

OUT OF STATE

"The State of Texas"

NO. 2005-CI-19492

RICHARD M SCOVILLE ET AL

Plaintiff

vs.

BRIAN J BRUNS ET AL

Defendant

(Note: Attached Document May Contain Additional Litigants.)

IN THE DISTRICT COURT

73rd JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

NOTICE

Citation Directed to: BRIAN J BRUNS AKA ABUSIVE HOSTS BLOCKING LISTS AHBL.ORG
THE SUMMIT OPEN SOURCE DEVELOPMENT GROUP SOSDG.ORG

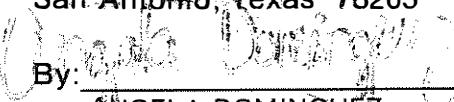
"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you." Said petition was filed on the 14th day of December, 2005.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 14th DAY OF December A.D., 2005.

PLAINTIFF'S ORIGINAL PETITION
AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY AND
PERMANENT INJUNCTION



MARGARET G. MONTEMAYOR
District Clerk of Bexar County, Texas
Bexar County Courthouse
San Antonio, Texas 78205

By:  Deputy
ANGELA DOMINGUEZ

RICHARD M SCOVILLE

Attorney/PLAINTIFF

address PO BOX 120442
SAN ANTONIO, TX 78212-9642

OFFICER'S RETURN

Came to hand _____ day of _____, A.D. _____, at _____ o'clock _____.M.
and executed (not executed) the _____ day of _____, A.D. _____, in _____
at _____ o'clock _____.M. by delivering to _____
in person a true copy of this citation together with the accompanying copy of plaintiff's
petition. Served at _____
Cause of failure to execute this citation _____

I traveled _____ miles in the execution of this citation. Fees: _____ Serving citation
\$ _____ Mileage _____ Total \$ _____

Badge/PPS # _____ County, Texas
By _____

The State of Texas

NON - PEACE OFFICER VERIFICATION

VERIFICATION OF RETURN (IF NOT SERVED BY PEACE OFFICER)
SWORN TO this _____ day of _____,

NOTARY PUBLIC, STATE OF TEXAS



ORIGINAL

(DK002)

FILED
05 DEC 14 PM 1:02

~~2005 CI 19492~~

RICHARD M. SCOVILLE,
INDIVIDUALLY and on behalf of
Free Speech Store also known as FSS,
FreeSpeechStore.com

* IN THE DISTRICT COURT

* BY _____

VS.

* 45th JUDICIAL DISTRICT
73rd

BRIAN J. BRUNS, AKA ABUSIVE
HOSTS BLOCKING LISTS, AHBL.ORG,
THE SUMMIT OPEN SOURCE
DEVELOPMENT GROUP, SOSDG.ORG;
ANDREW D. KIRCH, AKA
D&K CONSULTING, TRELANE.NET

* BEXAR COUNTY, TEXAS

**PLAINTIFFS' ORIGINAL PETITION AND APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY AND PERMANENT INJUNCTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW RICHARD M. SCOVILLE, Plaintiff, Individually, and on behalf of Free Speech Store, AKA freespeechstore.com, and FSS , Complaining of BRIAN J. BRUNS, AKA ABUSIVE HOSTS BLOCKING LISTS, AHBL.ORG, THE SUMMIT OPEN SOURCE DEVELOPMENT GROUP, SOSDG.ORG; ANDREW D. KIRCH, AKA D&K CONSULTING, TRELANE.NET Defendants, and as grounds for such complaint would respectfully show the Court the following:

I. The Parties.

A. The Plaintiff is RICHARD M. SCOVILLE, ("SCOVILLE"), an individual who resides in San Antonio, Bexar County, Texas 78212. As stated below, SCOVILLE is Sole Proprietor of the Entity Free Speech Store ("FSS"), AKA FSS and freespeechstore.com, all located in San Antonio, Bexar County, Texas.

