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27
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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SEDGWICK CLAIMS MANAGEMENT SERVICES, INC., an Illinois corporation,

Plaintiff,

v.

ROBERT A. DELSMAN, an individual,

Defendant.

Case No. C 09-1468 HRL

FIRST AMENDED COMPLAINT FOR TRESPASS TO CHATTELS; COPYRIGHT INFRINGEMENT; INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE; TRADE LIBEL; DEFAMATION AND LIBEL; AND UNFAIR COMPETITION

1 1. Plaintiff Sedgwick Claims Management Services, Inc., sometimes known as Sedgwick
2 CMS, (“Sedgwick”) complains of defendant Robert A. Delsman (“Delsman”) as follows:

3 **Parties**

4 2. Sedgwick Claims Management Service, Inc. is a corporation organized under the laws of
5 the State of Illinois with its principal place of business in Memphis, Tennessee.

6 3. Delsman is an individual who resides and is domiciled in Eureka, California.
7 Sedgwick is informed and believes that Delsman can be served with process at his residence at 3809
8 Little Fairfield Street, Eureka, California 95503.

9 **Jurisdiction**

10 4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §1331, because one of
11 Sedgwick’s claims arises under the Copyright Act, 17 U.S.C. §101 *et seq.*

12 5. Diversity jurisdiction is also proper in this Court pursuant to 28 U.S.C. §1332, because
13 Sedgwick and Delsman are citizens of different states and the amount in controversy exceeds
14 \$75,000.

15 **Venue**

16 6. Venue is proper in this District, pursuant to 28 U.S.C. §1391, because Delsman resides
17 in this District and many of the activities giving rise to Sedgwick’s claims have been perpetrated by
18 Delsman in this District.

19 **Intradistrict Assignment**

20 7. The San Francisco Division is proper because, on information and belief, a substantial
21 part of the events or omissions giving rise to this action occurred in Humboldt County.

22 **Background Facts**

23 8. Sedgwick, located in Memphis, Tennessee, is a company that provides insurance
24 claims management services to its customers and their employees. Since its inception in 1991,
25 Sedgwick has been highly successful in developing its claims management business and developing
26 its reputation as one of the leading claims management companies in the industry. As a result,
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1 Sedgwick's customers include recognizable companies, such as General Electric Co. ("GE"), Costco
2 Wholesale Corporation, Sears Holdings, Inc., and others.

3 9. Sedgwick is the owner of all exclusive rights of the copyright for corporate purposes
4 and corporate litigation in the photographs mentioned herein of David North and Paul Posey.
5 Exhibits A and B. Sedgwick has obtained copyright registration in these photos, Registration No.
6 VA0001656985, dated March 19, 2009, and Registration No. VA0001656972, also dated March 19,
7 2009, issued by the United States Copyright Office.

8 10. GE, through MetLife, Inc. provides a Long-Term Disability Income Plan to GE's
9 employees, sometimes referred to as the 504 Plan ("GE-MetLife LTD Plan"). GE hired Sedgwick to
10 manage and administer claims under the GE-MetLife LTD Plan.

11 11. Delsman began working at GE in 1995, purchased insurance under the GE-MetLife
12 LTD Plan, and made a claim under the plan in February of 2006. As is evident from Delsman's
13 Internet postings, email and written correspondence with Sedgwick and others, he is unhappy with
14 GE's decision to terminate his employment, he is unhappy with the terms and conditions of the GE-
15 MetLife LTD Plan, and he is unhappy with Sedgwick's management of his claim for disability
16 benefits filed against the Plan.

17 12. As a result of his unhappiness, Delsman has engaged in actions against Sedgwick, its
18 employees and customers that can only be described as defamatory, false, harassing, threatening,
19 hateful and illegal. These actions include the unauthorized reproduction and public display of
20 Sedgwick's material, including Delsman's use of copyrighted photos of Sedgwick's Chief Executive
21 Officer ("CEO") and Chief Operation Officer ("COO"), on Delsman's website and blog that morphs
22 those photos into images of Adolph Hitler and Heinrich Himmler and on the YouTube video website¹
23 (collectively, "websites"). Delsman also refers to Sedgwick and its employees as "Sedgthugs" and
24 unjustly accuses Sedgwick of engaging in criminal activity on his website blogs, and in emails.

