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07-CV-00920-CMP

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN HENRY BROWNE and ALAN J.
WENOKUR, individually and on behalf of
others similarly situated,

Plaintiffs,

v.

AVVO, INC., MARK BRITTON and JOHN
DOES 1-25,

Defendants.

CV7 920^L
CLASS ACTION COMPLAINT

Plaintiffs John Henry Browne and Alan J. Wenokur ("Plaintiffs"), by and through their attorneys, on behalf of themselves and all others similarly situated, bring this Class Action Complaint against Avvo, Inc. ("Avvo"), Mark Britton and John Does 1-25 and allege, based upon personal knowledge as to themselves and their own acts, and as to all other matters upon information and belief, as follows:

COMPLAINT - 1
Case No.

001977-11 178070 V1

ORIGINAL



HAGENS BERMAN
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1 I. NATURE OF THE ACTION

2 1. Avvo operates an internet-based business that rates and refers lawyers. In
3 essence, Avvo purports to rate and profile lawyers and then publishes the results on its website,
4 www.avvo.com. Avvo refers to its lawyer ratings as the "Avvo Rating."

5 2. The website targets consumers seeking lawyers, and it states that it was
6 "developed ... for non-experts" with assistance from "thousands of consumers." The stated
7 purpose of the site and the Avvo Rating is to help consumers "find the right lawyer" and "make
8 the murky process of comparing lawyers clearer." Lawyers featured on the site do not pay to be
9 included; in fact, Avvo gives lawyers featured no choice and will not delete a lawyer or an Avvo
10 Rating from the website even if asked. Avvo purports to profile "every licensed attorney in
11 every state we cover." Avvo's CEO, Mark Britton, has written that the company's "challenge" is
12 to "bring[] together information for over 650,000 attorneys in one easily searchable place." The
13 site debuted on June 5, 2007. One week later, hundreds of thousands of lawyers in ten states
14 were featured on the site.

15 3. The Avvo Rating is based on a 10 point scale - with a rating of 9.0 to 10.0
16 "Superb" or the top of the scale and a rating of 1.0 to 1.9 as "Extreme Caution." The scale is set
17 as follows:

- 18 • 9.0 to 10.0 Superb
- 19 • 8.0 to 8.9 Excellent
- 20 • 7.0 to 7.9 Very good
- 21 • 6.0 to 6.9 Good
- 22 • 5.0 to 5.9 Average
- 23 • 4.0 to 4.9 Concern
- 24 • 3.0 to 3.9 Caution
- 25 • 2.0 to 2.9 Strong caution
- 26 • 1.0 to 1.9 Extreme caution



1 4. Lawyers are rated in up to three categories: (i) Experience; (ii) Industry
2 Recognition; and (iii) Professional Conduct. Originally the Industry Recognition category was
3 published as "Trustworthiness," insinuating that lawyers who scored low in this category were
4 not trustworthy. Trustworthiness has since been removed as one of the categories. Even now,
5 Avvo inconsistently uses its three categories. Some lawyers are ranked in only two categories.
6 Others are ranked in all three.

7 5. The Avvo website characterizes the Avvo Rating as "unbiased" and showing "no
8 favoritism." According to the website, "[t]he Avvo Rating is our assessment of how well a
9 lawyer could handle your legal issue." The rating system is purportedly based on "many factors,
10 including experience, professional achievements, and disciplinary sanctions." Purportedly, Avvo
11 use a proprietary "mathematical model" to calculate the ratings.

12 6. Avvo does not disclose the basis of its ratings – either the precise factors used or
13 the weight given to those factors. Other than a vague description that it has collected data from
14 "multiple sources, including public records (such as the state bar associations, regulatory
15 agencies, and court records), published sources on the Internet (including lawyers' websites), and
16 information lawyers supply to Avvo," Avvo does not reveal the source of its information. This
17 secrecy is necessary, according to Avvo, "primarily because we don't want anyone to try to
18 game the Avvo Rating system."

19 7. In reality, Avvo has built the ability "to game the Avvo Rating system" into the
20 system itself. In addition to the ratings assigned by Avvo based on its proprietary program,
21 lawyers and others can manipulate the Avvo Rating for themselves or other lawyers. This can be
22 done in two or more ways. By self-reporting additional biographical information or having
23 colleagues, clients, family and friends provide endorsements, a lawyer can boost his or her rating
24 and thus, by Avvo standards, instantaneously become a better lawyer. Avvo calls this "claiming
25 your profile." Simply providing biographical information on schools attended or articles written
26 or awards received may immediately boost a lawyer's profile. In addition, lawyers can



1 manipulate their Avvo rating by writing their own biographies or by encouraging their
2 associates, clicnts, families and friends to submit "endorsements" of their legal abilities. In
3 several instances reported in the media, lawyers who did so were immediately rewarded for self-
4 reporting biographical information by having their ratings boosted to a "10", the highest rating.
5 The end result is a system that has the capacity to deceive consumers as to the objectivity and
6 reliability of a rating. *Indeed, one lawyer raised his rating by adding an award given to him in*
7 *an athletic game – the Underdog Sports League. That raised his rating by .3 points. He raised*
8 *it another .3 points by adding another softball award.* A rating system that reacts to such
9 awards and can become the basis for consumer choicc as to which lawyer to choose is a site that
10 has the capacity to deceive and harm consumers.