B. The Defendant BRIAN J. BRUNS, ("BRUNS"), AKA ABUSIVE HOSTS BLOCKING LISTS, AHBL.ORG ("AHBL"), THE SUMMIT OPEN SOURCE DEVELOPMENT GROUP, SOSDG.ORG is a non-resident company/individual that has engaged in business in the State of Texas. He (It) has not registered to do business in Texas, it does not maintain a regular place of business in this state, and it has not designated an agent for

service of process in Texas. It may be served with process by serving the Secretary of State pursuant to Texas Civil Practice & Remedies Code. §17.044 or by serving Andrew Kirch C/O The Summit Open Source Development Group, 5707 N Indianola Ave. Indianapolis, IN 46220 or otherwise as allowed by applicable law.

C. The Defendant ANDREW D. KIRCH, ("KIRCH") AKA D&K CONSULTING, TRELANE.NET; Principal of ABUSIVE HOSTS BLOCKING LISTS, AHBL.ORG ("AHBL"), THE SUMMIT OPEN SOURCE DEVELOPMENT GROUP, SOSDG.ORG is a non-resident company/individual that has engaged in business in the State of Texas. He (It) has not registered to do business in Texas, it does not maintain a regular place of business in this state, and it has not designated an agent for service of process in Texas. It may be served with process by serving the Secretary of State pursuant to Texas Civil Practice & Remedies Code. §17.044 or by serving Andrew Kirch C/O The Summit Open Source Development Group, 5707 N Indianola Ave, Indianapolis, IN 46220 or otherwise as allowed by applicable law.

II. Jurisdiction and Venue.

A. This Court has personal jurisdiction over Defendants because they have done business in the State of Texas by, inter alia, (1) committing one or more torts in whole and in part in this state, including but not limited to tortious acts which were intended to cause and did cause injury to Texas residents and to property located in Texas, and (2) contacting residents of Texas for a commercial transaction and/or membership in Texas companies, all transmitted to computers located in Texas. (3) All of the acts complained of by the Plaintiff occurred in Texas, including those of all Defendants, which involved electronic communications and/or electronic access from them into the State of Texas. This Court has subject matter jurisdiction over this lawsuit because the Plaintiff seeks injunctive relief.

B. Venue is proper in Bexar County, Texas, under §15.002(a)(1), Tex. Civ. Prac. & Rem. Code, because a substantial part of the events and omissions giving rise to this claim occurred in Bexar County. Venue is also proper under §15.002(a)(4) and § 15.017, Tex. Civ. Prac. & Rem. Code, because Bexar County is the county in which the Plaintiff resided at the time of the accrual of the cause of action. The venue is spelled out in the Terms of Service (TOS) of FSS which all Defendants have visited by direct or indirect compliance. Damages incurred by SCOVILLE were suffered all or in part in Bexar County, Texas.

III. Underlying and Operative Facts.

A. Founding of Free Speech Store. The Plaintiff, SCOVILLE, was the founder of Free Speech Store (FSS), which was originally set-up under an assumed name filed in 2001. SCOVILLE is the sole proprietor of FSS

B. SCOVILLE has paid all expenses for FSS. This includes its design, development,

operational expenses, and hosting, most recently to its present designer and previous host Visual Net Design ("VNDX"). Subsequent to VNDX, FSS had one or more other hosts, but the FSS account was terminated due to unsubstantiated, abusive, and threatening complaints by members of Internet newsgroups, i.e., news.admin.net-abuse.email ("NANAE") of which the Defendants are known abusers. These people (NANAE) act in concert, as conspirators, vigilantes, etc. to threaten hosts, Internet Service Providers (ISP) with blockage of email to curtail the Internet presence of those who do not kowtow to their threats. BRUNS, KIRCH, and are known members of NANAE and are some of the most abusive culprits of this type of behavior. This amounts to nothing less than blackmail and extortion of ISPs. The defendants are threatening the current host of FSS, Internet Contrasts aka internetcontrasts.com, at the time of filing of this lawsuit.

