  
11

12  
13 **CLASS ALLEGATIONS**

14 6. Plaintiffs bring this suit as a class action pursuant to Rules 23(a) and 23(b) of  
15 the Federal Rules of Civil Procedure on their own behalf and on behalf of all  
16 persons who have or will be required to pay an illegal penalty, unrelated to  
17 actual damages, to DIRECTV for purported unauthorized satellite television  
18 programming, or “piracy” violations, allegedly committed by plaintiffs and  
19 others (“Class”) from the period commencing December 2001 to the present  
20 (the “Class Period”).  
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24 7. Plaintiffs are members of the following class of persons, the members of which  
25 are similarly situated to each other member of that class. The classes of persons  
26 are defined as follows:  
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1 Persons residing anywhere in the United States who  
2 received one or more DEMAND LETTERS sent by  
3 defendants of the format and content described below  
4 and who consequently paid a sum of money or forfeited  
valuable property to defendants.

5 8. The class plaintiffs represent exceeds many thousands of persons (plaintiffs are  
6 informed and believe and thereupon allege at least 10,000 persons) who  
7 received the DEMAND LETTERS and paid money or forfeited property. The  
8 class is so numerous that it is impracticable to bring all members of the class  
9 before the court. The identity of the members of the class is easily ascertainable  
10 from defendants' own records.

11 9. The plaintiffs' and class members' claims against defendants involve questions  
12 of law or fact common to the classes that are substantially similar and  
13 predominate over questions affecting individual class members, in that all class  
14 members received similar Demand Letters issued pursuant to a common plan or  
15 scheme of defendants to extort money, and to defraud and intimidate plaintiffs  
16 and class members from possessing lawful property, and that each member of  
17 the class paid a sum of money or forfeited valuable property as a result of the  
18 extortion and/or coercion. These predominating factual and legal issues include  
19 the following:

20 a) Whether the issuance of Demand Letters coupled with threats to initiate suit  
21 to recover monies from plaintiffs based upon unsubstantiated and  
22

1 uncorroborated allegations, and/or absence of evidence, that the Class  
2 members allegedly committed piracy constitutes extortion under the Hobbs  
3 Act, by and through selective statutory incorporation of the federal interstate  
4 extortionate statute statutes (Title 18 U.S.C.A. §§ 875(d), 876, and 1951)  
5 or under the California Penal Code sections 518, 519, 520 and 523;  
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8 b) Whether the issuance of Demand Letters coupled with threats to initiate suit  
9 to recover monies from plaintiffs based upon unsubstantiated and  
10 uncorroborated allegations, and/or absence of evidence, that the Class  
11 members allegedly committed piracy constitutes racketeering under the  
12 Travel Act (Title 18 U.S.C.A. § 1952);  
13

14 c) Whether demands and certain nondisclosures, omissions, and  
15 misrepresentations, in furtherance of this illegal scheme, through the use of  
16 Federal interstate mail and wires; constitute mail and wire fraud under Title  
17 18 U.S.C. § 1341 and § 1343;  
18

19 d) Whether the receipts of monies and/or proceeds derived from the issuance of  
20 Demand Letters, including monies and/or proceeds derived from litigation  
21 initiated by DIRECTV, based upon unsubstantiated and uncorroborated  
22 allegations, and/or absence of evidence, that the Class members allegedly  
23 committed piracy constitutes specified unlawful activity and criminally  
24 derived property. (Title 18 U.S.C.A. § 1956(c)(7)(A) and § 1957);  
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- e) Whether the receipts of monies and/or proceeds derived from the issuance of Demand Letters, exceeding \$5,000, including monies and/or proceeds, exceeding \$5,000, derived from litigation initiated by DIRECTV, based upon unsubstantiated and uncorroborated allegations, and/or absence of evidence, that the Class members allegedly committed piracy constitutes interstate transportation and receipt of monies obtained by theft, conversion, and/or obtaining monies through fraud and false pretenses. (Title 18 U.S.C.A. § 2314 and § 2315);
- f) Whether defendants, were a member of, or participant in the conspiracy alleged herein;
- g) Whether the defendants engaged in a pattern or practice of racketeering, as alleged herein;
- h) The extent of the damages sustained by members of the Class and the appropriate measure of damages;
- i) Whether Plaintiffs and the members of the Class are entitled to declaratory and/or injunctive relief; and whether collecting monies from Class members through the Demand Letters has unjustly enriched defendants.

10. Plaintiffs' claims are typical of the claims of the members of the Class.

11. Plaintiffs will fairly and adequately protect the interests of the members of the Class; they have retained competent counsel experienced in this type of

1 litigation and do not have interests antagonistic to or in conflict with other  
2 members of the Class.

3  
4 12.The Class has a sufficient community of interest and a class action is superior to  
5 other available methods for the fair and efficient adjudication of this  
6 controversy. Because of the size of the class, varying amounts, including some  
7 relatively small amounts of monetary damage, suffered by any particular class  
8 member, few, if any, Class members could afford to seek legal redress  
9 individually for the wrongs complained of herein. Further, absent a class  
10 action, the Class members will continue to suffer losses and the defendants'  
11 violation of law will proceed without remedy while defendants will continue to  
12 retain the proceeds of their ill-gotten gains. The disposition of this controversy  
13 in a single forum so that the rights of the Class members are secured and so that  
14 the defendants can know and comply with their legal responsibilities will  
15 provide substantial benefits both to the parties and to the Court.

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20 13.Further, the prosecution of multiple actions in different state and Federal courts  
21 by individual class members creates an unnecessary risk of inconsistent or  
22 varying adjudications, which could impose incompatible standards of conduct  
23 on the defendants thus making class treatment appropriate in this case.

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26 14.In addition, defendants, by forcing plaintiffs and the other Class members to  
27 pay illegal penalties in response to Demand Letters for alleged piracy  
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1 violations, have acted in a manner generally applicable to all members of the  
2 Class, and it is appropriate that the declaratory and injunctive relief requested in  
3 this litigation be for the benefit of the Class as a whole.  
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5 **RICO PERSONS**

6 ***[RICO TITLE 18 UNITED STATES CODE § 1961(3)]***

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8 15.Plaintiff Rod Sosa (“Sosa”) is and at all times material herein was a citizen and  
9 resident of the State of Texas. Plaintiff is engaged in activities affecting federal  
10 interstate and/or foreign commerce. Plaintiff is a “person,” as that term is  
11 defined pursuant to Section 1961(3) of RICO.  
12