11 8. Avvo does not do anything to verify the information it gathers. Avvo does not
12 provide consumers with any information from which they could determine how a lawyer's Avvo
13 Rating was calculated – *i.e.*, the sources of the information. A consumer could not determine
14 whether the score has been calculated based on self-reported information, stale information or
15 other inaccurate information.

16 9. Lawyers who ignore the low to average Avvo Rating Avvo assigns to lawyers
17 who have not "claimed" their profile, do so at their peril and risk damage to their professional
18 reputation among consumers. To overcome this risk, such lawyers must play by Avvo's rules
19 and provide additional information on the site. If they agree to play by Avvo's rules and fill in
20 the blanks in Avvo's databasc, the lawyers will be rewarded by an instantancous improvement in
21 their ratings for the public to see. If they do not play by Avvo's rules, they will be penalized by
22 a lower rating – also for the public to see. With this negative incentive, Avvo develops more
23 information on lawyers with no expense or effort on its behalf, yet does not produce a rating that
24 is reliable.

25 10. In reality, the Avvo Ratings are capricious and arbitrary, susceptible to
26 manipulation by a number of sources that are neither objective nor mathematical nor indicative



1 of a lawyer's professional competence. Avvo's fallible system for rating and promoting
2 attorneys has produced wild discrepancies in ratings rather than the reliable consumer
3 benchmarks for making decisions about legal representation that Avvo claims. For example, the
4 Dean of Stanford Law School, Larry Kramer (Avvo Rating 5.7 or "Average"), is rated lower
5 than Lynne Stewart, a disbarred New York lawyer who was convicted of conspiracy and
6 providing material support to terrorists, who received a 6.5 or "very good" rating. The Avvo
7 founder and CEO, Mark Britton, who has been a member of the Washington State Bar for just
8 nine years received an 8 or "Excellent Rating," higher than the Dean Kramer.

9 11. Avvo proclaims it is unbiased but those with ties to Avvo receive perfect scores.
10 Stanford ethics professor and member of the Avvo board of directors, Deborah Rhode, is rated
11 higher than the Stanford dean – she scored a "10.0 Superb" rating. A Seattle lawyer, David
12 Collins Clarke, who assisted Avvo in raising private capital, is rated "9.3 - Superb," better than
13 almost any other lawyer in the system, even though he has not claimed his profile. He is,
14 however, endorsed by one other lawyer: the Avvo CEO and founder, Mark Britton, who does
15 not identify his relationship in the endorsement and instead records for his endorsement that he
16 once "supervised" Mr. Clarke. By contrast, William Neukom, former general counsel of
17 Microsoft and president-elect of the American Bar Association, and by all accounts one of
18 Seattle's finest lawyers, is rated in two different profiles with a 7.4 ("Very Good") and a 8.9
19 ("Excellent"), but still less than Avvo's CEO, Mark Britton, who has scant experience compared
20 to Mr. Neukom.

21 12. Avvo is indifferent to the gross discrepancies between actual professional
22 competence and community reputation and the Avvo Ratings. "We find the rating system to be
23 working as designed," Avvo CEO and founder Mark Britton has been quoted as saying
24 repeatedly to the media since the site's June 5, 2007 debut.

25 13. In fact, the Avvo rating and referral system is little more than a legal popularity
26 contest. Contrary to Avvo representations that the ratings are based on an objective



1 mathematical model, the proprietary system is arbitrary and subject to manipulation. Avvo
2 builds up consumer trust with assurances regarding the integrity of the rating system and its use
3 as an “assessment” of a lawyer’s competence to handle the consumer’s legal issue. In truth,
4 however, the widely inconsistent ratings on the site do not provide a reliable source of lawyer
5 rating and referral for consumers seeking legal counsel. But the consumers have no way of
6 assessing the discrepancies.

7 14. Avvo’s conduct in publishing low ratings for lawyers has also damaged the
8 reputation and good will of their legal practices. Lawyers with low ratings have suffered damage
9 when consumers, who do not have the ability to evaluate the quality or reliability of the
10 information on the Avvo website, see lower ratings for certain lawyers and forego retaining
11 them. In some instances, the publication of a low rating for a lawyer, including Plaintiff Browne,
12 has resulted in a consumer terminating his or her existing relationship with a lawyer.

13 15. Avvo tells consumers that its ratings are based on its “deep knowledge” yet it fails
14 to accurately reflect experience, bar disciplinary proceedings and meaningful benchmarks of
15 performance. Its representations thus can and will lure in unsuspecting consumers who will then
16 make important life decisions based on highly inaccurate information.

17 16. By reporting arbitrary and capricious scores and promoting them to consumers as
18 mathematical calculations and a reliable assessment of a lawyer’s competence to handle legal
19 matters, Avvo has engaged in, and continues to engage in, unfair and deceptive acts and practices
20 in violation of RCW Chapter 19.86.