C. BRUNS is an ex-convict and convicted felon for which he served five (5) months in jail in Suffolk County, New York for First Degree Computer Tampering (see Exhibit A). The Indictment numbers are I-1577-02 and S-2423-02. Per a plea bargain with the District Attorney, Indictment I-1577-02 was dismissed in lieu of Indictment S-2423-02. Within a short period after his release he began a blocklist of ISPs and called it The Abusive Hosts Blocking List (AHBL.org). Supposedly, this is a list of Internet spammers, but BRUNS uses this list as his own personal, vindictive blocking list for those whom he simply does not like or disagrees with on ANY issue and adds people simply to get even with them for what he deems being problematic. Having BRUNS, a convicted felon, in charge of such a list is analogous to having a convicted felon as Police Chief. BRUNS has been stalking and harassing FSS since late 2003 by contacting each and every ISP which FSS has engaged, threatening them with email blockage if they do not terminate FSS and/or actually blocking emails, via their AHBL blocklist, and then the posting of libelous, filthy, and threatening verbiage in various Newsgroups (Usenet) on the Internet (see Exhibit B) a Google search of BRUNS stalking FSS. BRUNS has continually harassed and threatened FSS and/or its ISPs and accused us, without proof, of spamming, criminal behavior, harassment, filing false police reports, breaching Authorized Use Policies (AUP) and thusly, started his long trail of threats and false accusations culminating with the termination of FSS's account with its ISP, VNDX on or about February 3, 2005. VNDX was told by its providers, Prism and Realinx, that it had been contacted by AHBL with threats, some verbal by telephonic communication, of blocking its ENTIRE INTERNET PROTOCOL (IP) RANGE, if FSS was not terminated by Prism. BRUNS did eventually block the entire IP range and VNDX was given an ultimatum by Prism, "Get rid of FSS or VNDX would be shut down." Hence, the termination of our account by VNDX through Prism (see Exhibit C). VNDX set FSS up on another T-1 line through e-spire Communications, Inc., whom BRUNS immediately and subsequently blocked their ENTIRE RANGE for hosting FSS. The FSS web site was ineffective and had continuous problems for approximately thirteen (13) days due to this termination and now lives under the threat of termination, returned emails, ISP problems, etc., due to the continued harassment and stalking by BRUNS, KIRCH, et al. Since the termination of by VNDX, FSS has had to change its hosting and/or collocation service three (3) times. Prior to its present supplier of collocation services, Internet Contrasts, FSS was terminated and/or threatened with termination by Grande Communications and Time Warner Cable respectively. Hence, FSS has been terminated by two

(2) other ISPs due to these very same threats. According to Time Warner Cable representatives, Bruns and Kirch had blocked much of its email capabilities for the southern United States. Bruns and Kirch are now blocking our present ISP, Internet Contrasts, entire IP block/range and will not release the blockage until our contract/service is cancelled, hence the Injunctive Relief sought in this suit. The block implemented by AHBL affects the mail of all Internet Contrasts' customers even though they have nothing to do with the dispute, i.e., collateral damage.

D. San Antonio, Texas Police Report # 05071019 (see Exhibit D) filed January 31, 2005 detailing stalking and harassment by BRUNS and KIRCH and supplemented on or about February 3, 2005 for the termination of the FSS account by Prism and VNDX due to AHBL emails, telephone calls, threats, etc. Per the request of Suffolk County, New Jersey Assistant District Attorney, Christopher Nicolino and Suffolk County Probation Officer Mrs. Benedetto (BRUNS' probation officer), FSS sent, via facsimile, a copy of the police report for possible probation violations. Mr. Nicolino suggested to further file charges on Mr. Bruns and to secure a warrant in order that he might go back to the original court with proof of probation violations. Detective Padier of the San Antonio Police Department, computer crimes division, is presently coordinating the applicable course of action by SCOVILLE (FSS). There is active police investigation ongoing at the time of filing of this lawsuit.

