

1 THOMAS A. CIFARELLI, SBN 161815  
DAWN M. SMITH, SBN 222481  
2 GRACE H. CHANG, SBN 265269  
3 **THE CIFARELLI LAW FIRM, LLP**  
200 West Santa Ana Blvd., Ste. 300  
Santa Ana, California 92701  
4 Telephone (714) 547-3992  
Facsimile (714) 547-5523

5 Attorneys for Plaintiff

6  
7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **COUNTY OF SAN FRANCISCO - CIVIC CENTER**

9  
10 SCOTT P.,<sup>1</sup>

11 Plaintiff,

12 v.

13 CRAIGSLIST, INC., FOSTER DAIRY FARMS,  
FOSTER POULTRY FARMS, MICHAEL O.  
14 SIMPSON, ALBERTO CARRENO, and DOES  
1 through 100, Inclusive,

15 Defendants.

CASE NO.: CGC-10-496687  
Hon. Arlene T. Borick  
Department: 212

**PLAINTIFF'S OPPOSITION TO  
DEFENDANT CRAIGSLIST'S DEMURRER;  
MEMORANDUM OF POINTS AND  
AUTHORITIES; DECLARATION OF  
GRACE H. CHANG; EXHIBITS**

Date: June 2, 2010  
Time: 9:30 a.m.  
Place: Department 301  
Judge: Hon. Peter Busch

16  
17  
18 **TO THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

19 Plaintiff, SCOTT P. (hereinafter "Plaintiff"), hereby opposes CRAIGSLIST, INC.'s (hereinafter  
20 "CRAIGSLIST") Demurrer to Plaintiff's First Amended Complaint.

21 Defendant CRAIGSLIST's Demurrer must be overruled because it is untimely pursuant to *C.C.P.*  
22 §412.20 and § 430.40(b), having been filed more than 45 days after service of Plaintiff's First Amended  
23 Complaint (hereinafter "FAC") on CRAIGSLIST on March 18, 2010.

24 In any case, CRAIGSLIST is not entitled to protection from liability under *The Communications*

25  
26 \_\_\_\_\_  
27 <sup>1</sup> Due to the nature of the allegations contained herein, the Plaintiff, as the victim of harassment and invasion  
28 of privacy and as a victim of crimes prosecuted by his local District Attorney's office, is identified herein using his first  
name and last initial in order to preserve his confidentiality and privacy and to avoid any further invasion of privacy.  
See Wel. & Inst. Code § 827; T.N.G. v. Superior Court (1971) 4 Cal.3d 767; People v. Ramirez (1997) 55 Cal.App.4th  
47; M.G. v. Time Warner (2001) 89 Cal.App.4th 623 (Court of Appeal approved use of initials during litigation and in  
Court's own opinion to avoid exposing invasion of privacy plaintiffs to further notoriety).

1 *Decency Act of 1996*, 47 U.S.C. Section 230(c) (hereinafter "Section 230(c)") because Plaintiff's claims do  
2 not treat CRAIGSLIST as the publisher/speaker of the fraudulent ads posted by Defendant MICHAEL O.  
3 SIMPSON (hereinafter "SIMPSON"). Contrary to CRAIGSLIST's contention, the fact that the duties that  
4 CRAIGSLIST is alleged to have breached in this case coincide with certain conduct of preventing  
5 fraudulent posts, in no way establishes that Plaintiff's claims seek to treat CRAIGSLIST as  
6 publisher/speaker of the subject ads. Further, CRAIGSLIST is not entitled to Section 230(c)(2) protection  
7 because it did not act voluntarily, nor in good faith. Indeed, CRAIGSLIST never offered to remove or  
8 prevent harassing ads targeting Plaintiff on its own initiative. Rather, CRAIGSLIST was legally obligated  
9 to prevent future harassing posts identifying Plaintiff pursuant to its express promises made to Plaintiff.

10 Further, Plaintiff clearly alleged sufficient facts constituting legally enforceable promises made by  
11 CRAIGSLIST to Plaintiff to: (1) prevent fraudulent postings identifying SCOTT P. by name, telephone  
12 numbers and home address; and, (2) prevent harassing posts from the email address Sp.....@hotmail.com.  
13 Plaintiff has also plainly alleged that he reasonably relied on CRAIGSLIST's promises and took no further  
14 action to attempt to prevent future harassing posts.

15 Lastly, Plaintiff has standing to bring his Unfair Competition claim because he has suffered injury in  
16 fact and monetary loss, as clearly alleged in paragraphs 83, 84 and 87 of the FAC.

17 As such, Defendant's Demurrer is without merit, and should be denied. In the alternative, even if  
18 Plaintiff's FAC is defective, Plaintiff respectfully requests 30 days leave to amend based on fundamental  
19 fairness and in furtherance of substantial justice.

20 This Opposition is based upon the arguments stated herein, the attached Memorandum of Points and  
21 Authorities, Declaration of Grace H. Chang, Exhibits and all papers and pleading filed herein, and upon  
22 such other oral and documentary evidence as shall be presented at the hearing on this matter.

23  
24 DATED: May 17, 2010

THE CIFARELLI LAW FIRM  
THOMAS A. CIFARELLI  
DAWN M. SMITH  
GRACE H. CHANG

25  
26  
27 BY:   
28 GRACE H. CHANG  
Attorneys for the Plaintiff

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION AND SUMMARY OF ARGUMENT**

3 Plaintiff's allegations in his FAC are clear and straightforward: (1) CRAIGSLIST breached its  
4 legally enforceable promises to SCOTT P.; and, (2) CRAIGSLIST engaged in unfair business practices in  
5 violation of the Unfair Competition Law, causing detrimental harm to SCOTT P.

6 Now, through this Demurrer, Defendant CRAIGSLIST attempts to escape liability simply by virtue  
7 of its status as an interactive computer service provider, without having made any showing that Plaintiff is  
8 treating CRAIGSLIST as the publisher/speaker of Defendant SIMPSON's fraudulent posts. Contrary to  
9 CRAIGSLIST's contention, Section 230(c) does not confer a blanket immunity on website-operators to  
10 freely violate applicable laws without consequence. Specifically, it does not give CRAIGSLIST the broad  
11 authority to make empty promises to SCOTT P. and breach them to his detriment; nor does it give  
12 CRAIGSLIST the license to operate its business in an unfair manner, in violation of Business and  
13 Professions Code Section 17200. Indeed, as herein argued, Section 230(c) protects CRAIGSLIST only if  
14 Plaintiff's claims seek to "treat" the defendant as the "publisher or speaker" of information. *Zeran v.*  
15 *America Online, Inc.* (4th Cir.1997) 129 F.3d 327, 330; *Delfino v. Agilent Technologies, Inc.* (2006) 145  
16 Cal.App.4th 790, 804-805; *The Communications Decency Act of 1996*, 47 U.S.C. 230 (c)(1). Plaintiff's  
17 allegations against CRAIGSLIST manifestly do not treat CRAIGSLIST as the publisher or speaker of the  
18 fraudulent posts at issue. As such, despite its best efforts, Defendant CRAIGSLIST simply cannot stretch  
19 the carefully qualified protections afforded by § 230 to cover the causes of action at issue here.

