

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

2007 MAR -9 AM 10: 59

LORETTA G. WHYTE
CLERK

CHRIS YOUNT

CIVIL ACTION NO: _____

VERSUS

JUDGE:

07-1218

RESEARCH SPECIALISTS, INC.,
JOSEPH GENOVESE, and ABC
INSURANCE COMPANY

MAGISTRATE:

SECT. N MAG. 3

COMPLAINT

Comes Now Chris Yount, a person of the full age of majority, domiciled in the State of Louisiana, who brings this complaint on his own behalf, respectfully alleges as follows:

JURISDICTION AND VENUE

I.

This Honorable Court is vested with jurisdiction pursuant to 28 U.S.C. §1331, and 18 U.S.C. §2511, and 18 U.S.C. §2520. Jurisdiction of this Court is further invoked pursuant to 28 U.S.C. §1367, in its exercise of supplemental jurisdiction over Louisiana state law claims that are so related to claims in the action within the district court's original jurisdiction that they form a part of the same case or controversy under Article 3 of the United States Constitution.

II.

Venue is proper in this district in that a substantial part of the events or omissions giving rise to the claim occurred in the Parishes of Orleans, Jefferson and others, within and outside of the State of Louisiana.

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___ CtRmDep
___ Doc. No

PARTIES

III.

Made defendant herein is **RESEARCH SPECIALISTS, INC.**, a domestic corporation, authorized to do and doing business in the State of Louisiana, domiciled at 2637 Edenborn Avenue, Suite 201, Metairie, Louisiana 70002, which can be served through its registered agent J. Douglas Sunseri, at 3000 18th Street, Metairie, Louisiana 70002.

IV.

Made defendant herein is **JOSEPH GENOVESE**, a person of the full age of majority, domiciled in the State of Louisiana, and Director of Research Specialists, Inc., who can be served at his place of employment at 2637 Edenborn Avenue, Suite 201, Metairie, Louisiana 70002.

V.

Made defendant herein is **ABC INSURANCE COMPANY**, upon information and belief, an insurance company authorized to do and doing business within the State of Louisiana, which provided coverage to defendant Research Specialists, Inc.

FACTS

VI.

Plaintiff Chris Yount was employed by Research Specialists, Inc. from February 6, 2006 until April 1, 2006.

VII.

While employed with Research Specialists, Inc., Plaintiff Yount's duties were to engage in a practice commonly referred to as *pretexting*, which is the practice of obtaining personal information under false pretenses.

VIII.

While Plaintiff Chris Yount continued to work for Research Specialists, Inc. he learned that *pretexting* was illegal under the Gramm-Leach-Bliley Financial Modernization Act of 1999 and is an unfair and deceptive trade practice under 15 U.S.C. § 45 (a) of the Fair Trade Commission Act of 1914.

IX.

Plaintiff Chris Yount reported to his supervisor, Steve Major, his concern that *pretexting* was illegal, to which his supervisor responded that it was not and for him to continue to work.

X.

Plaintiff Chris Yount continued to investigate the legality of the *pretexting* he was being required to do by his employer, Research Specialists, Inc.

XI.

During this time, Joseph Genovese, the Director of Research Specialists, Inc., began intercepting Chris Yount's email from his personal email account, by using a keylogger, in violation of 18 U.S.C. §2511.

XII.

Some of the email Joseph Genovese intercepted from Chris Yount's personal email account were communications between Chris Yount and Louie Dabdoub, Department of

Homeland Security, Under Secretary for Preparedness and communications between Chris Yount and his attorney, all of which are confidential communications, protected by federal law.

XIII.

Not only did Joseph Genovese intercept Chris Yount's personal email communications, which alone is a violation of 18 U.S.C. §2511, Joseph Genovese also disclosed Chris Yount's personal emails to Joseph Genovese's attorney, which is also a violation of 18 U.S.C. §2511.

XIV.

Chris Yount has a civil action pursuant to 18 U.S.C. §2520 against defendants, for having his electronic communications intercepted and disclosed by Joseph Genovese.

XV.