E. Continuous Stalking, Harassing, False Accusations, and Threats by BRUNS, KIRCH, et al to America Online (AOL), Google, and both present and past ISPs of FSS. BRUNS and his group have been contacting EVERYONE that FSS does business with to access the Internet to terminate FSS accounts for a myriad of phony reasons, false accusations, threats, etc. BRUNS and his threats to AOL and Google have gone unheeded due to a lack of substantiative content, even though this form of harassment and stalking has been continuous for years. AHBL, noticeably, does not block the IP ranges of AOL and Google for fear of legal repercussions. These companies are far too large for this group to dictate ultimatums and threats of blackmail and extortion, but the smaller victims, Realinx, Prism, VNDX, and Internet Contrasts do not have the resources to fight such a massive criminal campaign, thus, they must kowtow to the blackmail and extortion threats of blockage, both real and perceived and ultimately FSS suffers severe defamation, economic, and emotional distress. Larger concerns, such as Grande and Time Warner, do not want to deal with the criminal actions of AHBL and simply sever their relationships with FSS and effectively kowtow to the extortion. As a matter of fact, AHBL's complaints to PRISM are misguided at best. The examples that AHBL cites on its web site originate from AOL and/or Google, not Prism (see Exhibit E). Note the email address is that of AOL origin and the originating IP is that of AOL. The speech cited from FSS amounts to nothing more than FREE SPEECH, the truth, and is protected by the First Amendment of the United States Constitution (Bill of Rights). BRUNS is just irritated because it is about him personally. Again, AOL and Google have deemed AHBL's accusations to be bogus and have not acted on such in any negative manner and FSS continues in good standing with both entities and has for years. Also, these thugs have published and defamed our web site by calling it the "FreeSpeechWhore", "FreeSpeaksWhore", etc. (see Exhibit H and I), among other disparaging

names. This is the modus operandi (MO) of this group of thugs, ex-convicts, and/or felons.

F. Blocking Emails Of All Of FSS ISPs, Both Past & Present, Simply For Doing Business With FSS. Bruns and Kirch have contacted, harassed, threatened, and extorted each and every Host or Collocation service which FSS has contracted with for services. They then, subsequently, blocked their ENTIRE IP ranges, even though their beef was only with FSS. The most egregious was the Time Warner cable blockage of the southern United States. The reasons given for their actions ranged from spamming by FSS, legal threats by FSS, lying by Time Warner, Shoot on Sight (SOS) for threatening AHBL with legal action, to name but a few. Each and every ISP has suffered blocks, threats, and harassment from Bruns and Kirch (see exhibit J). All were forced to release FSS from its servers because unknowing parties, outside the realm of their servers, utilize the AHBL lists thinking that they are professionally run and contain credible listings, never knowing that Bruns is a convicted felon for computer crimes and Kirch a hacker. This meant that some of the ISPs customers, other than FSS, were getting mail bounced (returned) because of no fault of the customers. This is the “hammer” that AHBL utilizes to threaten ISPs if they do not conform to their wishes. Once the ISP gets rid of the so-called abuser, AHBL unblocks the provider’s IP range. FSS has a signed affidavit from another victim of Bruns and Kirch, Barbara Schwarz of Salt Lake City, Utah, which details these Gestapo tactics (see exhibit K) and shows a pattern of abuse. A San Antonio Police (SAPD) report # 05071019 was filed on January 31, 2005 detailing the harassment from Bruns and Kirch.

G. Kirch and/or Bruns hack FSS server and subsequent police reports filed and a police investigation initiated. On April 22, 2005, the FSS server, the global.asa files, and the ProcLogin.asp files were maliciously changed through hacking by IP address 66.93.203.199. This IP address resolves to Sosdg.org in Indianapolis, Indiana and is assigned to that entity through Speakeasy.net, per Speakeeasy. The chronology of this hacking and years of abuse is described in detail with affidavits in “exhibit L”. Another San Antonio Police (SAPD) report # 05263973 was filed April 22, 2005. As of the filing of this lawsuit, the investigation is ongoing.