20 Neither Plaintiff's claim for Promissory Estoppel nor his claim for Unfair Competition against  
21 CRAIGSLIST seeks to treat Defendant CRAIGSLIST as the publisher/speaker of the harassing ads posted  
22 by SIMPSON. To the contrary, Plaintiff's FAC simply asserts that CRAIGSLIST should be held liable for  
23 breaching its duties arising out of Plaintiff's respective claims. The fact that CRAIGSLIST happened to  
24 promise Plaintiff that it would remove and prevent fraudulent internet ads, and the fact that  
25 CRAIGSLIST's unfair business practice happens to be its failure to screen users, in no way establish that  
26 Plaintiff is treating CRAIGSLIST as the publisher or speaker of the ads posted by Defendant SIMPSON.  
27 Further, CRAIGSLIST is not entitled to Section 230(c)(2) protection because it did not act voluntarily, nor  
28 in good faith. Indeed, CRAIGSLIST never offered to remove and prevent the harassing ads targeting

1 Plaintiff on its own initiative. Plaintiff contacted the website and secured promises from CRAIGSLIST to  
2 remove and prevent fraudulent posts identifying Plaintiff, especially from the email address  
3 Sp.....@hotmail.com. Accordingly, CRAIGSLIST is not entitled to protection under Section 230(c), and  
4 Defendant's Demurrer should be overruled.

5 Moreover, if the Court finds any merit to the Defendant's Demurrer, then Plaintiff should be given  
6 leave to amend his complaint to include any additional facts to establish his Promissory Estoppel and/or  
7 Unfair Competition causes of action.

8 **II. STATEMENT OF RELEVANT FACTS**

9 **A. CRAIGSLIST'S VIOLATION OF UNFAIR COMPETITION LAW CAUSED  
10 INJURY IN FACT AND MONETARY LOSS TO PLAINTIFF**

11 In order to attract more users and gain an unfair advantage over its competitors, CRAIGSLIST does  
12 not implement user screening and identification procedures of any kind. (FAC ¶ 38). While competing  
13 online classified advertising websites require users to first provide detailed personal information such as  
14 name, address and telephone number for verification purposes, CRAIGSLIST does not require any  
15 identifying information, not even a name. (FAC ¶ 38; FAC Exhibit 4). Only a working email address is  
16 needed. (FAC ¶ 39; FAC Exhibit 5). Thus, it is no surprise that CRAIGSLIST became the internet  
17 destination of choice for those seeking to engage in criminal activities. Indeed, CRAIGSLIST records more  
18 than 20 billion page views each month, making it the eighth-most visited website in the United States.  
19 (FAC ¶ 37). Simply put, CRAIGSLIST profited, and profits, from providing an anonymous venue for  
20 individuals to engage in criminal activities.

21 It is precisely this business practice, which affords anonymity to users, that allowed Defendant  
22 SIMPSON to easily access Craigslist.org to harass Plaintiff, causing him emotional distress, anger and  
23 humiliation, as well as monetary loss from missed work days and therapy expenses. (FAC ¶¶ 12, 83, 84).  
24 If a specific dollar amount is required, Plaintiff can certainly amend his complaint to include more specific  
25 allegations on that issue.

26 ///

1           **B.       CRAIGSLIST MADE UNAMBIGUOUS PROMISES TO PREVENT FRAUDULENT**  
2           **POSTS IDENTIFYING SCOTT P., AND SCOTT P. RELIED ON CRAIGSLIST'S**  
3           **EXPRESS REPRESENTATIONS**

4           CRAIGSLIST expressly promised SCOTT P. on three separate occasions that it would: (1) prevent  
5 all ads identifying SCOTT P. by name, telephone numbers and home address; and, (2) prevent all posts  
6 originating from the email address Sp.....@hotmail.com.

7           ***Promise #1 by CRAIGSLIST:***

8           On March 16, 2009, Plaintiff's home phone number was listed in an ad entitled "Seeking a hot stud  
9 for first timer" under the "men for men" category of the Casual Encounter's section of Craigslist.org. (FAC  
10 ¶ 9). This posting originated from the email address Sp.....@hotmail.com, consisting of Plaintiff's first  
11 initial and last name. (FAC ¶¶ 39, 57). On March 18, 2009, Plaintiff telephoned the headquarters of  
12 Defendant CRAIGSLIST and informed its representative that someone had posted a fraudulent ad on  
13 Craigslist.org, inviting men to call Plaintiff for casual gay sex. (FAC ¶ 56). Numerous men had done so,  
14 causing Plaintiff great harm and emotional distress. (FAC ¶¶ 54, 83, 84). During this conversation,  
15 Plaintiff expressly requested that no further postings identifying him by name, telephone number or address  
16 be allowed on Craigslist.org without his verbal consent. (FAC ¶ 56). Defendant CRAIGSLIST then  
17 expressly promised Plaintiff that it would "take care of it." (FAC ¶ 56).

18           ***Breach of Promise #1 by CRAIGSLIST:***

19           Yet, that very evening on March 18, 2009, CRAIGSLIST allowed Defendant SIMPSON to post  
20 another ad targeting Plaintiff, this time, entitled "a hard man is good to find!" from the same email address  
21 Sp.....@hotmail.com. (FAC ¶¶ 59, 62).

22           ***Promise #2 by CRAIGSLIST:***

23           Thus, on March 20, 2009, Plaintiff was forced to call CRAIGSLIST again. (FAC ¶¶ 61, 62).  
24 Plaintiff informed CRAIGSLIST that the email address Sp.....@hotmail.com did not belong to Plaintiff,  
25 and had obviously been taken out to impersonate Plaintiff on CRAIGSLIST. (FAC ¶ 62). Plaintiff  
26 reiterated that no further ads containing Plaintiff's name, telephone numbers and home address be allowed  
27 on Craigslist.org. (FAC ¶ 62). Again, Defendant CRAIGSLIST promised Plaintiff that it would "take care  
28 of it," and that it would take steps to stop the false and harassing posts identifying Plaintiff. (FAC ¶¶ 62,  
63).