13 16.Plaintiff Gary Whittaker (“Whittaker”) is and at all times material herein was a  
14 citizen and resident of the County of Los Angeles, State of California. Plaintiff  
15 is engaged in activities affecting federal interstate and/or foreign commerce.  
16 Plaintiff is a “person,” as that term is defined pursuant to Section 1961(3) of  
17 RICO.  
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20 17.Plaintiff Rod Bylsma (“Bylsma”) is and at all times material herein was a  
21 citizen and resident of the State of Illinois. Plaintiff is engaged in activities  
22 affecting federal interstate and/or foreign commerce. Plaintiff is a “person,” as  
23 that term is defined pursuant to Section 1961(3) of RICO.  
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25 18.Plaintiffs allege that DIRECTV, Inc., (“DIRECTV”) is and at all times material  
26 herein was, a corporation duly created and organized pursuant to the California  
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1 Corporations Code, maintaining its principal place of business within the City  
2 of El Segundo, County of Los Angeles, State of California. DIRECTV is  
3 engaged in activities affecting federal interstate and/or foreign commerce.  
4  
5 DIRECTV is a “person,” as that term is defined pursuant to Section 1961(3) of  
6 RICO.  
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8 19.Plaintiffs allege that Hughes Electronics Corporation (“Hughes Electronics”) is  
9 and at all times material herein was, a corporation duly created and organized  
10 pursuant to the California Corporations Code, maintaining its principal place of  
11 business within the City of El Segundo, County of Los Angeles, State of  
12 California. Hughes Electronics is engaged in activities affecting federal  
13 interstate and/or foreign commerce. Hughes Electronics is a “person,” as that  
14 term is defined pursuant to Section 1961(3) of RICO.  
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17 20.Plaintiffs allege that General Motors Corporation (“GM”) is and at all times  
18 material herein was, a corporation duly created and organized pursuant to the  
19 general corporation laws of the State of Michigan, maintaining its principal  
20 place of business within the City of Detroit, County of Wayne, State of  
21 Michigan. GM is engaged in activities affecting federal interstate and/or foreign  
22 commerce. GM is a “person,” as that term is defined pursuant to Section  
23 1961(3) of RICO.  
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1 21.Plaintiffs allege that DIRECTV is a corporate affiliate, division, subsidiary, a  
2 member of consolidated group of corporate entities, as that term is defined  
3 pursuant to Section 1504 of the Internal Revenue Code of 1954 [Title 26 United  
4 States Code §1504], and is owned, operated, managed, and/or controlled by  
5 Hughes Electronics, by and through interlocking directorates and officers.  
6 Plaintiffs further allege that Hughes Electronics is a corporate affiliate, division,  
7 subsidiary, a member of consolidated group of corporate entities, as that term is  
8 defined pursuant to Section 1504 of the Internal Revenue Code of 1954 [Title  
9 26 United States Code §1504], and is owned, operated, managed, and/or  
10 controlled by GM, by and through interlocking directorates and officers.  
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15 22.Plaintiffs allege that the conduct, activity, practices, commissions and/or  
16 omissions of DIRECTV are attributable and/or ascribable to Hughes Electronics  
17 and/or GM. Plaintiffs further allege that the conduct, activity, practices,  
18 commissions and/or omissions of Hughes Electronics are attributable and/or  
19 ascribable to DIRECTV and/or GM. DIRECTV, Hughes Electronics, and GM  
20 comprise and constitute a “person,” as that term is defined pursuant to Section  
21 1961(3) of RICO.  
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24 23.Plaintiffs allege that Yarmouth Wilsdon Calfo, PLLC (“Yarmouth”) is, and at  
25 all times material herein was, a professional limited liability corporation duly  
26 created and organized under the laws of the State of Washington, maintaining  
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1 its principal place of business within the City of Seattle, County of King, State  
2 of Washington. Plaintiffs further allege that Yarmouth is comprised of  
3 attorneys that are duly licensed to engage in the active practice of law within  
4 the State of Washington. Yarmouth is engaged in activities affecting federal  
5 interstate and/or foreign commerce. Yarmouth is a “person,” as that term is  
6 defined pursuant to Section 1961(3) of RICO.  
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9 24. Plaintiffs allege that Greer, Herz & Adams, L.L.P., (“Greer”) is, and at all times  
10 material herein was, a professional limited liability partnership duly created and  
11 organized under the laws of the State of Texas, maintaining its principal place  
12 of business within the City of Galveston, State of Texas. Plaintiffs further  
13 allege that Greer is comprised of attorneys that are duly licensed to engage in  
14 the active practice of law within the State of Texas. Greer is engaged in  
15 activities affecting federal interstate and/or foreign commerce. Greer is a  
16 “person,” as that term is defined pursuant to Section 1961(3) of RICO.  
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20 25. Plaintiffs allege that Stump, Storey, Callahan & Dietrich, P.A., (“Stump”) is,  
21 and at all times material herein was, a professional limited liability partnership  
22 duly created and organized under the laws of the State of Florida, maintaining  
23 its principal place of business within the City of Orlando, State of Florida.  
24 Plaintiffs further allege that Stump is comprised of attorneys that are duly  
25 licensed to engage in the active practice of law within the State of Florida.  
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1 Stump is engaged in activities affecting federal interstate and/or foreign  
2 commerce. Stump is a “person,” as that term is defined pursuant to Section  
3 1961(3) of RICO.  
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5 26. Plaintiffs allege that Directv End User Development Group (“EUDG”) is, and  
6 at all times material herein was, a business entity of unknown form duly created  
7 and organized under the laws of the State of California, maintaining its  
8 principal place of business within the City of El Segundo, State of California.  
9 Plaintiffs further allege that EUDG is comprised of former law enforcement  
10 officers and skilled investigators who are not permitted to perform any  
11 investigative duties but simply to act as glorified bill collectors. The EUDG is  
12 engaged in activities affecting federal interstate and/or foreign commerce. The  
13 EUDG is a “person,” as that term is defined pursuant to Section 1961(3) of  
14 RICO.  
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19 27. Plaintiffs allege that the Directv End User Recovery Project, LLC, (“EURP”) is,  
20 and at all times material herein was, a limited liability corporation duly created  
21 and organized under the laws of the State of Washington, maintaining its  
22 principal place of business within the City of Seattle, State of Washington.  
23 Plaintiffs further allege that EURP is also comprised of former law enforcement  
24 officers and skilled investigators who are not permitted to perform any  
25 investigative duties but simply to act as glorified bill collectors. The EURP is  
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1 engaged in activities affecting federal interstate and/or foreign commerce. The  
2 EURP is a “person,” as that term is defined pursuant to Section 1961(3) of  
3 RICO.  
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5 28. Plaintiffs allege that Secure Signals International, (“SSI”) is, and at all times  
6 material herein was, a business entity of unknown form, maintaining its  
7 principal place of business at an unknown location. SSI is a division of  
8 defendant McGinnis Group International. Plaintiffs further allege that SSI is  
9 engaged in activities affecting federal interstate and/or foreign commerce. SSI  
10 is a “person,” as that term is defined pursuant to Section 1961(3) of RICO.  
11