H. The ultimate hypocrisy of BRUNS, KIRCH, et al. BRUNS and KIRCH seem to think that threatening legal remedies for continuous abuse, libel, etc. qualifies FSS’s IP address to be blocked by AHBL (see Exhibits F and G). This form of retribution by the Defendants is incongruent with the right of all Americans to seek their legal remedies. All FSS did was alert the perpetrators of its intentions of seeking those remedies if the wrongs were not righted. FSS has followed through with its right to sue with the filing of this lawsuit. It was not a threat, but a legal right.

IV. Causes of Action.

The Defendants, and each of them, acted together in the above underlying scenario, to

cause damages to SCOVILLE. In this connection, BRUNS joined with KIRCH in a conspiracy to defame, disparage, harm, and libel FSS. Because of the joint nature of their course of conduct, and their acting in secret collusion with each other, the Defendants, and each of them, are jointly and severally liable for the damages caused by each of the causes of action set forth below. Plaintiff incorporates herein the allegations stated above for each Cause of Action below.

A. Tortious Interference With Contract.

As stated above, all of the ISPs which FSS had engaged in a contract over the past several years were threatened, harassed, and abused by Bruns and Kirch via emails, telephone calls, and/or correspondence through the postal mail. The eventual effect was the severing of the service provided FSS by these contractors and their decisions were attributed directly to the Defendants' combative actions.

B. Restraint Of Trade.

Bruns and Kirch, in concert, restricted the ability of FSS to engage in a fruitful and ongoing business plan due to the constant changing of ISPs and the time, aggravation, and cost to maintain an ongoing trade. As a result, both SCOVILLE and FSS have suffered irreparable business damages as set forth below.

C. Libel, Slander, Business Disparagement, and Defamation of Credit.

As stated above, the good name of FSS was constantly disparaged by Bruns and Kirch over the period stated above and caused the company great consternation, loss of respect, and loss of credit, the damages from which are outlined below. However, the named Defendants, and each of them, have as stated above acted individually and in concert and have conspired with each other to achieve the state of facts as outlined and stated above. As a result therefore, SCOVILLE's and FSS's personal and business credit have been, and continue to be, libeled, slandered and defamed, to his damages as set forth below, as of this filing.

D. Intentional Infliction Of Emotional Distress

As stated above, the constant badgering, harassment, abuse, and threats caused SCOVILLE severe emotional distress which affected his health and well-being. Bruns and Kirch are well known for this trait, MO (Modus Operandi) and their primary existence is one of harm. Damages for such are set forth below.

E. Fraud

As stated above, Bruns and Kirch contacted one or more of FSS's Internet Service Providers with an intentional perversion of the truth and/or false misrepresentations of a matter of

fact which induced the ISP's to cancel the service provided FSS.

F. Nuisance

1. The Defendants' actions, as alleged above, constitute a private and a public nuisance by threatening the right of the Plaintiff to enjoy the full use of his property and assets.
2. The Defendants' actions were unreasonable, and were committed intentionally or negligently in violation of a legal duty owed to the Plaintiff specifically and to the community at large, and caused the Plaintiff substantial harm, harm of a type that an ordinary person would regard as significant.

G. Nuisance Per Se

The Defendants' actions, as set forth above, constitute nuisance per se. In particular, the Defendants' actions in sending mass Internet mailings threatening the ISPs of Plaintiff is an action that is a nuisance at all times and under any circumstances. The Defendants' conduct is unreasonable as a matter of law, and is therefore a nuisance per se.

H. Trespass to Personal Property.

The Defendants' actions, as set forth above, constitute trespass. The Defendants' intentionally and knowingly hacking and changing the files of Plaintiff's server, through their use of electronic means, caused a substantial interference with the Plaintiffs' enjoyment and use of his personal property, which was a proximate cause of harm to Plaintiff.