1           ***Promise #3 by Plaintiff***

2           On March 21, 2009, SCOTT P. telephoned CRAIGSLIST again to confirm that no further posts  
3 with Plaintiff's information, particularly from the email address Sp.....@hotmail.com would be posted on  
4 Craigslist.org. (FAC ¶ 63). CRAIGSLIST once again promised Plaintiff that it would "take care of it," and  
5 reassured Plaintiff that it had in fact already taken steps to prevent more posts from this source. (FAC ¶  
6 63).

7           ***Breach of Promises #1, #2 and #3 by CRAIGSLIST***

8           However, in breach of all three promises delineated above, CRAIGSLIST allowed seven additional  
9 fraudulent ads containing Plaintiff's phone numbers and/or home address to be posted on its website  
10 beginning on or around April 16, 2009 through April 18, 2009, all from the email address  
11 Sp.....@hotmail.com, which had been clearly identified as false and belonging to the harasser. (FAC ¶¶ 64-  
12 66).

13           Plaintiff manifestly and uniquely relied on CRAIGSLIST's *repeated, express and unambiguous*  
14 promises that it would prevent additional harassing ads identifying Plaintiff from being posted on the  
15 website. Indeed, only CRAIGSLIST, as the owner and operator of Craigslist.org, had the power to screen  
16 and prevent such posts. Thus, after repeated promises and reassurances from CRAIGSLIST, Plaintiff  
17 stopped emailing and calling CRAIGSLIST after March 21, 2009 in his attempt to prevent further harassing  
18 ads. (FAC Exhibits 8, 15, 23, 24). Plaintiff did not contact CRAIGSLIST again until April 18, 2009: after  
19 seven additional ads targeting Plaintiff had already been posted on Craigslist.org. (FAC Exhibits 8, 15, 23,  
20 24). Clearly, Plaintiff relied on multiple unambiguous promises made by CRAIGSLIST that it would  
21 prevent further harassing posts identifying Plaintiff from the email address Sp.....@hotmail.com, all to his  
22 detriment.

23           Plaintiff's subsequent contacts with police and "uncle Troy" do NOT relieve CRAIGSLIST of the  
24 obligations flowing from its repeated promises to the Plaintiff, and Plaintiff's reliance thereon. Plaintiff's  
25 *subsequent* contacts with police and "uncle Troy" were the actions of a responsible person suffering  
26 extraordinary attacks over the internet. It would be hard to imagine one in Plaintiff's position, who had  
27 suffered *repeated* offensive and intrusive calls and visits to his home, not contacting the police or confiding  
28 in a family member about such disturbing phone calls. However, Plaintiff's responsible subsequent

1 contacts to the police and “uncle Troy” cannot relieve CRAIGSLIST of the obligations flowing from its  
2 prior promises to the Plaintiff. Plaintiff’s contacts with uncle Troy, after CRAIGSLIST’s promises, had  
3 **nothing** to do with stopping the craigslist posts. Instead, by the language of the emails attached to the  
4 FAC, they clearly involved only attempts *to identify the callers* who were *making the harassing phone calls*  
5 *to the Plaintiff in response to the harassing Craigslist ads* which impersonated Plaintiff. (FAC and Ex 11.)  
6 Similarly, Plaintiff contacted the police *after* having received, and relied upon, the actionable promises  
7 from CRAIGSLIST. Indeed, the police did not arrest Plaintiff’s supervisor at work, Defendant SIMPSON,  
8 until July 31, 2009, *more than three months after the last of CRAIGSLIST’s series of repeated promises to*  
9 *the Plaintiff*. Furthermore, neither the police nor “uncle Troy” had the ability that CRAIGSLIST uniquely  
10 possessed to block posts on its website, as CRAIGSLIST had expressly and repeatedly promised Plaintiff it  
11 would, and on which Plaintiff justifiably relied.

### 12 **III. LEGAL DISCUSSION**

#### 13 **A. STANDARD OF REVIEW AND PROCEDURE**

14 A demurrer tests the sufficiency of the complaint; that is, whether it states facts sufficient to  
15 constitute a cause of action. *Code Civ. Proc.*, § 430.10, subd. (e); *Friedland v. City of Long Beach* (1998)  
16 62 Cal.App.4th 835, 841-842. To make this determination, the trial court may consider all material facts  
17 pleaded in the complaint and matters of which it may take judicial notice; it may not consider contentions,  
18 deductions or conclusions of fact or law. *Code Civ. Proc.*, § 430.30, subd. (a); *Moore v. Conliffe* (1994) 7  
19 Cal.4th 634, 638.

#### 20 1. Plaintiff’s FAC Must Be Liberally Construed With a View To Substantial 21 Justice.

22 It is well-settled that the allegations of a complaint must be “liberally construed with a view to  
23 attaining substantial justice between the parties.” *Code of Civil Procedure* § 452; *Lopez v. Southern Cal.*  
24 *Rapid Transit Dist* (1985) 40 Cal.3d 780, 792. In fact, ***complaints which show some right to relief are***  
25 ***held sufficient against a demurrer***, even though facts are not clearly stated, are intermingled with  
26 irrelevant matters, or the plaintiff has demanded relief to which he is not entitled. *Gressley v. Williams*  
27 (1961) 193 Cal.App.2d 636, 639.

28 Furthermore, for the purpose of testing the sufficiency of a complaint or its causes of action,  
Plaintiff’s allegations in the complaint must be accepted as true. *Del E. Webb Corp v. Structural Materials*

1 Co. (1981) 123 Cal.App.3d 593, 604. With these general rules of liberal pleading in mind, Defendant's  
2 Demurrer must be overruled, in that Plaintiff has clearly and sufficiently set forth the facts and legal bases  
3 for each causes of action against CRAIGSLIST.

4 2. CRAIGSLIST's Demurrer Is Untimely And Must Be Overruled.

5 Defendant CRAIGSLIST's Demurrer must be overruled because it is untimely.<sup>2</sup> CCP § 4120.30;  
6 CCP § 430.40(b). It is not even remotely timely, having been filed more than 45 days after service of  
7 Plaintiff's FAC on CRAIGSLIST on March 18, 2010. (Declaration of Grace H. Chang ¶¶ 3, 4. Exhibit 1).  
8 Further, Defendant's Demurrer is completely lacking in any showing of the reasons for its untimeliness, as  
9 if its avoidance of the issue would cure the procedural defect.