When Joseph Genovese began intercepting Chris Yount's personal emails, he discovered that Chris Yount was inquiring about the legality of *pretexting*, and intending to disclose this workplace act in violation of the law.

XVI.

After discovering that Chris Yount would not go along with the illegal activity of *pretexting* and that Chris Yount intended to disclose this illegal activity, Joseph Genovese and/or Research Specialists, Inc. terminated Chris Yount's employment.

XVII.

Research Specialists, Inc. and/or Joseph Genovese unlawfully retaliated against Plaintiff, Chris Yount, for refusing to go along with the illegal activity of *pretexting* and for fear that Chris Yount would disclose this workplace act in violation of law, which is a violation of La. 23:967, Louisiana's Whistle Blower Statute.

XVIII.

At all times pertinent hereto, defendant, Joseph Genovese, was acting within the course and scope of his employment with Research Specialists, Inc. as Director of Research Specialists, Inc.

XIX.

At all times pertinent hereto, defendant, ABC Insurance Company, had in full force and effect a policy of insurance which provided coverage, protection and/or indemnity to either defendant, Research Specialists, Inc. and/or Joseph Genovese for the liability asserted herein by complainant and is therefore liable, *in solido*, with its insureds, for all amounts owed by either or both of them to complainant.

XX.

As a result of this unlawful retaliation Plaintiff Chris Yount was injured and suffered the following damages:

- (a) Past, present, and future compensatory damages for loss of employment in an amount reasonable in the premises;
- (b) Back pay;
- (c) Any and all benefits lost as a result of his wrongful termination;
- (d) Reasonable attorney's fees;
- (e) Court costs resulting from the reprisal; and
- (f) Any and all other damages as allowed by law and will be proven at the trial in this matter.

XXI.

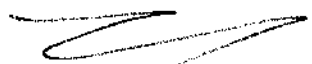
As a result of Plaintiff Chris Yount's email being unlawfully intercepted and distributed, he was injured and suffered the following damages:

- a) Any and all damages allowed under 18 U.S.C. §2520 ©;
- b) Punitive damages;
- c) Invasion of privacy;
- d) Reasonable attorney's fees and other litigation costs reasonably incurred; and
- e) Any and all other damages as allowed by law and will be proven at the trial.

WHEREFORE, complainant, prays that after due proceedings are had, that there be judgment rendered herein in favor of Complainant Chris Yount and against defendants, Research Specialists, Inc., Joseph Genovese, and ABC Insurance Company, awarding proper damages, expenses, attorney fees, and punitive damages, with interest thereon as allowed by law, with all other general and equitable relief.

Respectfully submitted:

L. CLAYTON BURGESS, A.P.L.C.
605 West Congress Street
Post Office Drawer 5250
Lafayette, Louisiana 70502-5250
Telephone: (337) 234-7573
Facsimile: (337) 233-3890



L. CLAYTON BURGESS (22979)
LAUREN K. LEDET (30595)
Attorneys for Complainant

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

07-1218
 SECT. N MAG. 3

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
 Chris Yount

(b) County of Residence of First Listed Plaintiff Jefferson
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) L. Clayton Burgess
605 West Congress St.
Metairie, LA 70002 (337) 234-7573

DEFENDANTS Research Services, Inc.
Joseph Genovese
ABC Insurance Company Jefferson

County of Residence of First Listed Defendant
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known) J. Douglas Sunseri
3000 18th St.
Metairie, LA 70002

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

Citizen of This State 1 Plaintiff 1 Defendant

Citizen of Another State 2 Plaintiff 2 Defendant

Citizen or Subject of a Foreign Country 3 Plaintiff 3 Defendant

Incorporated or Principal Place of Business In This State 4 Plaintiff 4 Defendant

Incorporated and Principal Place of Business In Another State 5 Plaintiff 5 Defendant

Foreign Nation 6 Plaintiff 6 Defendant

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
18 U.S.C. § 2511

Brief description of cause:
INTERCEPTION OF ELECTRONIC COMMUNICATIONS

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ OVER \$ 75K

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE 9 MARCH 2007 SIGNATURE OF ATTORNEY OF RECORD L. Clayton Burgess by DANIEL G. ADEL (#8348)

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____