25
26 ¹ Delsman uses both a blog (<http://gesupplyrexeldiscrimination.blogspot.com>), his own website
27 (www.gesupplydiscrimination.com) and an uploaded video clip entitled "Sedgwick CMS GE Movie"
28 on YouTube.com (<http://www.youtube.com/watch?v=G0unfu5OHQw>) to launch his attacks against
Sedgwick.

1 13. Not content with abusing Sedgwick and its employees through Internet postings and
2 emails, Delsman has recently increased his attacks through what he himself describes as “Operation
3 Going Postcard.” The self-proclaimed “Operation Going Postcard” campaign involves Delsman
4 sending postcards with copyrighted photos of Sedgwick’s CEO and COO with captions reading,
5 “Wanted for Human Rights Violations” and containing other defamatory, false and libelous language
6 about Sedgwick. Through the “Operation Post Card” campaign Delsman has also used a trademark
7 associated with Sedgwick by placing that mark inside the eye sockets of a human skull, alongside
8 other defamatory, false and libelous statements about Sedgwick. These postcards were sent through
9 the U.S. Mail to various Sedgwick offices (in California, Colorado, Indiana, Iowa, South Carolina,
10 Tennessee); to Sedgwick employees at their home addresses (in Illinois and Minnesota); to the home
11 of Sedgwick’s CEO (in Iowa); to an outside insurance agency (in Oregon); to Sedgwick customers
12 (in Utah and Washington); and likely to others throughout the United States.

13 14. Sedgwick and its employees have suffered harassment through a knowing and willful
14 course of conduct by Defendant directed to Sedgwick and its employees that seriously alarms, annoys
15 and harasses its employees and serves no legitimate purpose. Defendant’s pattern of conduct was
16 composed of a series of acts over a period of time, evidencing a continuity of purpose, including
17 posting defamatory material on the internet, sending harassing, alarming and annoying emails, and
18 sending harassing, alarming and annoying postcards by public mail.

19 15. Sedgwick brings this action for injunctive relief to restrain Delsman from engaging in
20 these unlawful activities, for damages suffered by Sedgwick, for punitive damages and for
21 Sedgwick’s reasonable attorneys’ fees and costs incurred in this action.

Defendant’s Wrongdoing

22 16. Delsman was employed by GE.

23 17. As an employee of GE, Delsman purchased long-term disability income insurance
24 through the GE-MetLife LTD Plan.

25 18. Sometime thereafter, and while still employed by GE, Delsman made a claim for
26 disability benefits under the GE-MetLife LTD Plan.
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1 19. Sedgwick, as GE's claims manager under the GE-MetLife LTD Plan, began managing
2 Delsman's claim in accordance with the Plan's terms and conditions.

3 20. Shortly after Sedgwick began managing Delsman's claims Delsman expressed
4 displeasure with how Sedgwick administered benefits under the Plan.

5 21. As such, Sedgwick did its best to see that Delsman's claim was properly managed in
6 accordance with the terms and conditions of the GE-MetLife LTD Plan.

7 22. Unsatisfied, Delsman began engaging in a systematic campaign to harass, defame,
8 intimidate, threaten and otherwise attack Sedgwick and its employees because they insisted on
9 administering Delsman's claim under the GE-MetLife LTD Plan as required by the Plan, and not as
10 Delsman demanded.

11 23. Delsman posted defamatory materials on his blog websites, which included, in part,
12 the following statements:

- 13 • "One of the things that I believe is coming fast will be an increase in the
14 brutality, lies and other SedgCrimes perpetrated by Sedgwick CMS due to the
15 current economic conditions."
- 16 • "Some new information this week in regards the agencies currently
17 investigating the "Sedgcrimes situation""
- 18 • "The team has been "digging" away on the Evil North Empire and the results
19 are truly frightening. The number of sick or injured people currently being
20 abused or terrorized by the North Star and his minions could be staggering. It
21 is imperative that these thugs be stopped immediately and subsequently
22 punished under the law for their criminal activities."
- 23 • "Well friends, I think that the crime wave at Sedgwick CMS, ProSource
24 Billing Inc. and the GE Disability benefits center is coming to an end."
- 25 • "Sedgwick CMS continues to unlawfully deny benefits to claimants to feed
26 their masters insane lust for YOUR money."
- 27 • "We would encourage our readers to begin calling or emailing these nice
28 people and ask them if they share the same "social values" as the Sedgthugs
and if this is how they would want their employees or customers to be treated."
- "For whatever reason they seem to believe that whenever they violate the law
by using forged medical releases, disseminating my protected health
information in violation of HIPAA (and federal law) or some other gross
violation of simple human rights, that the best thing to do is threaten me. I am

1 sure that in a majority of the cases where Sedgwick CMS and MethLies torture
2 sick and injured people by denial of benefits, coercion and threats that they
'subdue' the claimant to a position of hopelessness and despair."