21 II. JURISDICTION AND VENUE

22 17. This Court has subject matter jurisdiction over the Plaintiffs’ claims pursuant to
23 the Class Action Fairness Act of 2005, 18 U.S.C. § 1332(d)(2)(A). Class members include
24 persons across the United States, many of whom reside outside the State of Washington.
25 Defendant Avvo is a Washington corporation. Upon information and belief, the other defendants
26



1 also reside in the State of Washington. Plaintiffs and Class members seek relief exceeding
2 \$5,000,000.

3 18. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(a)(1), (a)(2) and (c).
4 Many of the acts and transactions giving rise to the violations of law complained of herein
5 occurred in this District. Plaintiffs Browne and Wenokur have suffered harm in this District and
6 much of Defendants activities and operations have been performed in this District.

7 19. Defendant Avvo resides in this District, maintaining its corporate headquarters in
8 Seattle, WA.

9 III. THE PARTIES

10 20. At all times relevant herein, Plaintiff John Henry Browne was a resident of
11 Seattle, Washington. He is and has been a member in good standing of the Washington State
12 Bar Association since 1972. During that time, most of his practice has been devoted to criminal
13 defense. Many of his cases have been high profile, conducted in the public eye. In addition,
14 Plaintiff has been honored nationally in "The Best Lawyers in America" each consecutive year
15 from 2002 to 2006, and he has been recognized as one of the state's "Super Lawyers" numerous
16 times by *Washington Law & Politics* magazine. Mr. Browne has taught at the University of
17 Washington School of Law. Mr. Browne has received Martindale-Hubbell's highest ratings for
18 lawyers, based on a survey of lawyers.

19 21. When the Avvo site debuted on June 5, 2007, Avvo assigned Mr. Browne an
20 Avvo Rating of 3.7 points on a 10 point scale. The 3.7 score falls into the "Caution" category.
21 Plaintiff Browne contacted Avvo in writing and asked Avvo to remove his name from its
22 website. Avvo did not. Mr. Browne's experience rating is 4 out of 5. Yet the Avvo site states
23 he has practiced 35 years and he is without question among the most experienced criminal trial
24 lawyers in the state.

25 22. Just one week later – presumably after Mr. Browne sent Avvo a letter threatening
26 legal action and one lawyer endorsed Plaintiff Browne with no more than the words: "I endorse



1 this lawyer's work," Mr. Browne's Avvo Rating increased from 3.7 to 5.2 or "Average."
2 Nothing else on Mr. Browne's profile had changed.

3 23. Mr. Britton claims the 5.2 is justified by a disciplinary proceeding. Yet no
4 objective rating system could find Mr. Browne "Average." No expert, lawyer or judge in the
5 legal community would rate Mr. Browne "Average" even if they quarreled with his "Professional
6 Conduct." Yet a consumer looking at Avvo would deem Mr. Browne average and less
7 experienced than other criminal defense lawyers with higher experience ratings that are not in
8 fact more experienced.

9 24. As a direct result of Avvo's poor ratings of Plaintiff Browne, two of Plaintiff
10 Browne's clients terminated his representation of them and sought new counsel.

11 25. At all times relevant herein, Plaintiff Alan J. Wenokur was a resident of Seattle,
12 Washington. He is and has been a member in good standing of the Washington State Bar
13 Association since 1983. During most of that time, the majority of his practice has been devoted
14 to representing bankruptcy trustees, creditors and debtors in bankruptcy proceedings. Mr.
15 Wenokur has successfully prosecuted bankruptcy appeals in the Ninth Circuit and in the
16 Washington Supreme Court and has spoken at bankruptcy seminars. Mr. Wenokur holds an AV
17 rating from Martindale Hubbell. Mr. Wenokur is a solo practitioner whose practice depends on
18 referrals from former clients and other lawyers.

19 26. Defendants initially published a 6.5 or "Good" rating for Mr. Wenokur.
20 Mr. Wenokur has declined to provide credit card information to "claim" his profile, as a result
21 Mr. Wenokur's Avvo Rating remains at "Good." Mr. Wenokur's experience rating is 3 out of 5.
22 Yet the Avvo site states he has practiced 24 years and it is unquestioned that he is a sought-after
23 bankruptcy lawyer.

24 27. Mr. Wenokur asked Avvo to include his Martindale Hubbell AV rating in his
25 profile. Avvo refused to do so unless Mr. Wenokur "claimed" his profile.
26



1 upon the quality of their own legal competency, Avvo evidently does not feel constrained by the
2 same ethical rules.

3 35. The State of Washington expressly prohibits lawyers from suggesting that a
4 lawyer may have the competency to achieve great results for clients in other matters simply
5 because he or she has a record of prior achievement:

6 An advertisement that truthfully reports a lawyer's achievements
7 on behalf of clients or former clients may be misleading if
8 presented so as to lead a reasonable person to form an unjustified
9 expectation that the same results could be obtained for other clients
10 in similar matters without reference to the specific factual and legal
11 circumstances of each client's case.