12 29. Plaintiffs allege that McGinnis Group International, L.L.C., (“McGinnis”) is,  
13 and at all times material herein was, a business entity of unknown form,  
14 maintaining its principal place of business at an unknown location. Plaintiffs  
15 further allege that McGinnis is engaged in activities affecting federal interstate  
16 and/or foreign commerce. McGinnis is a “person,” as that term is defined  
17 pursuant to Section 1961(3) of RICO.  
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21 **FACTUAL BACKGROUND**  
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23 30. Plaintiffs incorporate in this cause of action the allegations contained in  
24 paragraphs 1 through 29, inclusive.  
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26 31. DIRECTV is one of five main units of Hughes Electronics Corporation, which  
27 in turn is a wholly owned subsidiary of General Motors Corporation. Revenue  
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1 and profits of all kinds earned by DIRECTV, including revenue from the  
2 unlawful conduct described below, flow to Hughes Electronics Corporation and  
3 General Motors Corporation.  
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5 32. DIRECTV is the nation's leading direct broadcast satellite system, delivering  
6 over 225 channels of television and other programming to more than 10 million  
7 homes and businesses in the United States.  
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9 33. DIRECTV encrypts—electronically scrambles—its satellite transmissions to  
10 prevent unauthorized viewing of its satellite television programming.  
11 DIRECTV offers its television programming to residential customers on a  
12 subscription and pay-per-view basis only. Each customer is required to obtain a  
13 DIRECTV access card and other system hardware including an integrated  
14 receiver decoder (IRD) and a small satellite dish. When a customer opens an  
15 account with DIRECTV, it will activate his access card to allow the customer to  
16 and view in decrypted (unscrambled) format those channels to which the  
17 customer has subscribed or otherwise made arrangement to purchase from  
18 DIRECTV. The activated access card is then inserted into the IRD that sits on  
19 or near the television screen and otherwise operates similarly to a cable  
20 television set-top box. The access card's computer chip interacts with the IRD  
21 to instruct the IRD which programs the consumer is allowed to view under his  
22 subscription and which must remain scrambled.  
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1 34. Because DIRECTV does not sell or rent the dishes, IRD's or access cards  
2 directly to consumers, there is a thriving firsthand and secondhand market in  
3 such goods. For example, if a former DIRECTV customer switches to "cable  
4 television," he no longer has any need for the hardware and may try to sell it to  
5 recoup his investment. Sale and resale of this hardware is lawful throughout the  
6 United States.  
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9 35. The "access cards" employed in the DIRECTV systems are identical to a class  
10 of devices called generically "smart cards." A smart card is basically a credit-  
11 card sized piece of plastic, similar to the swipe cards used to open hotel doors,  
12 with an integrated computer chip called a microprocessor. "Smart cards" are  
13 widely sold through the world, including the United States and Canada and  
14 have numerous lawful uses. In fact, out of the billions of smart cards sold every  
15 year, the vast majority is used for purposes unrelated to DIRECTV such as  
16 wireless phones and financial cards as well as computer network security.  
17 Numerous colleges and universities teach smart card programming.  
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21 36. The ISO ([www.iso.org](http://www.iso.org)) is the "International Organization for Standardization."  
22 ISO-7816 1/2/3 define the "Physical characteristics" (Part 1), "Dimensions and  
23 location of the contacts" (Part 2), and "Electronic signals and transmission  
24 protocols" (Part 3) of virtually all Smart Cards in use today. These standards  
25 generally apply to all manufacturers of Smart Cards and Smart Card systems,  
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1 not to a particular vendor of Smart Cards like DirecTV. The current and  
2 previous DIRECTV access cards, are compatible with ISO 7816 devices.

3  
4 37. Just some of the lawful uses for smart card technology include the following  
5 (<http://www.directvdefense.org/threat/>):

6 a) Access Control to computer systems. Windows 2000 (and XP) have Smart  
7 Card Access control built in. Windows 2000 was beta in 1999 and released  
8 in January 2000 (OEM) and February 2000 (Retail.) Linux has PS/SC  
9 drivers for all popular Smart Card Readers.

10  
11 b) Designing and Testing E-Voting Systems.

12 c) Security and Pre-Paid Accounts for GSM Phones

13 d) Storage of Cryptographic keys (like PGP)

14 e) Hard Disk/Network encryption systems

15 f) Access control to doors or rooms

16 g) ID Cards

17 h) Time Cards

18 i) Visa/Amex Cards. See for example

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23 [http://home4.americanexpress.com/blue/meta.asp?Entry=86&pers\\_home=sp](http://home4.americanexpress.com/blue/meta.asp?Entry=86&pers_home=spotlight)  
24 [otlight](http://home4.americanexpress.com/blue/meta.asp?Entry=86&pers_home=spotlight).

25 j) Account Balance Readers (Key chain size).

26 k) Medical Record Cards.

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1 l) Military Identification and Data Storage Cards.

2 m) Development and testing of Smart Card Systems by IT professionals,  
3 programmers, security professionals, designers, and researchers.  
4

5 38. In order to use smart cards, hobbyists and consumers need one or more of  
6 various types of devices that can read and write onto the computer chip in the  
7 smart card. These devices are generically referred to as “smart card  
8 programmers,” but they are marketed under numerous other names including  
9 “bootloaders,” “unloopers” and “reader-writers.” For convenience, these  
10 devices will be referred to generically as “programmers” in this Complaint.  
11 Many, if not all, of the ISO-7816 programmers will work on DIRECTV access  
12 cards as well. None of these devices is per se illegal under United States law.  
13 In fact, the websites from which these products are sold normally contained a  
14 disclaimer to the following effect: “This unit is not intended for altering smart  
15 cards that contain copyrighted data, or for any other illegal function.” In a  
16 sense, these devices are similar to double-deck VCR’s, which could be used  
17 legally to make backup copies of a person’s owned videos or illegally to make  
18 copies of commercial products for resale.  
19

20 39. In the past several years, DIRECTV developed a suspicion that some people  
21 were using programmers to alter the data on the access cards used by the  
22 DIRECTV systems in an effort to receive programming for which they have not  
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1 subscribed or made arrangements to pay for. However, DIRECTV does not  
2 have the technology to actually allow it to determine if a particular person is  
3 watching a particular unauthorized program at a particular time.  
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5 40. Nevertheless, DIRECTV decided to target several businesses that it suspected  
6 were selling these programming devices for the purpose of promoting theft of  
7 satellite services rather than for the numerous legitimate purposes for such  
8 devices. However, while the programming devices could supposedly under  
9 certain circumstances and conditions, and with the other required equipment, be  
10 used by a person with sufficient expertise to receive unauthorized satellite  
11 transmissions, DIRECTV did not have any evidence that the persons purchasing  
12 the devices from these businesses were using the devices for that purpose.  
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16 41. Moreover, it is not possible to view unauthorized DIRECTV programs without  
17 all three components 1) satellite dish, 2) IRD and 3) access card. So, anyone  
18 purchasing one of the programming devices would have to obtain these other  
19 items as well in order to commit the alleged “satellite theft.”  
20