- 3
- 4 • "Sedgwick Lawyers Might Murder YOU"
 - 5 • "**I watched the Sedgethug Lawyer Video** and found a few points particularly
6 interesting, that being; how a person in this case the Sedgwick CMS lawyer
7 could sit there and actually ask the court to allow them to kill Mr. Smith.
8 ...
9 WHAT, you say, yes I said kill him. Perhaps I should have used the word
10 murder."
 - 11 • "Sedgwick CMS must be stopped period. It is very import for all of our
12 readers to talk to your associates, friends and family about these reprehensible
13 thugs. Sedgwick CMS is involved in ongoing contracts with many of YOUR
14 local, state and academic institutions and YOU ARE PAYING TAXES and
15 tuition's to support these flagrant violations of human rights and the law."

16 24. Delsman also unlawfully copied and then posted the two copyrighted photos to his
17 websites and web blog. In one such use, Delsman morphs the photo of Mr. North into a photo of Adolph
18 Hitler, and morphs a photo of Mr. Posey into a photo of Heinrich Himmler. Delsman then emailed the
19 links to these morphing photos to Sedgwick employees, and perhaps others.

20 25. On information and belief, Delsman obtained Mr. North's photograph from a worker's
21 compensation conference website. Delsman obtained Mr. Posey's photograph from a Sedgwick press
22 release, dated January 13, 2009, announcing Mr. Posey's promotion to COO.

23 26. Sedgwick owns the exclusive rights and copyright to both Mr. North's photograph and
24 Mr. Posey's photograph.

25 27. In response to Delsman's constant barrage of emails, by early January of 2009,
26 Sedgwick systemically began diverting all of Delsman's defamatory emails to Sedgwick's
27 communications officers, and encouraged its employees not to visit Delsman's website blogs.

28 28. Delsman, ever mindful of how many people visited his website blogs, decided in
February 2009 to implement a new method of harassing, intimidating and defaming Sedgwick by
engaging in what Delsman calls on his website: "Operation Going Postcard."

1 29. “Operation Going Postcard”, according to Delsman, is designed to harass, intimidate
 2 and embarrass Sedgwick, its employees and its customers, and is described on Delsman’s website
 3 blogs as follows:

- 4 • “The team tells me that *the "going postcard" campaign is off to a great start*
 5 and the word is getting out.

6 *It is very important to educate the consuming public surrounding the*
 7 *circumstances that they may encounter as a result of doing business with*
 8 *MetLife and the thugs at Sedgwick CMS.”*

- 9 • “[]when I find out where you live, *I am going to send postcards to all of your*
 10 *neighbors telling them what a piece of shit you are*”“The team continues to
 11 collect the names of those most despised Sedgthugs to be posted on the web. *I*
 12 *believe that "going postcard" is a good way to fight back against these*
 13 *despicable characters. Track them down, find out where they live and send*
 14 *postcards to their friends and neighbors describing their despicable activities*
 15 *towards the sick and injured.”*

- 16 • “Operation "going postcard" seems to be steaming along and that makes me
 17 happy.”

18 Emphasis added.

19 30. On February 9, 2009, Delsman sent a postcard to the home of David North, Sedgwick’s
 20 President, in Bellevue, Iowa. The postcard bears Mr. North’s copyrighted photo, states that Mr. North is
 21 “WANTED FOR HUMAN RIGHTS VIOLATIONS,” goes on to ask whether the recipient has “[] been
 22 terrorized, threatened, and lied to by Sedgwick Claims Management Services,” contains other
 23 defamatory statements and contains a link to Delsman’s website blogs. The postcard is copied herein.²
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27 ² The addresses listed on the postcards have been redacted by Sedgwick to prevent further offensive
 28 mail from being sent to the recipients.

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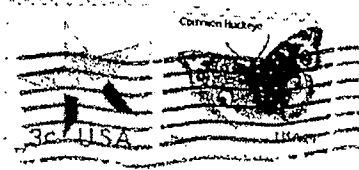
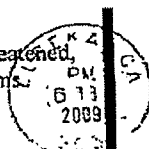
Have you
been
threatened
by this
man or his
minions

?