10 **B. CRAIGSLIST IS NOT IMMUNE FROM LIABILITY ON GROUNDS OF SECTION**  
11 **230(c)(1) BECAUSE PLAINTIFF'S FAC DOES NOT TREAT CRAIGSLIST AS THE**  
12 **"PUBLISHER OR SPEAKER" OF THE HARASSING POSTS**

13 Defendant CRAIGSLIST is not entitled to immunity simply because it is a web-site operator.  
14 Section 230(c) is not a declaration of general immunity for web-site operators from civil liability deriving  
15 from third party content. *Chi. Lawyers' Comm. For Civil Rights Under Law, Inc. v. Craigslist, Inc. (2008)*  
16 *519 F.3d 666, 669*. In fact, Section 230(c)(1) does not even mention the word "immunity" or any synonym  
17 thereof. *Id.* Further, the decision in *Fair Housing Council of San Fernando Valley v. Roommates.com,*  
18 *LLC* rested not on broad statements of immunity, but rather on a careful exegesis of the statutory language,  
19 noting that "to provide immunity every time a website uses data initially obtained from third parties would  
20 eviscerate [the statute]." *Barnes v. Yahoo!, Inc. (2009) 570 F.3d 1096, 1100.*

21 CRAIGSLIST may avoid liability under Section 230(c)(2) only if **all** of the following requirements  
22 are met:

- 23 (1) Defendant is a "provider...of an interactive computer service  
24 (2) The allegedly unlawful content was "provided by another information content provider";  
25 and,  
26 (3) Plaintiff's claim seeks to "treat" Defendant as the "publisher or speaker" of that  
27 information. (Emphasis added).

28 *Zeran v. America Online, Inc. (4th Cir.1997) 129 F.3d 327, 330; Delfino v. Agilent Technologies, Inc. (2006) 145 Cal.App.4th 790, 804-805; 47 U.S.C. 230(c)(1).*

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<sup>2</sup> Defendant CRAIGSLIST's Demurrer is also in excess of the 15-page limit as required by *Cal. Rules of Court*,  
Rule 3.1113(d).

1 Here, CRAIGSLIST cannot establish the third requirement under Subsection 230(c)(1) that  
2 Plaintiff's FAC treats CRAIGSLIST as the publisher or speaker of the fraudulent postings. In determining  
3 whether a plaintiff's claim treats the defendant as the publisher or speaker, "what matters is whether the  
4 cause of action inherently requires the court to treat the defendant as the 'publisher or speaker' of content  
5 provided by another." *Barnes v. Yahoo!, Inc.* 570 F.3d 1096, 1102. In other words, the court must ask  
6 whether the duty that the plaintiff alleges the defendant violated derives from the defendant's status or  
7 conduct as a publisher or speaker. *Id.*

8 As herein argued, none of the duties that CRAIGSLIST is alleged to have violated inherently derive  
9 from CRAIGSLIST's status as a publisher or speaker.

10 1. Subsection 230(c)(1) Does Not Preclude Plaintiff's Promissory Estoppel Claim  
11 Because the Duty to Perform Legally Enforceable Promises Is Not Inherent to a  
12 Publisher/Speaker.

13 A promisor, regardless of its status as an interactive service provider, is liable for its failure to  
14 perform legally enforceable promises. *See Barnes v. Yahoo!, Inc.* 570 F.3d 1096, 1107. In *Barnes*, the  
15 Court made it clear that Yahoo!, an interactive computer service provider, could be held liable under the  
16 theory of Promissory Estoppel because in a Promissory Estoppel claim, the "duty defendant allegedly  
17 violated springs from a contract - an enforceable promise - not from any non-contractual conduct or  
18 capacity of the defendant." *Id.* 1107. (Emphasis added).

19 In *Barnes*, the plaintiff's ex-boyfriend created fraudulent profiles of the plaintiff, Ms. Barnes, on  
20 Yahoo!, which included nude photographs, the plaintiff's contact information and open invitations to  
21 engage in sexual conduct. *Id.* 1098. In accordance with Yahoo!'s policy, Ms. Barnes emailed Yahoo! a  
22 copy of her photo ID and a signed statement denying her involvement with the profiles and requesting their  
23 removal. *Id.* Ms. Barnes made another request a month later and two more the following month. *Id.* A  
24 local news program was preparing to air a report on the incident when Ms. Barnes received a call from the  
25 Director of Communications at Yahoo!, who assured Ms. Barnes that she would handle the situation  
26 personally, an assurance that Ms. Barnes allegedly relied upon. *Id.* 1099. However, the profiles were not  
27 removed, and Ms. Barnes filed a complaint alleging, among others, a claim for promissory estoppel. *Id.*  
28 The Court allowed Ms. Barnes to proceed with her claim for promissory estoppel holding that "promising is  
not synonymous with the performance of the action promised," and reasoned that if in fact there was an

1 enforceable promise made by Yahoo!,

2 *“contract liability would come not from Yahoo’s publishing conduct, but from Yahoo’s*  
3 *manifest intention to be legally obligated do something, which happens to be removal of*  
4 *material from publication. Contract law treats the outwardly manifested intention to create*  
5 *an expectation on the part of another as a legally significant event. That event generates a*  
6 *legal duty distinct from the conduct at hand, be it the conduct of a publisher, of a*  
7 *doctor...”*

8 *Id.* (Emphasis added).

9 *Barnes* is entirely applicable in this case. As in *Barnes*, Plaintiff SCOTT P. was the victim of  
10 fraudulent and harassing internet posts; and similar to *Barnes*, the website operator, CRAIGSLIST,  
11 promised to remove and prevent posts targeting Plaintiff. The only distinguishable fact, which strengthens  
12 SCOTT P.’s claim, is that the promises in the instant case are undeniably enforceable; CRAIGSLIST’s  
13 promises were express, repeated and unambiguous. In *Barnes*, there was only one “promise” made by  
14 Yahoo! Here, there were at least three unambiguous promises by CRAIGSLIST that it would remove and  
15 prevent the fraudulent posts. In fact, after CRAIGSLIST’s first promises to the Plaintiff to stop the  
16 harassing posts, CRAIGSLIST expressly promised the Plaintiff that “*additional steps have been taken*”  
17 (emphasis added) to stop the harassing posts, thereby admitting that it had made earlier promises to the  
18 Plaintiff. (Chang Decl. ¶5. Exhibit 2. Also FAC Exhibit 23). Moreover, in *Barnes*, the “promise” was  
19 initiated by Yahoo!’s Director of Communications who called the plaintiff months after her earlier requests  
20 went ignored. Here, the promises by CRAIGSLIST were made in response to Plaintiff’s specific requests.  
21 As such, there was clearly “a meeting of the minds” to constitute enforceable promises between  
22 CRAIGSLIST and SCOTT P. *See Id.* 1108.