21 42. While large corporations such as Hewlett-Packard and Microsoft sold similar  
22 devices, DIRECTV did not want to become involved in litigation with such  
23 companies, but instead focused on tiny companies that lacked the resources to  
24 fight DIRECTV. DIRECTV subsequently filed lawsuits against these  
25 companies and using its superior financial resources prevailed in many cases.  
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1 43. During the course of these lawsuits, DIRECTV obtained various business  
2 records identifying the persons who ordered the devices over the past several  
3 years. The records allowed DIRECTV to develop a list of names of at least  
4 100,000 persons DIRECTV suspected might have been involved in theft of  
5 satellite services. DIRECTV generally characterizes such persons as “end  
6 users.”  
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9 44. Because of its own perception that “satellite piracy” was widespread, and  
10 despite the lack of any evidence to that effect, in late 2001 and early 2002  
11 DIRECTV and the other defendants conceived and implemented a scheme to  
12 extort and defraud thousands of end users of their money or property. The  
13 further goal of this scheme was to deter any person from purchasing similar  
14 devices in the future, regardless of their intentions and use for such hardware.  
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16

17 45. Rather than investigating whether the persons identified in the business records  
18 had: (1) actually received the device in question and (2) used it in some illegal  
19 or improper fashion as a “pirate,” defendants originated, developed and  
20 implemented a policy, practice and scheme by which their agents, lawyers and  
21 bill collectors, would send a series of form “Demand Letters” to all persons  
22 whose names had been found in the business records.  
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25 46. Plaintiffs are informed and believe, and thereupon allege, that DIRECTV  
26 determined that it would not be economically expedient to attempt to contact  
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1 some or all of the 100,000 end users and ascertain the purpose for their  
2 purchase or to otherwise conduct an investigation of the persons or their  
3 activities. In fact, DIRECTV determined it would be too time-consuming  
4 and/or expensive even to check its own records and determine which of the end  
5 users were or had been DIRECTV subscribers and therefore had the necessary  
6 dish, IRD and access card, as well as whether the customer's usage pattern  
7 supported a suggestion of satellite theft. As a result, DIRECTV did not attempt  
8 to contact the end users prior to the sending of the Demand Letters described  
9 below to ascertain the purpose for the purchase.  
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13 47. Plaintiffs are informed and believe, and thereupon allege, that DIRECTV's  
14 concern was not so much to determine who was guilty of satellite theft, but to  
15 "send a message" to the "pirate community" (as DIRECTV characterizes  
16 anyone who purchases the programming devices) that there would be an  
17 awesome price to pay for incurring the wrath of DIRECTV.  
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20 48. Moreover, Plaintiffs are informed and believe, and thereupon allege, that  
21 defendants believed that it would be "safe" to send out 100,000 or more  
22 Demand Letters, each one of which threatened imminently to bring suit, even  
23 though defendants knew it would be impossible to file suit against 100,000  
24 persons within the threatened time frame, or ever for that matter. This feeling  
25 of security was based upon defendants' calculation that a certain percentage of  
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1 letter recipients would be intimidated or deceived into paying the requested sum  
2 and a certain percentage of the letter recipients would turn out to have “bad”  
3 addresses, thus eliminating the pressure to carry out the threat. Defendants  
4 gambled, correctly as it turned out, that a substantial percentage of the  
5 recipients, as unsophisticated consumers, would submit to the defendants’  
6 demands due to confusion over the intimidating allegations and factual  
7 misrepresentations and omissions contained in the Letters, as well as financial  
8 inability to defend themselves against the draconian penalties threatened by  
9 defendants. Furthermore, defendants calculated that they could file lawsuits  
10 against a modest percentage of the end users who refused to settle or ignored  
11 the Letters because many of these persons would be unable to retain legal  
12 counsel and would default, allowing defendants to obtain judgments at nominal  
13 costs. Finally, defendants calculated that they could always dismiss actions  
14 when end users retained counsel and defended the lawsuit.

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20 49. Consequently, at the time each of these Demand Letters described below were  
21 issued to the plaintiffs and at the time similar Letters were issued to the class  
22 members, the defendants did not have serious and good faith intent to pursue  
23 imminent litigation against the recipients for two reasons. First, in the vast  
24 majority of cases, defendants did not actually have documentary evidence that  
25 the plaintiffs and class members were in possession of illegal signal theft  
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1 equipment; instead, the Letters were merely a tactical ploy to induce a  
2 settlement. Secondly, due to the sheer number of Demand Letters issued,  
3 defendants could not possibly hope to file lawsuits in the near future against  
4 more than a minuscule percentage of the recipients and certainly could not sue  
5 every recipient in the event a settlement was not forthcoming.  
6  
7

8 50. Plaintiffs are informed and believe, and thereupon allege, that DIRECTV  
9 further recognized that it could generate tremendous revenue at little cost from  
10 a campaign against end users. It was determined that the standard settlement  
11 demand would be \$3,500. This amounted to potential revenue of \$350 million  
12 with “costs” of obtaining this revenue being a tiny fraction of the total.  
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14

15 51. In the early stages of the campaign, DIRECTV had obtained over \$1 million  
16 after just eight weeks of operation by the EUDG. DIRECTV management sent  
17 an email to members of the EUDG congratulating them and boasted “We are on  
18 track to have a blow out year.” Plaintiffs are informed and believe, and  
19 thereupon allege, that DIRECTV has now received monetary payments from at  
20 least 10,000 letter recipients totaling at least \$35 million.  
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23 52. Throughout the campaign, DIRECTV continued to encourage members of the  
24 EUDG to obtain as many monetary settlements as possible and provided a  
25 standard script of “talking points” to use to convince end users that their  
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1 conduct was illegal and they had no choice but to settle by making the  
2 demanded monetary payment.  
3

4 53. Throughout the campaign, DIRECTV rewarded and praised investigators who  
5 obtained a large number of monetary settlements. Some investigators, however,  
6 became disgruntled because they mistakenly believed that they had been hired  
7 to “investigate” alleged satellite theft and determine whether it had or had not  
8 occurred. They later discovered their actual purpose was to act as a debt  
9 collector not an investigator. One investigator who complained about the  
10 legality and ethics of the end user campaign was criticized by his superiors and  
11 eventually constructively discharged. Previous to his discharge, a superior had  
12 told him that DIRECTV did not intend to prosecute lawsuits against all the  
13 persons who were sent the letters. Rather, the intention was to obtain monetary  
14 settlements and sue some of those who did not pay in the hope of obtaining a  
15 default judgment. However, if the letter recipient retained an attorney and  
16 fought the lawsuit in court, DIRECTV could just dismiss the case and forfeit a  
17 filing fee of a couple of hundred bucks. The investigator’s complaints that this  
18 conduct did not seem lawful or ethical were discounted, eventually forcing him  
19 to terminate his employment.  
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25 54. During the past two years, plaintiffs are informed and believe, and thereupon  
26 allege, that defendants sent out or directed others to send out more than 100,000  
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1 Demand Letters by United States mail to end users in virtually every state.  
2 Many Letters were mailed by the EUDG, but other were mailed by Yarmuth  
3 Wilsdon Calfo PLLC and individual attorneys in that firm, Greer, Herz &  
4 Adams, L.L.P. and individual attorneys in that firm, Stump, Storey, Callahan &  
5 Dietrich, P.A., and individual attorneys in that firm, and Secure Signals  
6 International and personnel there.  
7  
8