The time for
change is at
hand!

BACK

Have you been terrorized, threatened,
and lied to by Sedgwick Claims
Management Services?



The time to act is now!

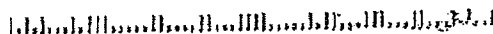
Mail Recipient

Report these despicable activities to
the US Department of Justice and the
Attorney General in your state.

REDACTED

Sedgwick CMS can be stopped
peacefully and purposefully if enough
people act now!
Get informed!

www.usesupplydiscrimination.com
<http://www.usesupplydiscrimination.blogspot.com/>

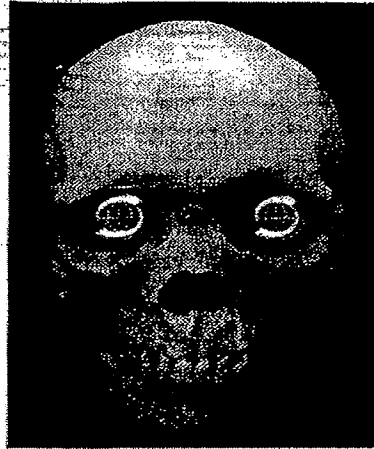


FRONT

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2 31. On February 9, 2009, Delsman sent a postcard to CM, Sedgwick’s Operations Manager,
3 in Deerfield, Illinois.³ The postcard bears a picture of a skull, with an S & GLOBE DESIGN trademark
4 associated with Sedgwick depicted in the eyes of the skull, stating “Are You a Victim of Sedgwick
5 CMS?” and “Have you or your family been terrorized by David North and his Minions?” This postcard
6 also goes on to ask whether the recipient has “[] been terrorized, threatened, and lied to by Sedgwick
7 Claims Management Services” contains other defamatory statements and contains a link to Delsman’s
8 website blogs. The postcard is copied herein:

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27 _____
28 ³ Sedgwick uses initials in the Complaint to protect the identity of the individual employee that
Defendant Delsman sought to attack.

BACK



Are You a Victim
of Sedgwick CMS?

Have you or your
family been
terrorized by
David North and
his Minions?

Take a stand NOW!

Just Say NO!

FRONT

Have you, your family or a friend
been a victim of Sedgwick Claims
Management Services?

Have you been terrorized, threatened
and lied to by Sedgwick Claims
Management Services?

The time to act is now!

Report these despicable activities to
the US Department of Justice and the
Attorney General in your state.

Sedgwick CMS can be stopped
peacefully and purposefully if
enough people act now!

Get Informed!

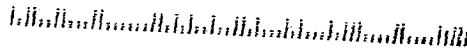
www.gesupplydiscrimination.com

<http://gesupplyvrexeldiscrimination.blogspot.com/>



Mail Recipient

REDACTED



32. On February 16, 2009 Delsman posted the following:

Announcing a New Web Destination:

The Sedgwick CMS Crime Log.

Click Here for (Full Story)

Over the past week the team has put forth another Herculean effort to provide the victims of Sedgwick CMS more resources in the fight for basic human rights against the evil empire!

Going Post Card!



These little beauties and many more, will be available for download soon on the Sedgwick CMS Crime Log. Send them to family, friends and business associates, get the word out now!

See You next week

1 33. Not content to just attack Sedgwick’s officers and employees through “Operation Going
2 Postcard,” on February 17, 2009 Delsman sent a postcard to a Sears Benefits Office in Seattle,
3 Washington. Sears is a Sedgwick client. The postcard bears a picture of a statute holding a skull, stating
4 “Are You a Victim of Sedgwick CMS?”, “Have you or your family been terrorized by David North and
5 his Minions?” This postcard also goes on to ask whether the recipient has “[] been terrorized, threatened,
6 and lied to by Sedgwick Claims Management Services,” contains other defamatory statements and
7 contains a link to Delsman’s website blogs. The postcard is copied herein:
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BACK



Sedgwick CMS

Terror

Synonymous?

Has a family member or friend attempted or committed suicide as a result of Sedgwick CMS?

FRONT

MEDFORD OR 975

Have you, your family or a friend been a victim of Sedgwick Claim Management Services?

Benefits with MetLife, Travelers UnitedHealth or Cigna may be worthless!

The time to act is now!