23 CRAIGSLIST’s promises to Plaintiff that it would prevent fraudulent ads identifying Plaintiff were  
24 legally enforceable. As such, Defendant’s liability arises not from its publishing conduct or capacity as the  
25 operator of Craigslist.org, but from its manifest intention to perform an act, which in this case happened to  
26 be the prevention of fraudulent posts targeting SCOTT P. Such manifest intention, according to *Barnes*,  
27 imposes a legal duty on the part of CRAIGSLIST, distinct from the conduct of removal and prevention of  
28 internet content. Thus, Plaintiff is not seeking to hold CRAIGSLIST liable merely because it published the  
fraudulent and harassing ads by SIMPSON. Rather, Plaintiff is seeking to hold CRAIGSLIST liable  
because it expressly promised Plaintiff that it would prevent such postings, yet failed to do so, ultimately to  
Plaintiff’s detriment.

1 Defendant's argument that Plaintiff's Promissory Estoppel claim is barred by SCOTT P.'s  
2 allegations regarding CRAIGSLIST's business policies and practices is without merit. CRAIGSLIST's  
3 Demurrer speculates on Plaintiff's supposed intent behind his allegations regarding CRAIGSLIST's business  
4 policies, and somehow arrives at the conclusory statement that these allegations treat CRAIGSLIST as the  
5 publisher of SIMPSON's harassing posts. As stated above, when determining whether a defendant can  
6 invoke Section 230(c), the court examines the duties associated with the plaintiff's claims. Plaintiff's  
7 supposed intent behind his allegations, as speculated by CRAIGSLIST, is entirely irrelevant. Further,  
8 Plaintiff's allegations regarding CRAIGSLIST's business practices are relevant to his Unfair Competition  
9 claim (not his Promissory Estoppel Claim), and Plaintiff has the right to describe relevant business policies  
10 and practices that he believes are in violation of UCL. Accordingly, Plaintiff's Promissory Estoppel claim  
11 must survive Defendant's Demurrer.

12 2. Subsection 230(c)(1) Does Not Bar Plaintiff's Cause of Action for Unfair  
13 Competition Because Defendant's Duty to Conduct Business in Compliance with  
14 Unfair Competition Law Is Not Inherent To A Publisher/Speaker.

15 Defendant CRAIGSLIST, just like any other entity conducting business in the State of California,  
16 has the duty to comply with Unfair Competition Law. UCL imposes various duties on CRAIGSLIST, not  
17 based on its capacity as a publisher or speaker, but as a corporation. Here, Plaintiff's FAC asserts that: (1)  
18 CRAIGSLIST should conduct its business in compliance with UCL; and (2) CRAIGSLIST must be held  
19 accountable for its unfair business policies that easily allowed SIMPSON to post nine fraudulent ads  
20 targeting Plaintiff, causing injury in fact and monetary loss. Accordingly, Defendant CRAIGSLIST's  
21 contention that Plaintiff's Unfair Competition claim treats CRAIGSLIST as a publisher and speaker of  
22 SIMPSON's internet posts is absolutely baseless.

23 CRAIGSLIST boldly asserts that Plaintiff's claim for Unfair Competition endeavors to regulate  
24 CRAIGSLIST's decision-making related to the postings of third-party content. This is completely false.  
25 Nowhere in the FAC does SCOTT P. demand that CRAIGSLIST screen, edit and/or censor third-party  
26 postings based upon their offensive or harassing content. Compliance with UCL, which in this case happens  
27 to be the implementation of user-authentication procedures, is clearly not synonymous with editorial  
28 decisions.

///

1            *McIntyre v. Ohio Elections Comm'n*, (1994) 514 U.S. 334, 342, a case relied upon by CRAIGSLIST,  
2 is entirely irrelevant. The issue in *McIntyre* involved First Amendment protection of anonymous  
3 distribution of political pamphlets. Fraudulent and harassing internet ads posted in “Casual Encounters” and  
4 “For Sale” sections of Craigslist.org are plainly not political speech. Further, *McIntyre* never addressed the  
5 issue of internet speech. CRAIGSLIST is attempting to mislead the court by confusing and muddling the  
6 issue of Unfair Competition with political speech issues. As such, Plaintiff’s case cannot be analogized to  
7 *McIntyre*. Similarly, *Reno v. ACLU* (1997) 521 U.S. 844, 870 is also inapplicable because the issue before  
8 the Court in *Reno* was whether the provisions in *Communications Decency Act* seeking to protect minors  
9 from harmful material on the internet violated the First Amendment. Defendant is once again muddling the  
10 issues of First Amendment Rights regarding content-based restrictions with Plaintiff’s claim of Unfair  
11 Competition. Plaintiff’s claim patently does not assert that CRAIGSLIST make any content-based editorial  
12 decisions.

13            **C.        CRAIGSLIST IS NOT ENTITLED TO SECTION 230(c)(2) PROTECTION**  
14            **BECAUSE IT DID NOT ACT VOLUNTARILY IN GOOD FAITH**

15            CRAIGSLIST never volunteered to remove and prevent the fraudulent ads identifying SCOTT P.  
16 from its website. In order to be offered protection under Section 230(c)(2), Defendant must prove all of the  
17 following: (1) Defendant is a provider or user of an interactive computer service; (2) Defendant acted  
18 voluntarily and in good faith; (3) Defendant acted to restrict access to or availability of material that the  
19 provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing or otherwise  
20 objectionable. *The Communications Decency Act of 1996*, 47 U.S.C. 230 (c)(2). After all, Section 230(c) is  
21 captioned “Protection for Good Samaritan Blocking and Screening of Offensive Material.”

22            Here, CRAIGSLIST is not a “good Samaritan” who acted “voluntarily in good faith” to remove and  
23 prevent harassing postings regarding SCOTT P. Indeed, CRAIGSLIST never removed and prevented  
24 offensive postings targeting SCOTT P. on its own initiative. In fact, CRAIGSLIST made three express  
25 promises to prevent future harassing posts only at the request of Plaintiff. Because these promises were  
26 legally enforceable, CRAIGSLIST had an affirmative duty to remove and prevent fraudulent postings.  
27 Accordingly, CRAIGSLIST’s statement that it was acting voluntarily and in good faith is baseless, and  
28 CRAIGSLIST is not protected by Section 230(c)(2).