9 55. The Demand Letters were and are of two variants. The Initial Demand Letter  
10 typically contains the following common elements:  
11

- 12 a) An introduction advising the recipient that the sender was acting on behalf  
13 of DIRECTV in sending the letter.  
14  
15 b) Repeated accusations that the recipient has committed “illegal” and  
16 “unlawful” activities and “theft,” backed up with several references to  
17 federal laws, which make it illegal to engage in certain conduct attributed to  
18 the recipient. The implication of the Letters is that the recipient could face  
19 civil and criminal prosecution as a result of this conduct. However, the  
20 Letter distorts and mischaracterizes the state of the law by suggesting  
21 DIRECTV has a lawful claim against the recipient for “mere possession” of  
22 the device. In reality, none of the statutes cited in the Letter allow  
23 DIRECTV to sue the recipient for possessing the device.  
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c) A purportedly factual assertion that “business records recently obtained by this office show that you purchased **illegal** signal theft equipment to gain unauthorized access to DIRECTV’s programming.” (emphasis added). However, at the time defendants sent the Letters, there was no law in existence in the United States that made the devices purchased “illegal.” In fact, unlike assault weapons, narcotics and explosive devices, federal and state law do not prohibit possession of the devices by name. There is a law that prohibits possession of an “AK-47 assault rifle,” but no law that prohibits possession of an “unlooper.” In fact, none of the actual pieces of equipment, which are the subject of these Demand Letters, are contraband or illegal items. Moreover, the Letters do not even identify or describe what device the end user supposedly purchased. Further, the business records are comprised of mailing lists and shipping records seized under hostile and unreliable conditions from third parties which, at the time defendants sent the letters, had not been corroborated or authenticated in any way.

d) A purportedly factual assertion that “business records recently obtained by this office show that you purchased illegal signal theft equipment **to gain unauthorized access to DIRECTV’s programming.**” (emphasis added). However, at the time defendants sent the Letters, they did not possess any business records or other evidence indicating that the recipient had used or

1 viewed unauthorized DIRECTV satellite programming and was committing  
2 theft or had attempted to commit theft. The business records simply listed  
3 the name and address of the purchaser and the item purchased and did not  
4 state the purpose or reason for the purchase or the intended use of the device.  
5 Moreover, the Letters do not specify whether the recipient is or was a  
6 DIRECTV subscriber. In fact, the Letters were sent to many recipients who  
7 never owned a DIRECTV system and, therefore, could not possibly have  
8 received unauthorized transmissions even with the “signal theft equipment”  
9 DIRECTV accused them of purchasing.

10 e) A purportedly factual assertion that the recipient had modified devices to  
11 illegally gain access to DIRECTV’s programming. However, at the time  
12 defendants sent the letters, they did not actually know whether the recipients  
13 had modified the devices or not as they had never seen the devices in  
14 question and knew nothing about the capabilities of the recipients to make  
15 such modifications. Despite this lack of knowledge, the Letter warns the  
16 recipient that he or she is subject to damages of up to \$100,000 because of  
17 this modification.

18 f) The Letters do not request an explanation or express an interest in receiving  
19 an explanation from the consumer as to the reasons for his or her possession  
20 of the devices or hardware. Instead, they present a list of demands that  
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1 either must be met in timely fashion, or a lawsuit would be filed against the  
2 recipient within 14 days or some other specified short period of time. The  
3 Letters flatly state that after this period of time, DIRECTV will “initiate  
4 legal proceedings in the federal district court” and “abandon its attempts to  
5 negotiate.” The list of demands includes payment of an unspecified sum of  
6 money, forfeiture of property and a promise never to acquire similar  
7 property in the future. In reality, at the time each of these Letters was sent,  
8 defendants had no intention of filing suit within 14 days or some other short  
9 period of time. To the contrary, many thousands of persons were not sued  
10 until many months later if at all. Moreover, it would have been physically  
11 impossible for DIRECTV to sue each of the 100,000 persons within the  
12 threatened 14 days.  
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17 g) The threat that if the recipient does not settle, DIRECTV will seek and be  
18 entitled to recover monetary damages of \$100,000 or more from the  
19 recipient, and the implication that the recipient could be criminally  
20 prosecuted since the statutes cited are criminal laws.  
21  
22

23 56. The second variant, or Second Demand Letter, was sent several weeks to  
24 several months after the Initial Demand Letter, and typically reiterated the false  
25 accusations that the recipient had purchased illegal signal theft equipment, and  
26 flatly stated that unless the recipient contacted the sender within ten days a  
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1 lawsuit would be filed based upon a draft complaint that was sent to the  
2 recipient. However, even when such Letters were sent, in virtually no case did  
3 DIRECTV or any of the defendants file suit against the recipient immediately  
4 after the ten-day deadline.  
5

6 57. In approximately July of 2000, Plaintiff Rod Sosa purchased a programmer and  
7 unlooper for approximately \$80 because he was researching the development  
8 and sale of custom personal computers for use in medical offices that  
9 incorporated a smart-card based security system. Mr. Sosa had switched from  
10 DIRECTV to cable in October 1999 and later switched from cable to DISH  
11 network in June 2001. Mr. Sosa did not purchase the devices for the purpose of  
12 satellite theft and did not use or intercept the DIRECTV programs without  
13 authorization.  
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17 58. Plaintiff Sosa received an Initial Demand Letter corresponding to the foregoing  
18 description on October 24, 2002. The Letter was sent by United States Mail by  
19 defendant David Bautista, who identified himself as being a member of the  
20 DIRECTV EUDG. Sosa responded to the letter by contacting Mr. Bautista in  
21 California by telephone and explaining that he was not a DIRECTV subscriber  
22 and had not been since October 1999. Sosa also attempted to explain his  
23 innocent use of the devices. Bautista, acting pursuant to a standard “script”  
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1 provided to members of the EUDG, told Sosa that he was guilty merely for  
2 possessing the device and would have to pay \$3,500 or be taken to court.

3  
4 59.Sosa also received a Second Demand Letter about a month after the Initial  
5 Demand Letter.

6  
7 60.Under duress stemming from the threat of being subjected to baseless litigation  
8 and being publicly accused of criminal conduct and as a result of the  
9 aforementioned misrepresentations set forth in the Demand Letter, upon which  
10 he reasonably relied, Sosa ultimately paid \$3,500 to DIRECTV.