12 Wash. R.P.C. 7.1(3). Avvo nevertheless tells each consumer that a given lawyer with a high
13 score "could handle your legal issue" without any reference to the specific circumstances of the
14 client's case. Avvo makes this endorsement without seeking or gathering information about the
15 client's factual, legal, or other circumstances. Avvo does so at the direction of Britton who as a
16 lawyer is bound by R.P.C. 7.1(3) and by operation of the site is directly or indirectly behind the
17 violation of R.P.C. 7.1(3).

18 36. Avvo and Britton deliberately omit information from its lawyer profiles, asking
19 lawyers and their colleagues to provide the information instead. Such omissions render the
20 lawyer profiles and ratings misleading and run contrary to the spirit of the ethical rules governing
21 the Washington State Bar Association requiring full disclosure of a reasonable factual
22 foundation:

23 Truthful statements that are misleading are also prohibited by this
24 Rule. A truthful statement is misleading if it omits a fact necessary
25 to make the lawyer's communication considered as a whole not
26 materially misleading. A truthful statement is also misleading if
there is a substantial likelihood that it will lead a reasonable person
to formulate a specific conclusion about the lawyer or the lawyer's
services for which there is no reasonable factual foundation.

Wash. R.P.C. 7.1(2). Britton has participated and directed this breach of the R.P.C.



1 37. To rate lawyers, Avvo has developed a secret rating system. Avvo purportedly
2 assigns the initial Avvo Rating using this system. The system is reportedly “based on data we
3 have collected about hundreds of thousands of lawyers – including their number of years in
4 practice, disciplinary sanctions, and professional achievements.” According the site, the “data”
5 comes from multiple sources, including state bar associations, court records, lawyer website, and
6 information lawyers provide to Avvo. Avvo admits that it does not search criminal records.

7 38. Avvo does not disclose its method of calculating ratings, or the weight given
8 various factors. Avvo also does not disclose the age or source of the information upon which the
9 assigned rating is based. Officially, Avvo maintains that the published ratings are based on a
10 “mathematical model.”

11 39. Unofficially, in written communications with lawyers who have complained about
12 their ratings, Avvo Customer Care has acknowledged the fallibility of those ratings and the role
13 discretion plays in setting them. “The Avvo rating is based on the publicly available information
14 we could obtain about you; it reflects Avvo’s *judgment* based on the available information. We
15 recognize that there could be additional information, not available publicly, which is relevant to
16 your Avvo Rating.”

17 40. In addition to the rating assigned by Avvo, lawyers can manipulate their own
18 ratings. This can be done by “claiming [their] profile” and submitting additional biographical
19 information. In some instances, lawyers have reported that in the five minutes it took to “claim
20 [their] profile” and update the information, their Avvo rating increased by a point or more – even
21 though nothing about their professional standing had changed.

22 41. Lawyers can also boost their own or other lawyers’ Avvo Ratings by providing or
23 soliciting attorney endorsements or client testimonials. Theoretically, family, friend and
24 neighbor endorsements can similarly be used to enhance a lawyer’s rating.

25 42. As a result of these practices, attorneys with significantly less experience and
26 abilities who are willing to register with Avvo can appear to be more competent and highly rated



1 than highly experienced lawyers who do not participate. Avvo gives consumers no way to
2 distinguish among the ratings based on this information.

3 43. When a consumer goes to the site to seek a lawyer, he or she can search by name
4 or practice area or other coordinate. The search will produce names, ratings and profiles of
5 individual lawyers. There is no way for the consumer to determine how the score was
6 calculated, or to weigh the various sources of information.

7 44. In addition to failing to disclose or explain the factors used for a particular
8 lawyer's rating or the source of the information, Avvo also makes no disclosure or explanation
9 for low scores. For instance, Avvo does not disclose anywhere that a low rating can be the result
10 of Avvo's lack of information regarding a lawyer rather than a lawyer's relative competence.
11 Instead, Avvo willfully leads consumers to believe that lower scores for lawyers are objective,
12 mathematically-derived scores that are based on poor lawyering.

13 45. Since the website's launch, lawyers have lodged the following complaints about
14 the Avvo Rating system and its consequences. The list is not exclusive:

- 15 • Avvo has relied on out-of-date data in calculating the ratings;
- 16 • The Avvo Rating system's Experience rating is unduly
17 prejudicial to younger, competent lawyers by assigning them a
18 lower rating based on the number of years admitted despite the
19 fact that experience is not only based on length of time
20 admitted to the bar. For example, a criminal defense lawyer in
21 five years could try a multitude of cases and be at the top of his
22 field. His or her experience however would be trumped by a
23 lawyer who practiced longer but with less trial frequency.
- 24 • The Avvo Rating system does not give "credit" for experience
25 in states Avvo does not cover. For example, a lawyer who has
26 been a member of the bar of Washington (a covered state) for
nine years and the Alaska bar (an uncovered state) for 30, will
be rated according to his nine years of experience in
Washington only.
- Lawyers who are admitted to the bar, but have never practiced,
are rated higher than lawyers who have practiced.