I. Negligence

The Defendants' actions, as set forth above, constitute negligence. The Defendants owed a legal duty to inform all users/customers of their blacklists of the ongoing disputes with FSS and Defendants' deviation from the perceived realm of DNSBL listings. The Defendants owed a further legal duty not to deny Plaintiff of internet public access in any way strictly for subjective reasons causing a material misrepresentation to end users. The Defendants breached these duties and thereby proximately caused the Plaintiffs damages.

J. Temporary and Permanent Injunction.

1. Plaintiff asks that this Court, with or without further notice to Defendants, enter a temporary restraining order and, thereafter a temporary injunction pending final trial on the merits enjoining the Defendants from sending, posting, listing ,etc. on any of

their company “Blacklists” and further from sending any Internet electronic mail, other electronic communication incorporating or referring to SCOVILLE, the domain name(s) freespeechstore.com, thefreespeechstore.com, FreeSpeechStore™, FSS or its applicable Internet Protocol (IP) address(es) in any way, which may cause Plaintiff or Internet Contrasts, any of its suppliers, or any of its suppliers’ customers to have any curtailment, blocking, or interference of any kind of its commerce, emails, internet access, etc. Request is made that the restraining order prevent defendants from doing any and all of the following: (a) identifying any of Plaintiff’s Internet Domain Names, IP addresses, subnets, etc. and those of its suppliers, customers, both upstream and downstream, as abusers on any of Defendants’ blacklists, blocklists, or listings of any kind which restrict Internet commerce/access and are readily available to the public and/or any of the aforementioned parties affected by Defendants’ actions. (b) block Internet domain names, IP addresses, or mail boxes of any sender of any communication or E-mail affiliated with Plaintiff or Internet Contrasts, in any fashion, unless the owner of that domain or mailbox has given express written permission, (c) causing any person, entity, etc. affiliated with Plaintiff or Internet Contrasts not to communicate by e-mail or Internet communication unless granted such permission by those affected, (d) causing any interference with Plaintiff, its customers, Internet Contrasts and/or its customers and causing any harm of any nature arising out of Defendants’ actions both Individually and through their business ventures (e) causing undelivered e-mail by the utilization of the Defendant’s blacklists, blocklists, or listings of any kind (f) communicating with either directly or indirectly Plaintiff’s or Internet Contrasts or their customers, suppliers, acquaintances in any manner (g) threatening Plaintiff’s or Internet Contrasts’ suppliers with blacklisting for doing business with Plaintiff or Internet Contrasts, (h) contacting Plaintiff or Internet Contrasts to include posting in Usenet (Newsgroups) about Plaintiff or Internet Contrasts, unless permission is granted by Plaintiff, Internet Contrasts, and/or this Court, (i) causing Plaintiff or Internet Contrasts curtailment of Internet access in any manner due to Defendant’s actions unless granted by this Court, (j) or defaming Plaintiff or Internet Contrasts in any way and for any reason.

2. A temporary injunction is appropriate and necessary to preserve the status quo. Upon information and belief, the Defendants have continued and or will continue to cause the blocking of Plaintiff’s emails and will continue or will continue to cause the sending of threatening Internet mailings, telephone calls, or postal mail threats to Plaintiff’s suppliers if they continue to do business with FSS. Upon information and belief, the Defendants will continue to attempt to curtail Plaintiff’s right of Free Speech and free, unencumbered Internet access by “Blacklisting” them with their service.
3. The Plaintiff asks this court to enter, upon a final hearing, a permanent injunction enjoining Defendants from (1) sending any Internet electronic mail, other electronic communication, or communication of any kind threatening Plaintiff’s customers,

suppliers, or any FSS affiliates with "Blacklisting" or any other detrimental effects caused by Defendants' actions. (2) causing Plaintiff's name, domain name, and/or IP address(es), its suppliers' name, domain name and/or IP address(es), its customers' domain name, name and/or IP address(es), or anyone affiliated with Plaintiff to be "Blacklisted" due to Defendants' actions. (3) Barring Defendants' from posting, communicating, or conveying in any manner defamatory, disparaging, or libelous information about Plaintiffs or their customers, suppliers, and/or affiliates. (4) Barring contact by Defendant's to any of Plaintiff's suppliers, customers, suppliers' customers, or Plaintiffs' affiliates unless expressly granted by this Court.