11  
12 61.In approximately September of 2000, Plaintiff Rodney Bylsma purchased two  
13 programming devices, one of which was a smart card reader/writer and the  
14 other was not even labeled, for about \$350. His understanding was the devices  
15 could be used to develop smart card applications. He was interested in smart  
16 card technology and wanted to explore whether he could develop useful and  
17 legitimate applications. Unfortunately, the devices did not come with  
18 instructions and he was unable to use them for any purpose. Eventually, he  
19 discarded them. Mr. Bylsma was a fairly continuous subscriber to DIRECTV  
20 services except for a period of time when he moved. Mr. Bylsma did not  
21 purchase the devices for the purpose of satellite theft and did not use or  
22 intercept the DIRECTV programs without authorization.  
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1 62.Plaintiff Bylsma received an Initial Demand Letter corresponding to the  
2 foregoing description on November 21, 2002. The Letter was sent by United  
3 States Mail by defendant Dale L. Herring, who identified himself as being a  
4 member of the DIRECTV EUDG. Bylsma responded to the letter in writing  
5 and was then contacted by Mr. Herring by telephone from California. Bylsma  
6 explained that he had not committed any theft of satellite services and had used  
7 the devices for legitimate purposes. Herring, acting pursuant to a standard  
8 “script” provided to members of the EUDG, told Bylsma that he was guilty  
9 merely for possessing the device and would have to pay \$3,500 or be taken to  
10 court, at which time the penalty would go up significantly. He said there would  
11 be no negotiations.  
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16 63.Under duress stemming from the threat of being subjected to baseless litigation  
17 and being publicly accused of criminal conduct and as a result of the  
18 aforementioned misrepresentations set forth in the Demand Letter, upon which  
19 he reasonably relied, Bylsma ultimately paid \$3,500 to DIRECTV in December  
20 2002.  
21  
22

23 64.In past several years, in connection with his business as an electronic  
24 component supplier, Plaintiff Gary Whittaker purchased a number of electronic  
25 components, some of which could be used in connection with smart cards.  
26 Typically, an engineer would give him a list of parts and materials to buy, he  
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28

1 would purchase the equipment using his personal credit card (to accumulate  
2 frequent flyer mileage), and the buyer would pay him for the parts. Other  
3 equipment was resold to area electronics companies. To his knowledge, none  
4 of this equipment is or was used to pirate DIRECTV signals. During this time  
5 frame, Whittaker was a subscriber to DIRECTV programming. Mr. Whittaker  
6 did not purchase the devices for the purpose of satellite theft and did not use or  
7 intercept the DIRECTV programs without authorization.  
8

9  
10 65. Plaintiff Whittaker received an Initial Demand Letter corresponding to the  
11 foregoing description in September 2002. The Letter was sent by United States  
12 Mail by defendant John Tucker, who identified himself as being a member of  
13 the DIRECTV EUDG. Whittaker wrote back to the EUDG to explain he had  
14 purchased the device for legitimate purposes and had not committed any signal  
15 theft. A man called him back identifying himself as Brady King of DIRECTV  
16 EUDG. He told Whittaker they had records that showed he had purchased  
17 some kind of smart card related device, but did not specify the exact device.  
18 King, acting pursuant to a standard “script” provided to members of the EUDG,  
19 told Whittaker that DIRECTV could sue him and collect money merely for his  
20 possession of the device. King advised that there was no negotiating and  
21 Whittaker had to pay \$3,500 or he would be sued and the price would go up to  
22 not less than \$6,500. Whittaker told King he could show him receipts that  
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1 Whittaker had paid his DIRECTV bill for their services on time with his credit  
2 card every month. That was of no interest to King.  
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4 66. Under duress stemming from the threat of being subjected to baseless litigation  
5 and being publicly accused of criminal conduct and as a result of the  
6 aforementioned misrepresentations set forth in the Demand Letter, upon which  
7 he reasonably relied, Whittaker ultimately paid \$3,500 to DIRECTV in October  
8 2002 by a check, which was negotiated in December 2002.  
9

10 67. Similarly, the class members received through the United States Mail Demand  
11 Letters corresponding to the foregoing descriptions and many of these class  
12 members also spoke over the phone to one or more of the defendants or their  
13 confederates. In each of these instances, defendants had no evidence that each  
14 of the class members had used the devices to view unauthorized programming.  
15 Each of the class members, like the named plaintiffs, were deceived by and  
16 reasonably relied upon the fraudulent misrepresentations and material  
17 omissions found in the Demand Letters or stated orally pursuant to standardized  
18 scripts and/or were coerced by the threats of baseless litigation and being  
19 publicly accused of criminal conduct. Each of the class members, like the  
20 named plaintiffs, were defrauded and/or extorted into paying and did pay a sum  
21 of money to defendants.  
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1 **FIRST CAUSE OF ACTION FOR VIOLATION OF RICO, 18 U.S.C. § 1962**

2 **(C) OPERATION OF ENTERPRISE THROUGH RACKETEERING**

3 **ACTIVITY (BROUGHT AS CLASS ACTION AND INDIVIDUAL ACTION)**

4 **AGAINST ALL DEFENDANTS**

5  
6 68. Plaintiffs incorporate in this cause of action the allegations contained in  
7 paragraphs 1 through 67, inclusive.

8  
9 69. Plaintiffs allege that defendants were employed by and associated with each  
10 other, and engaged in conduct that constitutes a RICO pattern of racketeering  
11 activity. Plaintiffs allege that each of the following configurations constitute a  
12 RICO “enterprise,” as that term is defined pursuant to 18 U.S.C. §1961(4):

13  
14 a) RICO Enterprise No. 1: DIRECTV, Inc., is a RICO enterprise, organized  
15 and maintained by and through a consensual hierarchy of partners,  
16 managers, directors, officers, supervisors, and/or representatives that  
17 formulate and implement policies relative to the provision of satellite  
18 programming to clientele and customers, both domestically and  
19 internationally. Plaintiffs allege that RICO persons Hughes Electronics  
20 Corporation and GM, and persons acting in concert therewith, are employed  
21 by and associated with said RICO enterprise that is engaged in, or activities  
22 of which affect, interstate or foreign commerce, and that said RICO persons,  
23 and persons acting in concert therewith, conduct or participate, directly or  
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1 indirectly, in the conduct of such RICO enterprise's affairs through a RICO  
2 pattern of racketeering activity.

3  
4 b) RICO Enterprise No. 2: Hughes Electronics Corporation is a RICO  
5 enterprise, organized and maintained by and through a consensual hierarchy  
6 of partners, managers, directors, officers, supervisors, and/or representatives  
7 that formulate and implement policies relative to the provision of satellite  
8 programming to clientele and customers, both domestically and  
9 internationally. Plaintiffs allege that RICO persons DIRECTV, Inc., and  
10 GM and persons acting in concert therewith, are employed by and associated  
11 with said RICO enterprise that is engaged in, or activities of which affect,  
12 interstate or foreign commerce, and that said RICO persons, and persons  
13 acting in concert therewith, conduct or participate, directly or indirectly, in  
14 the conduct of such RICO enterprise's affairs through a RICO pattern of  
15 racketeering activity.