1 46. There are numerous examples of the capricious and arbitrary nature of the Avvo
2 Ratings found on the site as well as its bias:

3 (a) Avvo founder and CEO Mark Britton, has an Avvo Rating of 8.0, higher
4 than dozens of obvious more capable and experienced lawyers. Indeed, Mr. Britton used to work
5 at Preston Gates & Ellis LLP. His rating is higher than that of William Neukom. Mr. Neukom
6 has more experience, was the General Counsel to Microsoft, the President of Preston Gates, the
7 upcoming President of the America Bar Association and by all measures one of Seattle's finest
8 lawyers. He is rated 8.9 in one profile and 7.4 in another. An unbiased and reliable system
9 would not result in such a rating for Mr. Neukom or for Britton.

10 (b) Stewart Macmillan Landefeld of Seattle is a Seattle lawyer with an Avvo
11 rating of 10.0 or "Superb." But Mr. Landefeld is endorsed by exactly one lawyer: Mark Britton,
12 who is described on the site in connection with this rating as having "supervised lawyer." There
13 is no disclosure of the bias in this rating: Landefeld and/or his firm do legal work for Avvo.
14 And, Britton does not disclose that he is Avvo's CEO.

15 (c) Supreme Court Justices Ruth Bader Ginsburg and Samuel Alito each
16 received just three out of five stars for "trustworthiness" when the site debuted. Avvo assigns
17 each its 6.5 or "Good" rating. This is the same rating Avvo assigns to lawyer Lynne Stewart,
18 currently in prison for conspiracy and providing material support to terrorists. Even Avvo has
19 had to admit, through its CEO, that Justice Ginsburg's rating is "a bit less efficient."

20 (d) One Seattle lawyer enjoys a 6.2 or "Good" Avvo Rating. The lawyer's
21 profile indicates that Avvo can locate no disciplinary proceedings against the lawyer. On the
22 Avvo Experience scale, the lawyer earns 3 out of 5 for the 14 years since he has been admitted to
23 the Washington State Bar Association. The experience screen reports that the lawyer has had
24 one suspension. Avvo describes a suspension as "Suspended means a lawyer temporarily may
25 not practice law for disciplinary reasons." A simple Internet search reveals that in fact the
26



1 lawyer has been *disbarred*. Avvo's rating system does not accurately report or capture
2 information within the categories it purportedly reports on.

3 (e) The disbarred Seattle lawyer's rating is higher than that of the Avvo
4 Rating for Larry Bruce Kramer (5.7 or "Average"), the current dean of the Stanford Law School.
5 Stanford University's describes the dean as "one of the leading legal scholars in the country, and
6 reports that he graduated *magna cum laude, honors* from Brown University in 1980 and *magna*
7 *cum laude* from the University of Chicago Law School in 1984."

8 (f) A lawyer sentenced in May 2005 to 15 years in prison for tax evasion
9 received a rating comparable to the dean's: 5.8 or "Average". Avvo also reports "We have not
10 found any disciplinary sanctions for this lawyer."

11 (g) A Bremerton, Washington lawyer has a rating of 6.6, or "Good." Avvo
12 reports that the lawyer has practiced for just 9 years. In fact, the lawyer has practiced for almost
13 30 years, and sat as both a state court judge and chief law enforcement officer for a large
14 geographical area in Alaska, a state Avvo does not cover. Avvo told the lawyer that it cannot
15 access the Alaska records that would support a higher rating. Thus, the lawyer appears as a
16 much less experienced lawyer than he actually is.

17 (h) A Bellevue lawyer, Enrico Salvatore Leo, single-handedly increased his
18 Avvo Rating by 0.3 points simply by adding on his Avvo profile a Player of the Game award that
19 was given to him in 2006 for his athletic skill in playing extracurricular softball for the Underdog
20 Sports League. It clearly has nothing to do with legal competence. Mr. Leo practices in the field
21 of DUIs – not sports law. Subsequently, Mr. Leo inserted additional information to reflect his
22 receipt of the Player of the Year Award in another year, 2005. This award raised his Avvo
23 Rating by an additional 0.3 points. Mr. Leo subsequently removed both "achievements" and his
24 score dropped by 0.6 points. Mr. Leo's example demonstrates that the Avvo Rating system is
25 wholly subjective and permits lawyers to manipulate their ratings with irrelevant information that
26 has nothing to do with the practice of law.



1 47. Avvo provides two profiles for David F. Taylor. One profile rates him as a "10",
2 lists him as 5 out of 5 on experience, 5 on industry recognition, 5 out of 5 on professional
3 conduct, and states that he has been licensed in Washington for 11 years. A second profile for
4 the same lawyer rates him a "6.4", lists him as 3 out of 5 on experience but omits any rating on
5 industry recognition and states that he has been licensed in California for 20 years. Mr. Taylor
6 has limited trial experience. Plaintiff Browne, on the other hand, had a rating of 5.2 on
7 experience, yet he has practiced for 35 years and tried dozens of high profile cases.