Report these despicable activities to the US Department of Justice and the Attorney General in your State.

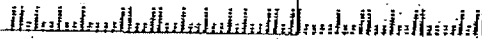
Sedgwick CMS can be stopped peacefully and purposefully if enough people act now!
Get informed!

www.Sedgwickcms.blogspot.com



Benefits Recipient

REDACTED



1 34. On February 9, 2009, Delsman sent a postcard to MetLife in Savage, Minnesota. The
2 postcard bears the copyrighted photo of Paul Posey, Sedgwick’s Chief Operating Officer, stating Mr.
3 Posey is “WANTED FOR HUMAN RIGHTS VIOLATIONS”, goes on to ask whether the recipient has
4 “[] been terrorized, threatened, and lied to by Sedgwick Claims Management Services,” contains other
5 defamatory statements and contains a link to Delsman’s website blogs. The postcard is copied herein:
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BACK



**Tired of a
pocket full of
Poseys**

**More Liar
Lawyers ready
to take your
rights away for
their bottom line**

**Just Say No to
Sedgwick's latest
Ponzi Scheme**

Have you been terrorized, threatened
and lied to by Sedgwick Claims
Management Services?

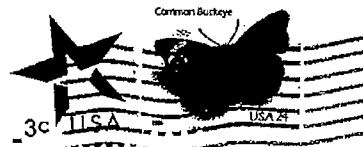
The time to act is now!

Report these despicable activities to
the US Department of Justice and the
Attorney General in your state.

Sedgwick CMS can be stopped
peacefully and purposefully if
enough people act now!
Get informed!

www.gesupplydiscrimination.com

www.gesupplyrexeldiscrimination.blogspot.com



Mail Recipient

REDACTED

FRONT

1 35. On February 19, 2009, Delsman sent a postcard to a Costco store in Murray, Utah.
2 Costco is a Sedgwick client. The postcard bears a picture of a skull, with an S & GLOBE DESIGN
3 trademark associated with Sedgwick depicted in the eyes of the skull, stating “Are You a Victim of
4 Sedgwick CMS?” “Have you or your family been terrorized by David North and his Minions?” This
5 postcard also goes on to ask whether the recipient has “[] been terrorized, threatened, and lied to by
6 Sedgwick Claims Management Services,” contains other defamatory statements and contains a link to
7 Delsman’s website blogs. The postcard is copied herein:

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BACK



Are You a Victim of Sedgwick CMS?

Have you or your family been terrorized by David North and his Minions?

Take a stand NOW!

Just Say NO!

2009-02-19 14:41

Have you, your family or a friend been a victim of Sedgwick Claims Management Services?

Benefits with MetLife, Travelers, UnitedHealth or Cigna may be worthless!

The time to act is now!

Report these despicable activities to the US Department of Justice and the Attorney General in your State.

Sedgwick CMS can be stopped peacefully and purposefully if enough people act now!

Get informed!

www.sedgwickcms.blogspot.com

Costco Employees

REDACTED

FRONT

2009-02-19 14:41

1 36. To date, Sedgwick is aware of Delsman's postcards to at least two of its clients; but
 2 Sedgwick is not aware of any reason why Delsman would focus exclusively on one Sears benefits office
 3 and one Costco location in his efforts to undermine Sedgwick's customer relationships.

4 37. After a reasonable opportunity for further investigation or discovery, Sedgwick may
 5 have evidentiary support to establish enhanced damages, if Delsman made other false statements,
 6 similar to those contained in his Internet postings, emails and postcards described above, about
 7 Sedgwick to other clients or potential clients.

8 38. Simply put, Delsman's actions are designed to harass, intimidate, defame, and
 9 interfere with Sedgwick, its business, and its employee and customer relationships. Sedgwick has
 10 been injured and will continue to be injured as a result of Delsman's activities unless these actions are
 11 stopped, damages, including punitive damages, are awarded, and reasonable costs and attorneys fees
 12 assessed against Delsman.

13 **Sedgwick's Damages and Potential Long-Term Damages**

14 39. Important to Sedgwick's business is its ability to attract good employees, maintain its
 15 relationship and reputation within the claims management industry, further expand its customer
 16 relationships and develop new customer relationships.