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20 c) RICO Enterprise No. 3: Yarmouth Wilsdon Calfo, PLLC is a RICO  
21 enterprise, organized and maintained by and through a consensual hierarchy  
22 of managing members, lawyers, attorneys, partners, managers, directors,  
23 officers, supervisors, and/or representatives that formulate and implement  
24 policies relative to the provision of legal services, including but not  
25 restricted to, debt collection practices, on behalf of clients, and such services  
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1 are offered both interstate and internationally. Plaintiffs allege that Gregory  
2 Q. Zamudio, Gurjit Pandher, John M. Stellwagen, Deborah T. Boylston,  
3 Spencer D. Freeman, DIRECTV, Inc., Hughes Electronics Corporation, and  
4 persons acting in concert therewith, are employed by and associated with  
5 said RICO enterprise that is engaged in, or activities of which affect,  
6 interstate or foreign commerce, and that said RICO persons, and persons  
7 acting in concert therewith, conduct or participate, directly or indirectly, in  
8 the conduct of such RICO enterprise's affairs through a RICO pattern of  
9 racketeering activity.

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13 d) RICO Enterprise No. 4: DIRECTV EUDG is a RICO enterprise, organized  
14 and maintained by and through a consensual hierarchy of partners,  
15 managers, directors, officers, supervisors, and/or representatives that  
16 formulate and implement policies relative to the provision of satellite  
17 programming to clientele and customers, both domestically and  
18 internationally. Plaintiffs alleges that Bert Eichhorn, David Bautista, Dale  
19 L. Herring, John Tucker, Brady King, and persons acting in concert  
20 therewith, are employed by and associated with said RICO enterprise that is  
21 engaged in, or activities of which affect, interstate or foreign commerce, and  
22 that said RICO persons, and persons acting in concert therewith, conduct or  
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1 participate, directly or indirectly, in the conduct of such RICO enterprise's  
2 affairs through a RICO pattern of racketeering activity.

3  
4 e) RICO Enterprise No. 5: Secure Signals International is a RICO enterprise,  
5 organized and maintained by and through a consensual hierarchy of partners,  
6 managers, directors, officers, supervisors, and/or representatives that  
7 formulate and implement policies relative to the provision of satellite  
8 programming to clientele and customers, both domestically and  
9 internationally. Plaintiffs allege that RICO persons McGinnis, DIRECTV,  
10 Inc., Hughes Electronics Corporation, and persons acting in concert  
11 therewith, are employed by and associated with said RICO enterprise that is  
12 engaged in, or activities of which affect, interstate or foreign commerce, and  
13 that said RICO persons, and persons acting in concert therewith, conduct or  
14 participate, directly or indirectly, in the conduct of such RICO enterprise's  
15 affairs through a RICO pattern of racketeering activity.

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20 f) RICO Enterprise No. 6: McGinnis Group International, LLC is a RICO  
21 enterprise, organized and maintained by and through a consensual hierarchy  
22 of partners, managers, directors, officers, supervisors, and/or representatives  
23 that formulate and implement policies relative to the provision of satellite  
24 programming to clientele and customers, both domestically and  
25 internationally. Plaintiffs allege that RICO persons Stanley McGinnis,  
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1 DIRECTV, Inc., Hughes Electronics Corporation, and persons acting in  
2 concert therewith, are employed by and associated with said RICO  
3 enterprise that is engaged in, or activities of which affect, interstate or  
4 foreign commerce, and that said RICO persons, and persons acting in  
5 concert therewith, conduct or participate, directly or indirectly, in the  
6 conduct of such RICO enterprise's affairs through a RICO pattern of  
7 racketeering activity.  
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10 g) RICO Enterprise No. 7: An unnamed entity constituting an "association in  
11 fact" is a RICO enterprise, organized and maintained by and through a  
12 consensual hierarchy of partners, managers, directors, officers, supervisors,  
13 and/or representatives that formulate and implement policies relative to the  
14 provision of satellite programming to clientele and customers, both  
15 domestically and internationally. Plaintiffs allege that all of the named  
16 defendants and persons acting in concert therewith, are RICO persons, and  
17 are employed by and associated with said RICO enterprise that is engaged  
18 in, or activities of which affect, interstate or foreign commerce, and that said  
19 RICO persons, and persons acting in concert therewith, conduct or  
20 participate, directly or indirectly, in the conduct of such RICO enterprise's  
21 affairs through a RICO pattern of racketeering activity. This association in  
22 fact had a common or shared purpose, to defraud or extort money from end  
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1 users, and a distinct division of labor. It continued as a unit, with a core  
2 membership, over a substantial period of time and was an ongoing  
3 organization established for an economic motive. The association in fact  
4 remains viable and active at the time of filing of this complaint.  
5

6 70. Defendants engaged in “racketeering activity” within the meaning of 18 U.S.C.  
7 §1961 (1) by engaging in the acts set forth above, aiding and abetting the  
8 commission of the foregoing acts, and/or conspiring to commit the foregoing  
9 acts, in violation of the following laws:  
10

- 11 a) California Penal Code sections 518, 519, 520 and 523, relating to the crime  
12 of extortion and punishable by imprisonment for more than one year;  
13
- 14 b) 18 U.S.C. § 1341 relating to mail fraud;  
15
- 16 c) 18 U.S.C. § 1343 relating to wire fraud;  
17
- 18 d) 18 U.S.C. § 1951, 18 U.S.C. § 875 and 18 U.S.C. § 876 relating to extortion;  
19
- 20 e) 18 U.S.C. § 1952 relating to racketeering;  
21
- 22 f) 18 U.S.C. § 1956 relating to money laundering;  
23
- 24 g) 18 U.S.C. § 1957 relating to criminally derived property;  
25
- 26 h) 18 U.S.C. § 2314 and § 2315 relating to interstate transportation or receipt of  
27 transported property obtained by fraudulent means;  
28

71. Plaintiffs allege that the aforementioned activities and/or conduct engaged in by  
defendants constituted a “pattern of racketeering activity,” as that term is

1 defined in 18 U.S.C. § 1961(5). Plaintiffs further allege that the activities  
2 and/or conduct engaged in by defendants were both related as to the *modus*  
3 *operandi* engaged in by said defendants of depriving plaintiffs and class  
4 members of money, and was continuous inasmuch as the activities and/or  
5 conduct engaged in by defendants exhibited a realistic, long term threat of  
6 continued future injury to plaintiffs' and class members' interest in their  
7 business and/or property.  
8  
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10 72. Plaintiffs have sustained damages and/or injuries to their interests in business  
11 and/or property as a result of defendants' activities and/or conduct, in an  
12 amount according to proof. Plaintiffs are entitled to recover compensatory  
13 damages, said sum to be trebled, in an amount according to proof. Plaintiffs are  
14 also entitled to recover an award of exemplary and punitive damages. Plaintiffs  
15 are entitled to recover attorneys' fees, costs, and prejudgment interest.  
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19 73. Defendants are conspiratorially liable under application of the Pinkerton  
20 doctrine (Pinkerton v. United States (1946) 328 U.S. 640 and Salinas v. United  
21 States (1997) 522 U.S. 52) inasmuch as a) defendants engaged in the fraudulent  
22 or extortionate activities that constitute the RICO pattern of racketeering  
23 activity; b) defendants are members of the RICO conspiracy designed and  
24 intended to contravene RICO Section 1962, subdivisions (a) and (c); c)  
25 defendants engaged in activities in furtherance of advancing and promoting the  
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1 RICO conspiracy designed and intended to contravene RICO Section 1962,  
2 subdivisions (a) and (c); d) defendants were members of the RICO conspiracy  
3 at and during the time frame the fraudulent and extortionate activities were  
4 committed that constitute the RICO pattern of racketeering activity; and, e) the  
5 offense fell within the scope of the unlawful agreement and could reasonably  
6 have been foreseen to be a necessary or natural consequence of the unlawful  
7 agreement.  
8  
9