8 48. Both Mr. Landefeld and Mr. Taylor work at Perkins Coie LLP, counsel to Avvo.
9 Messrs. Landefeld and Taylor are both listed on the Perkins Coie website as partners, and they
10 are similarly listed on the Washington State Bar Association website as belonging to Perkins
11 Coie. By contrast, lawyer Deborah N has a rating of 6.4, yet she is Harvard/NYU educated and
12 is one of the 15 or so lawyers approved by the Washington Supreme Court to handle death
13 penalty appeals. She received just a 3 out of 5 on experience despite a vast amount of experience
14 in 18 years of practice.

15 49. Another Seattle lawyer notes: "My 6.5 rating claims that my practice is
16 'unknown.' Yet their page has a link to my website, which describes my practice, so they did
17 not read it. So much for my rating being 'based on publicly available information.' I wonder
18 what would happen to my rating if I updated information taken directly from my website? I
19 know that a zillion lawyers are similarly ranked with 'unknown' practices even though their
20 practices are very well known in the legal community. The twist that applies to me is that there
21 is another lawyer named Michael Gendler, in Beverly Hills, California, with same rating and
22 same "unknown" law practice. It happens that he is a prominent entertainment lawyer (I do not
23 know him, have no idea if we are related), yet the only differences between me and him in Avvo
24 are location and middle initial. If Avvo can't even help the poor consumer distinguish one
25 Michael Gendler lawyer from another, they are a sorry excuse for a consumer resource."
26



1 50. Due to the foregoing inaccuracies there is no way a consumer could piece through
2 these inaccuracies to use this information in a reliable fashion.

3 51. A lawyer's Avvo Rating is more than a professional vanity. Refusing to play the
4 Avvo game can have disastrous consequences for a lawyer's rating. Avvo urges lawyers to play
5 by Avvo's rules by providing updated biographical detail or submitting a profile. Both of these
6 acts require a credit card. If a lawyer refuses to participate in Avvo's on-line scheme by
7 submitting additional information, he or she will be punished with a mediocre or poor rating that
8 Avvo promotes as an "unbiased" "mathematical calculation" reflecting no "favoritism" that is a
9 reliable "assessment of how well [the] lawyer can handle [the consumer's] legal issue."

10 52. The factors Avvo discloses to consumers as going into the calculation of the Avvo
11 Rating are also misleading. For instance, Avvo admits that it uses experience – or the number of
12 years admitted to practice: "The Avvo Rating takes into account many factors, including
13 experience, professional achievements, and disciplinary sanctions."

14 53. Avvo does not tell consumers, however, that many of the "professional
15 achievements" are those listed by the lawyers on whose profile they appear. In other words, a
16 lawyer can list his or her own achievements, however minor or insignificant to actual legal
17 practice, and those achievements will enhance the lawyer's rating.

18 54. Avvo claims that its rating system is "unbiased", explaining in full: "Because
19 scores are calculated using a mathematical model, all lawyers are judged by the same standards.
20 The Avvo Rating takes into account many factors, including experience, professional
21 achievements, and disciplinary sanctions."

22 55. Despite the extraordinarily high scores awarded to Avvo board of directors
23 member Deborah Rhode and CEO Mark Britton and others associated with Avvo, Avvo claims
24 that it does not pick favorites:

25 **There's no favoritism.** Here at Avvo, all lawyers are treated
26 equally. They can't pay to change their scores, and we don't play
 favorites to lawyers we know. It's just the facts, so to speak.



1 It is unknown how many lawsuits Prof. Rhode has filed or defended on behalf of clients in the
2 past ten years or whether she even maintains an active law practice. Yet, she garners a perfect
3 "10" while serving on Avvo's board even though her own supervisor, Dean Kramer, earns a
4 mediocre "5.7" or "Average."

5 56. The Avvo Rating system is subject to abuse. Any person willing to provide credit
6 card information can access the site and provide a positive or negative evaluation of another
7 lawyer. Avvo does nothing on its own to check the accuracy of information entered by lawyers
8 or their colleagues. Instead, Avvo relies on an unreliable system in which it asks the general
9 public, "[i]f you see information on any attorney profile that you know to be incorrect, please let
10 us know and we will investigate." Avvo's vague promise to "investigate" does not compensate
11 for a system that is flawed from the start and contains no inherent mechanism for checking the
12 accuracy of information.

13 57. As a result of Avvo's rating system, thousands of lawyers have suffered damage
14 to their professional reputations by Avvo's publication of their capricious and arbitrary ratings to
15 consumers via the Internet. That damage cannot be undone.

16 V. CLASS ACTION ALLEGATIONS

17 58. Pursuant to Fed. R. Civ. P. 23(b)(2) and (b)(3), Plaintiffs bring this class action on
18 behalf of themselves and all members of the following class (the "Class"):

19 All persons who are licensed to practice law in the United States
20 and who are listed on the Avvo site and given a numerical rating.

21 59. Excluded from the Class are employees, officers, directors, legal representatives,
22 heirs, successors and assignees of Avvo.

23 60. Plaintiffs believe the Class includes thousands of lawyers throughout the United
24 States, but the precise number and identities of the Class members are currently unknown.
25 Avvo's CEO and President, Mark Britton, has written that Avvo seeks to gather and rate "over
26 650,000 attorneys in one easily searchable place."