17 40. As a result of Delsman's illegal activities, Sedgwick has been forced to assign
 18 personnel to monitor his activities and intercept his offensive e-mail communications, assign
 19 personnel to handle employee concerns, and assign personnel to respond to customer inquiries, all of
 20 which have resulted from Delsman's Internet postings, emails and "Operation Going Postcard"
 21 campaign. All of this has resulted in injury to Sedgwick, to its employees and to its relationships
 22 with its customer.

23 41. In the above context, Delsman's false statements about Sedgwick and its business
 24 practices are likely, if not restrained, to have lasting negative effects, which Sedgwick's business and
 25 its employees have yet fully to experience.

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COUNT 1 – TRESPASS TO CHATTELS

42. Sedgwick repeats and realleges the paragraphs above as the allegations of this section.

43. Delsman has committed trespass in willfully sending unwanted and offensive emails to Sedgwick and Sedgwick clients and business associates, attacking the company.

44. Sedgwick has not consented to the receipt of Delsman’s emails.

45. Delsman’s emails have interfered with Sedgwick’s possessory interest in its computer servers, and caused it to devote substantial resources and time to putting in place a process to intercept Delsman’s emails.

46. Delsman has sought to circumvent that process by sending e-mails to Sedgwick from various email addresses.

47. Sedgwick is entitled to injunctive relief, restraining Delsman’s from sending attacking and offensive emails to Sedgwick and Sedgwick’s clients and business associates.

COUNT 2 – COPYRIGHT INFRINGEMENT

48. Sedgwick repeats and realleges the paragraphs above as the allegations of this section.

49. Sedgwick owns the exclusive rights in the copyrights necessary for this action in the North and Posey photos and owns the copyright registrations for those photos.

50. The Copyright Act, 17 U.S.C. 101 *et seq.* prohibits the copying and dissemination of these copyrighted works by Delsman without Sedgwick’s permission; permission has not been given.

51. Delsman has infringed on Sedgwick’s copyrights in the North and Posey photos by reproducing those photos without authorization, morphing those photos into Adolph Hitler and Heinrich Himmler on Delsman’s website, and distributing copies of those photos via email and through Delsman’s “Operation Post Card” campaign.

52. Pursuant to 17 U.S.C. §502, Sedgwick is the valid owner of the copyrights in the North and Posey photos and is entitled to injunctive relief against Delsman.

53. Pursuant to 17 U.S.C. §504, Sedgwick is entitled to recover statutory damages as damages of up to \$150,000.

54. Pursuant to 17 U.S.C. §505, Sedgwick should be entitled to recover its attorney fees.

1 55. Sedgwick also seeks the destruction of the infringing material.

2 **COUNT 3 - INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

3 56. Sedgwick repeats and realleges the paragraphs above as the allegations of this section.

4 57. Sedgwick has business relationships with Sears and Costco from which Sedgwick
5 reasonably expects a probability of future benefit.

6 58. Delsman knew of Sedgwick's business relationship with Sears and Costco and of
7 Sedgwick's ongoing expectation for substantial future revenues from them.

8 59. Delsman has acted with ill will or with conscious disregard of Sedgwick's rights in
9 interfering with Sedgwick's expectancy from Sedgwick's business relationship with Sears and Costco.

10 60. By the above described conduct, Delsman intentionally and wrongfully interfered with
11 Sedgwick's expectancy of future benefit from Sedgwick's business relationship with Sears and Costco.

12 61. Absent Delsman's wrongful interference, Sedgwick would have realized the full amount
13 of its business expectancy from Sedgwick's business relationship with Sears and Costco.

14 62. Delsman's wrongful interference caused Sears and Costco not to fulfill Sedgwick's
15 expected probability of future benefit from the business relationship.

16 63. Sedgwick has and will continue to suffer damages in an amount to be determined at trial,
17 but believed to be in excess of \$75,000, due to Delsman's wrongful interference.

18 **COUNT 4 – TRADE LIBEL**

19 64. Sedgwick repeats and realleges the paragraphs above as the allegations of this section.

20 65. Sedgwick offers administrative and claims services to clients.

21 66. Delsman has intentionally, wrongfully, without justification and without privilege
22 published false statements on his website blogs, via email, and through the "Operation Post Card"
23 campaign alleging that Sedgwick provides poor administrative and claims services to its clients'
24 employees.

25 67. These statements were made by Delsman about Sedgwick and could only be interpreted
26 to be about Sedgwick.

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1 68. Delsman's published statements were read and reviewed by many readers, including,
2 Sedgwick's employees and customers, as well as potential customers.

3 69. Delsman's published statements were false.