1            *Goddard v. Google, Inc.*, (2008) WL 5245490 is entirely distinguishable and inapplicable. The  
2 plaintiff in *Goddard* sued Google for breach of contract alleging that Google failed to enforce its policies  
3 with respect to excluding fraudulent advertisements. *Id* 1. According to *Goddard*, the intent of Section  
4 230(c)(2) was to “encourage internet service providers to eliminate violent and harassing materials...and to  
5 allow interactive service providers to establish standards of decency without risking liability.” *Id* 6. Here,  
6 there is no such “standards of decency” established by CRAIGSLIST at issue. SCOTT P.’s claim is not  
7 based on CRAIGSLIST’s good faith failure to enforce its own policy, but on CRAIGSLIST’s failure to  
8 perform its legal obligations to prevent fraudulent ads pursuant to its promises made to Plaintiff. Further,  
9 shielding CRAIGSLIST from breach of promises based on 230(c)(2) will not only contravene the Section’s  
10 very policy to encourage elimination of violent and harassing material, but it will also encourage internet  
11 service providers to breach promises and contracts without any fear of legal consequence. As such, the  
12 decision in *Goddard* is inapplicable.

13            Likewise, *Barrett v. Rosenthal*, (2006) 40 Cal.4 33, 56 is entirely distinguishable because  
14 CRAIGSLIST’s liability as alleged in the FAC does not stem from its unsuccessful but good faith attempt at  
15 self-regulation, but from CRAIGSLIST’s failure to perform enforceable promises made to SCOTT P.  
16 Clearly, Defendant’s breach of *three unambiguous promises* cannot be viewed as good faith conduct  
17 entitling Defendant to 230(c)(2) protection. Accordingly, Plaintiff’s claims are not barred by Section  
18 230(c)(2), and Defendant’s Demurrer must be overruled.

19            **D.     PLAINTIFF HAS PLED SUFFICIENT FACTS TO ESTABLISH HIS PROMISSORY**  
20            **ESTOPPEL CAUSE OF ACTION**

21            Contrary to Defendant’s baseless contention, Plaintiff has alleged ample facts constituting  
22 enforceable promises and reliance. A claim of Promissory Estoppel requires: (1) an enforceable promise;  
23 (2) reliance by the party to whom the promise is made; (3) reasonable and foreseeable reliance; and (4)  
24 injury occurred as a result of the reliance. *Garcia v. Wold Sav., FSB*, 2010 WL1408927, 3 (2d Dist. April 9,  
25 2010).

26            1.            Craigslist Made Three Enforceable Promises As Alleged in Plaintiff’s FAC

27            Plaintiff’s FAC alleges three unambiguous promises made by CRAIGSLIST to prevent further  
28 harassing ads identifying Plaintiff from being posted on Craigslist.org. The FAC alleges that during



1 Plaintiff's telephone conversation with CRAIGSLIST on March 18, 2009, Plaintiff requested that no further  
2 ads identifying him by name, numbers or address be posted on Craigslist.org. without his consent. (FAC ¶  
3 56). CRAIGSLIST promised Plaintiff that it would "take care of it." (FAC ¶ 56). Plaintiff also alleged that  
4 on March 20, 2009, Plaintiff requested that CRAIGSLIST "not allow any further posts about him using the  
5 email Sp.....@hotmail.com, and identifying his name, telephone numbers or address in any way." (FAC ¶  
6 62). Defendant responded by promising that it would take steps to stop the harassing posts. (FAC ¶ 63).  
7 Plaintiff further alleged that on March 21, 2009, he telephoned CRAIGSLIST to confirm that no further  
8 posts with his information, particularly from the email address Sp.....@hotmail.com, would be posted on  
9 Craigslist.org. (FAC ¶ 63). CRAIGSLIST once again promised that it would "take care of it," and  
10 reassured Plaintiff that it had already taken steps to prevent more posts from the email address. (FAC ¶ 63).

11 These promises are clear and unambiguous, therefore, constitute meeting of the minds. Each  
12 requests from Plaintiff was clear and specific in that CRAIGSLIST was asked to prevent further postings  
13 identifying Plaintiff by name, telephone numbers or address, particularly from the email address  
14 Sp.....@hotmail.com. In each instance, Defendant agreed to act according to Plaintiff's request by stating  
15 that it would "take care of it." Now, CRAIGSLIST is playing a game of semantics by claiming that it  
16 cannot know what it meant by its own words, "take care of it." However, CRAIGSLIST plainly knew what  
17 it was promising to "take care of" because it clarified in its own words to Plaintiff that it "had taken steps to  
18 prevent more posts from the same harassing source." (FAC ¶ 63). Thus, there was clearly a meeting of the  
19 minds, and Plaintiff's FAC successfully states a claim for Promissory Estoppel.

## 20 2. Defendant CRAIGSLIST Admitted Its Promises to Plaintiff

21 Defendant CRAIGSLIST's own words demonstrate that it made enforceable promises to the  
22 Plaintiff to remove the harassing posts. Plaintiff's FAC alleges that CRAIGSLIST made repeated promises  
23 to Plaintiff, on which Plaintiff relied. After CRAIGSLIST's first series of promises to the Plaintiff to stop  
24 the harassing posts, CRAIGSLIST expressly promised the Plaintiff that "*additional steps have been taken*"  
25 (emphasis added) to stop the harassing posts. (Chang Decl. ¶5. Exhibit 2. Also FAC Exhibit 23).  
26 Defendant CRAIGSLIST's express admission that it was taking "additional" steps to stop the harassing  
27 posts is a plain and unambiguous admission that it had made earlier enforceable promises to the Plaintiff to  
28 prevent the harassing internet posts.

1                   3.       Plaintiff Manifestly Relied on CRAIGSLIST's Promises

2                   CRAIGSLIST's contention that Plaintiff did not rely on its representations is without merit. The  
3 fact that Plaintiff called law enforcement and "uncle Troy" for help does not negate the fact that Plaintiff  
4 did in fact rely on CRAIGSLIST to keep its promises. CRAIGSLIST made repeated, express and  
5 unambiguous promises to Plaintiff, and only CRAIGSLIST had the ability to prevent and remove posts  
6 from its own website; the ability that neither the police nor "uncle Troy" possessed. As such Plaintiff's  
7 reliance on CRAIGSLIST's promises were reasonable and foreseeable. Further, Plaintiff's reliance on  
8 CRAIGSLIST was based upon its promises to prevent future fraudulent ads identifying Plaintiff, as only  
9 CRAIGSLIST had the power to screen and prevent such posts.