1 61. Common questions of law and fact exist as to all members of the Class and
2 predominate over any questions affecting solely individual members of the Class. Nearly all
3 factual, legal, and statutory relief issues raised in the Complaint are common to each of the
4 members of the Class and will apply uniformly to every member of the Class. Among the
5 questions of law and fact common to Class members are:

- 6 • Whether the Avvo Rating is calculated using a “mathematical
7 model” that applies uniformly to all Plaintiffs and Class
8 members;
- 9 • Whether the “mathematical model,” if any, used by Avvo relies
10 upon subjective and/or objective criteria;
- 11 • Whether the criteria used by Avvo to calculate ratings may be
12 subject to independent verification;
- 13 • Whether the Avvo Rating is unfair and/or deceptive;
- 14 • Whether Avvo’s conduct amounts to a violation of the
15 Washington Consumer Protection Act, RCW Chapter
16 19.86.010 *et seq.*;
- 17 • Whether Avvo’s conduct is a violation of common law
18 negligent misrepresentation in the State of Washington;
- 19 • Whether Plaintiffs and Class members have sustained
20 damages;
- 21 • Whether damages to Plaintiffs and Class members are likely to
22 continue absent injunctive relief;
- 23 • Whether permanent injunctive relief should be issued as a
24 result of Avvo’s unlawful conduct; and
- 25 • Whether, and in what amount, Plaintiffs and the other Class
26 members are entitled to recover court costs and attorneys’ fees.

62. Plaintiffs’ claims are typical of the claims of other members of the Class because
Plaintiffs and every member of the Class have suffered similar injuries as a result of the same
unfair or deceptive acts or practices alleged herein. Plaintiffs have no interests adverse to the
interests of the other members of the Class.



1 where applicable, natural persons, corporations, trusts, unincorporated associations, and
2 partnerships”).

3 69. The Washington Consumer Protection Act provides as follows:

4 Unfair methods of competition and unfair or deceptive acts or
5 practices in the conduct of commerce are hereby declared
6 unlawful.

7 RCW 19.86.020. Plaintiffs and Class members are entitled to sue “to enjoin further violations, to
8 recover the actual damages sustained by him or her, or both.” RCW 19.86.090.

9 70. By the use of the Avvo Rating and the promotion of the Avvo Rating to
10 consumers as an objective and “unbiased” method to “find the right lawyer,” Avvo has engaged
11 in unfair and deceptive conduct. The Avvo rating system is not objective, is not reliable, is not
12 unbiased. As a result, Avvo has the capacity to deceive consumers and other lawyers.

13 71. In particular, the Avvo rating systems is unfair or deceptive in that:

- 14 (a) It purports to be objective when it is not, and is subject to manipulation;
- 15 (b) It cannot produce a reliable rating system due to the over breadth and
16 vagueness of its categories, as one example: experience by years alone
17 does not equate to skill;
- 18 (c) Contains inherent inconsistencies among categories;
- 19 (d) The inequality between high ratings of average lawyers versus obviously
20 talented and “superb” lawyers shows the unreliability and deceptive nature
21 of the system;
- 22 (e) Publicly penalizes lawyers who will not register and provide biographical
23 data;
- 24 (f) Purports to be “unbiased” when it is not;
- 25 (g) Purports to be free of “favoritism” which it is not;
- 26 (h) Does not provide a reliable benchmark for assessing lawyer competence,
despite Avvo representations to the contrary;



- 1 (i) Encourages consumer trust in a fallible system;
- 2 (j) Does not discriminate between low or mediocre ratings based on no
- 3 information and low or mediocre ratings based on performance;
- 4 (k) Allows manipulation by allowing lawyers to provide biographical
- 5 information that immediately boosts rating even if that information has no
- 6 bearing on the performance of a lawyer;
- 7 (l) Promotes the qualities of lawyers in violation of R.P.C. 7.1(3) and 7.1(2);
- 8 and
- 9 (m) Avvo's rating system does not accurately report even in the categories it
- 10 purports to rate. For example, it purports to rate "Professional Conduct"
- 11 but it misses disciplinary proceedings that a minimum of due diligence
- 12 would find. Thus, a consumer might hire a lawyer based on an untruthful
- 13 Avvo rating about Professional Conduct. The same is true for
- 14 "experience." It purports to report on a lawyer's experience but its system
- 15 cannot accurately do so even if experience could be measured simply by
- 16 years.

17 72. Avvo's unfair and deceptive conduct has occurred in the conduct of trade or

18 commerce.

19 73. Defendant Britton, as a lawyer, was ethically bound not to violate R.P.C. 7, yet

20 Avvo does so at his direction. He has thus committed, directed and/or aided and abetted in the

21 violation of the R.P.C.s and is directly responsible for violating RCW 19.86.

22 74. Avvo and Britton's conduct affects the public interest by having a broad impact,

23 and potential impact, on the business decisions made by consumers of legal services and the

24 integrity of the legal system. Avvo and Britton's unfair or deceptive acts and practices have the

25 capacity to deceive a substantial portion of the public. The acts are committed in the course of

26 Avvo and Britton's business; the acts are part of a pattern or generalized course of business; the



1 acts were committed repeatedly prior to the acts involving Plaintiffs; there is a real and
2 substantial potential for repetition of Avvo's and Britton's conduct after the acts involving
3 Plaintiffs; and thousands of lawyers and consumers of legal services are affected or likely to be
4 affected by Avvo's conduct.