10 **SECOND CAUSE OF ACTION FOR VIOLATION OF RICO, 18 U.S.C. §**  
11  
12 **1962 (A) INVESTMENT OF FUNDS OBTAIN THROUGH**  
13 **RACKETEERING ACTIVITY (BROUGHT AS CLASS ACTION AND**  
14 **INDIVIDUAL ACTION) AGAINST ALL DEFENDANTS**  
15

16 74.Plaintiffs incorporate in this cause of action the allegations contained in  
17 paragraphs 1 through 73, inclusive.  
18

19 75.Defendants used or invested the income derived, directly or indirectly, from a  
20 pattern of racketeering activity, as set forth above, in the establishing or  
21 operation of the enterprise(s) in violation of 18 U.S.C. § 1962 (a).  
22

23 76.Monetary payments obtained earlier in the Demand Letter campaign were used  
24 to expand the enterprise(s) such as by hiring additional “investigators” and  
25 associating additional law firms.  
26  
27  
28

1 77.Plaintiffs have sustained damages and/or injuries to their interests in business  
2 and/or property as a result of defendants' activities and/or conduct that was  
3 assisted by the reinvesting of sums, in an amount according to proof. Plaintiffs  
4 are entitled to recover compensatory damages, said sum to be trebled, in an  
5 amount according to proof. Plaintiffs are also entitled to recover an award of  
6 exemplary and punitive damages.  
7  
8

9 78.Defendants are conspiratorially liable under application of the Pinkerton  
10 doctrine (Pinkerton v. United States (1946) 328 U.S. 640 and Salinas v. United  
11 States (1997) 522 U.S. 52) inasmuch as a) defendants engaged in the fraudulent  
12 or extortionate activities that constitute the RICO pattern of racketeering  
13 activity; b) defendants are members of the RICO conspiracy designed and  
14 intended to contravene RICO Section 1962, subdivisions (a) and (c); c)  
15 defendants engaged in activities in furtherance of advancing and promoting the  
16 RICO conspiracy designed and intended to contravene RICO Section 1962,  
17 subdivisions (a) and (c); d) defendants were members of the RICO conspiracy  
18 at and during the time frame the fraudulent and extortionate activities were  
19 committed that constitute the RICO pattern of racketeering activity; and, e) the  
20 offense fell within the scope of the unlawful agreement and could reasonably  
21 have been foreseen to be a necessary or natural consequence of the unlawful  
22 agreement.  
23  
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28

1 **THIRD CAUSE OF ACTION FOR VIOLATION OF RICO, 18 U.S.C. § 1962**

2 **(d) CONSPIRACY TO VIOLATE 18 U.S.C. § 1962 (a) and (c) (BROUGHT**

3 **AS CLASS ACTION AND INDIVIDUAL ACTION) AGAINST ALL**

4 **DEFENDANTS**

5  
6 79. Plaintiffs incorporate in this cause of action the allegations contained in  
7 paragraphs 1 through 78, inclusive.

8  
9 80. Defendants are associated with the aforementioned enterprise(s), and they have  
10 agreed and conspired to violate 18 U.S.C. § 1962 (a) and (c) as each has agreed  
11 to participate directly or indirectly in the conduct of the enterprise's affairs  
12 through a pattern of racketeering activity, and to use or invest the income  
13 derived directly or indirectly from the pattern of racketeering activity to  
14 establish or operate the enterprise.

15  
16  
17 81. Defendants' conspiracy to violate 18 U.S.C. § 1962 (a) and (c) is a violation of  
18 18 U.S.C. § 1962 (d).

19  
20 82. Defendants' violation of 18 U.S.C. § 1962 (d) by means of overt acts that are  
21 acts of racketeering or otherwise wrongful under RICO injured plaintiffs and  
22 class members in an amount to be shown according to proof, said sum to be  
23 trebled.

24  
25 **REQUEST FOR JURY TRIAL**

26  
27 Plaintiffs demand trial by jury.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, plaintiffs pray for judgment on all causes of action against  
3 defendants as follows:  
4

- 5 1. For an order certifying this action as a class action;  
6  
7 2. For a declaration of the rights and liabilities of the parties;  
8  
9 3. For an order pursuant to 18 U.S.C. § 1964 (a) immediately dissolving the  
10 aforementioned RICO enterprises inasmuch as said enterprises are mere  
11 subterfuges and alter ego vehicles for the aforementioned defendants to engage  
12 in corrupt, violent, and illegal conduct, as alleged herein;  
13  
14 4. For an order pursuant to 18 U.S.C. § 1964 (a) commanding the immediate and  
15 permanent expulsion of all RICO defendants from further participatory  
16 management, direction, and control of the identified RICO enterprises;  
17  
18 5. For an order pursuant to FRCP Rule 65 and 18 U.S.C. § 1964 (a), to  
19 immediately cause issuance of preliminary and permanent injunctive relief to  
20 restrain and prohibit all defendants and their respective attorneys, accountants,  
21 agents, consultants, counselors, designees, employees, servants, deputies,  
22 nominees, representatives, directors, officers, trustees, partners, both general  
23 and limited, and any one acting pursuant to any power of attorney, general or  
24 limited, from dissipating and/or otherwise disposing of any and all properties,  
25  
26  
27  
28

- 1 real and/or personal, including all monies, within their possession and control,  
2 pending resolution of these proceedings at trial;  
3  
4 6. For compensatory damages, said sum to be trebled pursuant to 18 U.S.C. §  
5 1964 (c);  
6  
7 7. For punitive and exemplary damages according to proof;  
8  
9 8. For prejudgment and post-judgment interest;  
10  
11 9. For reasonable attorney's fees pursuant to 18 U.S.C. § 1964 (c);  
12  
13 10. For costs of suit incurred herein;  
14  
15 11. For such other and further relief as the court may deem proper.

16 DATED: August 20, 2003

17 Respectfully submitted,

18 By \_\_\_\_\_

19 JEFFREY WILENS  
20 Attorney for Plaintiffs  
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