V. Damages.

A. SCOVILLE's Actual damages:

- (i) For the loss of the "benefit of the bargain" to negotiate and conduct business in good faith, an amount not less than \$2,000,000.00
- (ii) For the continuing damages to his personal business credit an amount not less than \$1,000,000.00;
- (iii) For his emotional distress occasioned by the wrongful acts as set forth above, including the personal humiliation and embarrassment in the Usenet portion of the internet, an amount not less than \$500,000.00;
- (iv) For the costs incurred to constantly change ISPs and the escalating costs to maintain an ongoing business, an amount not less than \$25,000.00

For all of such damages stated, and as may be otherwise shown at trial, SCOVILLE hereby sues the Defendants, and each of them, jointly and severally.

B. FSS's Actual Damages.

For the destruction of the business and destruction of continuing business relationships and goodwill an amount not less than \$2,000,000.00. For such damages stated, and as may be otherwise shown at trial, FSS, by and through SCOVILLE, hereby sues the Defendants, and each of them, jointly and severally.

C. Exemplary and Punitive Damages.

The acts of the Defendants, and each of them, all as set forth above, have been taken intentionally, and with actual malice towards SCOVILLE and FSS and/or with such want of care as to evidence complete and utter disregard for the rights of SCOVILLE and FSS as to legally allow, and indeed mandate, that exemplary and punitive damages be awarded against such

Defendants, and each of them, jointly and severally, in an amount of not less than three (3) times actual damages awarded, in favor of SCOVILLE and FSS.

WHEREFORE, PREMISES CONSIDERED, the Plaintiffs pray that citations be issued and served upon the Defendants as set forth above, and that after service and appearance day, and upon a proper showing, the Plaintiffs have judgments over and against the Defendants, and each of them, jointly and severally, as set forth above, and for such other and further relief, both general and specific, in law or in equity, as may be shown to be justly entitled to such Plaintiffs. In addition, Plaintiff respectfully requests the Court to enter a Temporary Restraining Order and Temporary Injunction as requested above and, after final hearing enter a Permanent Injunction as requested above.

Respectfully submitted,



RICHARD M. SCOVILLE
P.O. Box 120442
San Antonio, Texas 78212
207-510-9474
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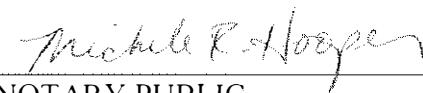
AFFIDAVIT

STATE OF TEXAS * *

COUNTY OF BEXAR * *

BEFORE ME, THE UNDERSIGNED AUTHORITY, on this date personally appeared RICHARD M. SCOVILLE, who having been duly sworn, subscribed his name above and then deposed and stated under oath that he has read the foregoing PLAINTIFFS' ORIGINAL PETITION AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY AND PERMANENT INJUNCTION, and each and every fact stated therein is to his personal knowledge true and correct.

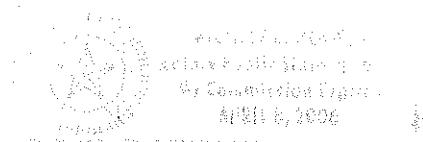
Signed and sworn to before me on this 13th day of December, 2005.



Michelle R. Hooper
NOTARY PUBLIC
STATE OF TEXAS

My commission expires:

4/8/06



11.

CERTIFICATE OF SERVICE

I hereby certify that I have forwarded a true and correct copy of the foregoing PLAINTIFFS' ORIGINAL PETITION AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY AND PERMANENT INJUNCTION, all to Defendants in accordance with the Texas Rules of Civil Procedure, on this ____ day of December, 2005.



RICHARD M. SCOVILLE