5 75. Avvo and Britton's unfair and deceptive acts of calculating the Avvo Rating
6 directly, foreseeably, and proximately caused and will cause damage to Plaintiffs and other
7 members of the Class in violation of the CPA, making such unfair and deceptive acts and
8 practices illegal and requiring injunctive relief.

9 **COUNT II**

10 **VIOLATIONS OF THE WASHINGTON CONSUMER PROTECTION ACT**
11 **(Individual Claim On Behalf of Plaintiff Browne)**

12 76. The preceding allegations are re-alleged and incorporated by reference as if fully
13 set forth herein.

14 77. Plaintiff Browne is a "person" within the meaning and coverage of the
15 Washington Consumer Protection Act, RCW Chapter 19.86.010(1) ("Person" shall include,
16 where applicable, natural persons, corporations, trusts, unincorporated associations, and
17 partnerships").

18 78. The Washington Consumer Protection Act provides as follows:

19 Unfair methods of competition and unfair or deceptive acts or
20 practices in the conduct of commerce are hereby declared
21 unlawful.

22 RCW 19.86.020. Plaintiff Browne is individually entitled to sue "to recover the actual damages
23 sustained by him." RCW 19.86.090.

24 79. By the use of the Avvo Rating and the promotion of the Avvo Rating to
25 consumers as an objective and "unbiased" method to "find the right lawyer," Avvo and Britton
26 have engaged in unfair and deceptive conduct. The Avvo rating system is not objective or



1 unbiased; nor is it reliable. As a result, Avvo has the capacity to deceive consumers and other
2 lawyers, and Britton is equally responsible for that violation.

3 80. Defendants' unfair and deceptive conduct has occurred in the conduct of trade or
4 commerce.

5 81. Defendants' conduct affects the public interest by having a broad impact, and
6 potential impact, on the business decisions made by consumers of legal services and the integrity
7 of the legal system. Defendants' unfair or deceptive acts and practices have the capacity to
8 deceive a substantial portion of the public. The acts are committed in the course of Defendants'
9 business; the acts are part of a pattern or generalized course of business; the acts were committed
10 repeatedly prior to the acts involving Plaintiff; there is a real and substantial potential for
11 repetition of Defendants' conduct after the acts involving Plaintiff; and hundreds of thousands of
12 lawyers and consumers of legal services are affected or likely to be affected by Defendants'
13 conduct.

14 82. Clients and prospective clients have, do, and will rely upon the false information
15 provided by Defendants, as Defendants assume they will. Defendants have trumpeted their own
16 impact on client's business decisions with a headline posted on Avvo's own website under the
17 caption of "How to choose the right lawyer – and how Avvo can help." See
18 http://www.Avvo.com/Avvo_guide/Avvo_guide/ (last viewed on June 11, 2007).

19 83. Defendants tell clients and potential clients of Plaintiff Browne to rely upon
20 Defendants' information about Plaintiff Browne in making business decisions about whether or
21 not to retain Plaintiff Browne:

22
23 If you're looking for a lawyer, you have a very important, and
24 possibly stressful, decision to make. We've been there ourselves,
25 so we understand – and we're here to help. We've combined our
26 personal experiences with our deep knowledge of the legal
industry to produce this 3-step guide to choosing the right lawyer.



1 See http://www.Avvo.com/Avvo_guide/Avvo_guide/ (last viewed on June 11, 2007).

2 Defendants asks clients and prospective clients to rely on Defendants' own "deep knowledge" to
3 make the otherwise "stressful" decision as to whether or not to retain Plaintiff Browne.

4 84. At least two clients of Plaintiff Browne reviewed and relied upon Avvo's low
5 ratings of Plaintiff Browne.

6 85. At least two clients of Plaintiff Browne terminated his legal representation of
7 them as a direct result of the poor ratings posted on the Avvo website. Plaintiff Browne has
8 suffered damage to his reputation and lost fees that he would have earned as the result of
9 representing each of those two clients and others. Defendants' unfair and deceptive acts directly,
10 foreseeably, and proximately caused and will cause damage to Plaintiff Browne in violation of
11 the CPA, making such unfair and deceptive acts and practices illegal and requiring an award of
12 monetary relief to Plaintiff Browne.

13 **WHEREFORE**, Plaintiffs, on their behalf and on behalf of the Class, pray for judgment
14 as follows:

- 15 A. For an Order certifying this case as a class action against Avvo and other
16 Defendants and appointing Plaintiffs as Representatives of the Class;
- 17 B. For costs of suit incurred herein;
- 18 C. For prejudgment interest to the extent allowed by law;
- 19 D. For penalties as allowed by law;
- 20 E. For permanent injunctive relief to enjoin further violations of the law; and
- 21 F. For such other and further relief as this Court may deem just and proper.
- 22
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- 24
- 25
- 26



1 DATED: June 14, 2007.

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