4 70. Delsman's published statements proximately caused damages to Sedgwick in that they
5 have deterred clients from purchasing Sedgwick's services in an amount to be determined at trial, but
6 believed to be in excess of \$75,000.

7 71. Delsman's published statements were admittedly motivated by his own malice and
8 oppression in that he wanted to cause harm to Sedgwick. Therefore, Sedgwick is entitled to punitive
9 damages in an amount sufficient to punish Delsman and deter similar conduct in the future.

10 **COUNT 5 – DEFAMATION AND LIBEL**

11 72. Sedgwick repeats and realleges the paragraphs above as the allegations of this section.

12 73. Delsman has intentionally, wrongfully, without justification and without privilege
13 published false statements concerning Sedgwick's administrative and claims services on a blog, via
14 email, and through "Operation Post Card."

15 74. Delsman's published statements were read and reviewed by many readers, including
16 Sedgwick's employees and customers, as well as Sedgwick's potential customers.

17 75. Delsman's published statements are false and are libelous on their face. The published
18 statements expose Sedgwick to hatred, contempt, and ridicule because they assert Sedgwick is engaged
19 in criminal activity, including terrorizing, threatening and lying to insureds, and committing other
20 horrific and illegal acts in the administration of individuals insurance benefits.

21 76. As a proximate result of the above-described publication, Sedgwick has suffered loss to
22 its business reputation and injury in an amount to be determined at trial but believed to be in excess of
23 \$75,000.

24 77. Delsman's published statements were not privileged but were motivated by his malice
25 and oppression in that he wanted to cause harm to Sedgwick. Therefore, Sedgwick is entitled to punitive
26 damages in an amount sufficient to punish Delsman and deter similar conduct in the future.

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COUNT 6 – UNFAIR COMPETITION

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2 78. Sedgwick repeats and realleges the paragraphs above as the allegations of this section.

3 79. On numerous dates, Delsman has committed the following acts of unfair competition, as
4 defined by California Business and Professional Code Section 17200, by committing trespass to chattels,
5 interference with Sedgwick’s economic advantage, trade libel and defamation through Delsman’s
6 website blogs, emails and “Going Postcard Operation”.

7 80. The above acts are violations of California State Law and are therefore an unlawful
8 business act within the meaning of California Business and Professional Code Section 17200. The acts
9 are likely to mislead the general public because Delsman is using Sedgwick’s copyrighted photos of its
10 executives, trademarks associated with Sedgwick, and defamatory materials in his communications with
11 Sedgwick clients and prospective clients.

12 81. The unfair business practices of Delsman are likely to continue and therefore will
13 continue to mislead the general public.

14 82. Delsman should be enjoined from continuing such unfair business practices.

15 WHEREFORE, plaintiff Sedgwick prays that this Court enter judgment in favor of Sedgwick
16 and against Delsman, his agents, attorneys, and all those in active concert or participation with him as
17 follows:

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- 19 • for an injunction prohibiting Defendant from sending unwanted and offensive
20 emails or postcards to employees of Sedgwick or members of their household or
21 immediate families and from sending unwanted and offensive emails or postcards
22 to customers of Sedgwick;
 - 23 • for an injunction prohibiting Defendant from further defaming and libeling
24 Sedgwick; from further interfering with Sedgwick’s business relations; and from
25 further unfairly competing with Sedgwick;
 - 26 • for a permanent injunction against Delsman’s improper use of Sedgwick’s
27 copyrighted materials;
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- for an injunction requiring Delsman to remove or disable the infringing copyrighted material from Internet postings and Internet websites where he has posted or uploaded infringing copies and derivative works of copyrighted material;
- for the destruction of all Sedgwick’s copyrighted materials in Delsman’s possession, custody or control;
- for statutory damages;
- for monetary relief in an amount to be proved at trial in excess of \$75,000 for damages which Delsman caused Sedgwick to incur;
- for treble and punitive damages, where appropriate;
- for attorney fees and the costs of this action; and
- for other relief as the Court may deem fit to award.

Dated: April 10, 2009

Respectfully submitted,

HARVEY SISKIND LLP
IAN K. BOYD
SETH I. APPEL

By: /s/
Seth I. Appel

Attorneys for Plaintiff
SEDGWICK CLAIMS MANAGEMENT
SERVICES, INC.

Exhibit A



Photograph of David North

Exhibit B



Photograph of Paul Posey