10                  On the other hand, Plaintiff's contact with the police and his uncle was for the purpose of  
11 identifying the harassing callers and filing charges against the perpetrator, actions that any reasonable  
12 victim of cruel and harassing posts would have taken. Plaintiff's FAC reflects that SCOTT P. reasonably  
13 relied on CRAIGSLIST's promises and took no further action to "attempt to stop further harassing  
14 CRAIGSLIST posts." (FAC ¶¶ 63, 67). Whether Plaintiff attempted to identify the people who were  
15 calling him as a result of the harassing Craigslist posts or reported the matter to police are irrelevant to  
16 Defendant CRAIGSLIST's prior promises to the Plaintiff. Indeed, in reliance on CRAIGSLIST's earlier  
17 series of promises, Plaintiff stopped calling and emailing CRAIGSLIST until he learned of CRAIGSLIST's  
18 breach on or about April 18, 2009, when new posts appeared. (FAC Exhibits 9, 15, 23, 24).  
19 CRAIGSLIST then promised it would take "additional" steps to stop further internet impersonation and  
20 harassment. As such, it is entirely irrelevant that Plaintiff later contacted the police and his uncle; only  
21 CRAIGSLIST had the ability to prevent posts, and said contacts had nothing to do with the prevention of  
22 posts, but was solely for the purpose of identifying the perpetrator so as to file charges against him.  
23 Accordingly, Plaintiff has alleged more than enough facts to support his cause of action for Promissory  
24 Estoppel.

25                  **E.       PLAINTIFF HAS STANDING TO ASSERT HIS UNFAIR COMPETITION CLAIM**  
26                   **BECAUSE HE SUFFERED INJURY IN FACT AND MONETARY LOSS AS**  
27                   **ALLEGED IN HIS FAC**

28                  CRAIGSLIST's argument that Plaintiff has not suffered any monetary loss is blatantly false. Indeed,  
SCOTT P. has suffered both injury in fact and monetary loss as a result of CRAIGSLIST's unfair business

1 policies as alleged in his FAC. SCOTT P. suffered from personal injuries, including but not limited to  
2 humiliation, mental anguish and emotional and physical distress. (FAC ¶ 83). Plaintiff also suffered from  
3 monetary loss, including but not limited to: (1) therapy expenses for emotional distress caused by offensive  
4 telephone calls and visits from numerous strangers over a period of two months; (2) telephone bill incurred  
5 for multiple calls placed to CRAIGSLIST; and, (3) loss of earnings due to missed work days as a result of  
6 emotional distress caused by the harassing posts. (FAC ¶ 84). Plaintiff's personal injuries, medical  
7 expenses and loss of income are specifically alleged in paragraphs 83 and 84 of the FAC, which were then  
8 incorporated by reference in paragraph 87 under Plaintiff's Second Cause of Action for Unfair Competition.  
9 Accordingly, Plaintiff has standing to assert his claim for Unfair Competition, and Defendant's Demurrer  
10 to SCOTT P.'s Second Cause of Action must be overruled.

11 **F. PLAINTIFF MUST BE GRANTED LEAVE TO AMEND IF THE COURT FINDS**  
12 **ANY DEFECT IN THE FAC**

13 If the Court finds any defect in Plaintiff SCOTT P.'s FAC, Plaintiff must be granted leave to amend  
14 as he has alleged ample facts to support both of his causes of action. In California, the courts have adopted  
15 a rule of liberality "if a fair opportunity to correct any defect has not been given." *Angie M. v. Superior*  
16 *Court* (1995) 37 Cal.App.4<sup>th</sup> 1217, 1227. In fact, it would be prejudicial error to deny leave to amend when  
17 a reasonable possibility of curing the defect exists. *Okun v. Superior Court* (1981) 29 Cal.3d 442, 460.  
18 Indeed, unless the complaint shows on its face that it is incapable of amendment, denial of leave to amend  
19 constitutes an abuse of discretion. *McDonald v. Sup.Ct.* (1986) 180 Cal.App.3d 297, 303-304.

20 There are abundant allegations set forth in SCOTT P.'s FAC and referenced herein that support his  
21 claims for both Promissory Estoppel and Unfair Competition. If, however, additional allegations are  
22 required, Plaintiff respectfully requests leave to file an amended complaint.

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28  
///

1 **IV. CONCLUSION**

2 For the foregoing reasons, Defendant CRAIGSLIST's Demurrer should be overruled in its entirety.  
3 If, for any reason, the Demurrer is sustained, Plaintiff respectfully requests that the Court grant 30 days leave  
4 to amend.

5  
6 DATED: May 17, 2010

7 THE CIFARELLI LAW FIRM  
8 THOMAS A. CIFARELLI  
9 DAWN M. SMITH  
10 GRACE H. CHANG

11 BY: 

12 GRACE H. CHANG  
13 Attorneys for the Plaintiff  
14  
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16  
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28

**DECLARATION OF GRACE H. CHANG**

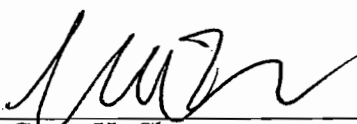
1 I GRACE H. CHANG, hereby declare,

- 2
- 3 1. I am an attorney at law duly licensed to practice in all the Courts in the State of California and am
- 4 an associate at The Cifarelli Law Firm, LLP, counsel for Plaintiff SCOTT P. I write this
- 5 declaration in support of Plaintiff SCOTT P.'s Opposition to Defendant CRAIGSLIST's
- 6 Demurrer. I have personal knowledge of the following facts and if called to testify, could and
- 7 would competently do so under oath.
- 8 2. On or about February 5, 2010, SCOTT P.'s Complaint against Defendants CRAIGSLIST, FOSTER
- 9 DAIRY FARMS, ALBERT CARRENO and MICHAEL O. SIMPSON was filed in the San
- 10 Francisco County Superior Court. On or about March 9, 2010, Plaintiff SCOTT P.'s First
- 11 Amended Complaint against said Defendants was filed in the San Francisco County Superior
- 12 Court.
- 13 3. Plaintiff's First Amended Complaint was timely served on Defendant CRAIGSLIST on March 18,
- 14 2010. A true and correct copy of the Proof of Service of Plaintiff's First Amended Complaint on
- 15 Defendant CRAIGSLIST is attached hereto as **Exhibit 1**, and incorporated by reference herein.
- 16 4. On May 4, 2010, Plaintiff's Counsel received Defendant CRAIGSLIST's Demurrer. The proof
- 17 of service to the Demurrer indicated that it was served by overnight delivery on May 3, 2010: 46
- 18 days after service of Plaintiff's First Amended Complaint on CRAIGSLIST.
- 19 5. Attached hereto as **Exhibit 2**, and incorporated by this reference, is an email from CRAIGSLIST
- 20 to Plaintiff SCOTT P. dated April 18, 2009 that "additional steps have been taken" to prevent
- 21 further fraudulent posts identifying SCOTT P. Said email was attached to Plaintiff's FAC as
- 22 Exhibit 23.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing is true

24 and correct to the best of my personal knowledge.

25 Executed this 17th day of May, 2010, at Santa Ana, California.

26 

27 Grace H. Chang  
28 Declarant

# EXHIBIT 1

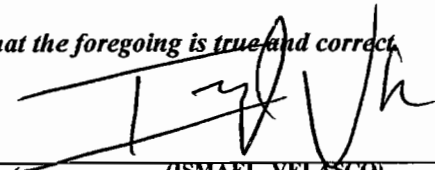
Attorney or Party without Attorney: THOMAS A. CIFARELLI, ESQ., Bar #161815 THE CIFARELLI LAW FIRM, LLP 200 WEST SANTA ANA BLVD. SUITE 300 SANTA ANA, CA 92701 Telephone No: 714-547-3992      FAX No: 714-547-5523			For Court Use Only  <b>ENDORSED FILED</b> Superior Court of California County of San Francisco  MAR 30 2010  CLERK OF THE COURT BY: <u>MARY A. MORAN</u> <small>Deputy Clerk</small>	
Attorney for: Plaintiff			Ref. No. or File No.: SCOTT P.	
Insert name of Court, and Judicial District and Branch Court: San Francisco County Superior Court, Civic Center Courthouse				
Plaintiff: SCOTT P. Defendant: CRAIGSLIST, INC.			Case Number: CGC-10-496687	
<b>PROOF OF SERVICE</b>	Hearing Date:	Time:	Dept/Div:	

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the FIRST AMENDED SUMMONS; FIRST AMENDED COMPLAINT FOR COMPENSATORY AND PUNITIVE DAMAGES; NOTICE OF CASE MANAGEMENT CONFERENCE; ADR INFORMATION PACKAGE.
3. a. Party served: CRAIGSLIST, INC.  
 b. Person served: JIM BUCKMASTER, AGENT FOR SERVICE OF PROCESS
4. Address where the party was served: 1381 9TH AVENUE  
 SAN FRANCISCO, CA 94122
5. I served the party:  
 b. by substituted service. On: Thu., Mar. 18, 2010 at: 10:30AM by leaving the copies with or in the presence of:  
 CLINT POWELL, CUSTOMER SERVICE MANAGER  
 (1) (Business) Person in charge over 18. I informed him or her of the general nature of the papers.  
 (4) A declaration of mailing is attached.
6. The "Notice to the Person Served" (on the Summons) was completed as follows:  
 on behalf of: CRAIGSLIST, INC.  
 Under CCP 416.10 (corporation)
7. Person Who Served Papers:
 

a. ISMAEL VELASCO b. NATIONWIDE LEGAL, INC. 820 NORTH PARTON STREET SUITE 203 SANTA ANA, CA 92701 c. (714)558-2400	Recoverable Cost Per CCP 1033.5(a)(4)(B) d. The Fee for Service was: e. I am: (3) registered California process server (i) Independent Contractor (ii) Registration No.: 908 (iii) County: San Francisco
---	---

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Thu, Mar. 25, 2010



<i>Attorney or Party without Attorney:</i> THOMAS A. CIFARELLI, ESQ., Bar #161815 THE CIFARELLI LAW FIRM, LLP 200 WEST SANTA ANA BLVD. SUITE 300 SANTA ANA, CA 92701 Telephone No: 714-547-3992      FAX No: 714-547-5523				<i>For Court Use Only</i>	
<i>Attorney for: Plaintiff</i> SCOTT P.			<i>Ref. No or File No.:</i> SCOTT P.		
<i>Insert name of Court, and Judicial District and Branch Court:</i> San Francisco County Superior Court, Civic Center Courthouse					
<i>Plaintiff:</i> SCOTT P. <i>Defendant:</i> CRAIGSLIST, INC.					
<b>PROOF OF SERVICE</b> <b>By Mail</b>		<i>Hearing Date:</i>	<i>Time:</i>	<i>Dept/Div:</i>	<i>Case Number:</i> CGC-10-496687

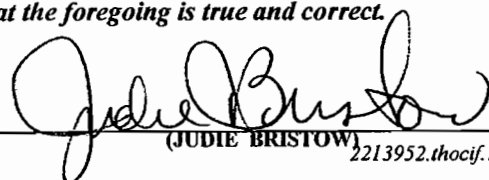
1. I am over the age of 18 and not a party to this action. I am employed in the county where the mailing occurred.
2. I served copies of the FIRST AMENDED SUMMONS; FIRST AMENDED COMPLAINT FOR COMPENSATORY AND PUNITIVE DAMAGES; NOTICE OF CASE MANAGEMENT CONFERENCE; ADR INFORMATION PACKAGE.
3. By placing a true copy of each document in the United States mail, in a sealed envelope by First Class mail with postage prepaid as follows:
  - a. Date of Mailing: Mon., Mar. 22, 2010
  - b. Place of Mailing: SANTA ANA, CA 92701
  - c. Addressed as follows: CRAIGSLIST, INC.  
1381 9TH AVENUE  
SAN FRANCISCO, CA 94122
4. I am readily familiar with the business practice for collection and processing of correspondence as deposited with the U.S. Postal Service on Mon., Mar. 22, 2010 in the ordinary course of business.
5. *Person Serving:*
  - a. JUDIE BRISTOW
  - b. NATIONWIDE LEGAL, INC.  
820 NORTH PARTON STREET  
SUITE 203  
SANTA ANA, CA 92701
  - c. (714) 558-2400

Recoverable Cost Per CCP 1033.5(a)(4)(B)

- d. *The Fee for Service was:*
- e. I am: (3) registered California process server
  - (i) Employee
  - (ii) Registration No.: 5484
  - (iii) County: Los Angeles

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Thu, Mar. 25, 2010

  
 (JUDIE BRISTOW)



# EXHIBIT 2

RE: [abuse-harass] 911

From: **craigslis** (abuse@craigslis.org)

Sent: Sat 4/18/09 7:39 PM

To: Scott P (m) (@hotmail.com)

**REDACTED**

[ Those posts have been removed from the listings, additional steps have been taken that may help prevent this issue from happening again. ]

Since these posts appear to be an attempt to impersonate you for the purpose of harassment, we can give you the details we have about them.

(The information shown below represents the complete record in our system for these posts. We don't have the poster's name, phone number, or address, but it is likely that law enforcement authorities will be able to use this information to identify the poster.)

\*\*\*\*\*

----- TEAMREAD ROW 1

-----  
PostingID: 1128418184  
ReplyEmail: sp (@hotmail.com)  
IPAddress: 99.52.242.39  
CreationDate: 2009-04-18 09:42:38 (Pacific)  
PostedDate: 2009-04-18 09:43:55 (Pacific)  
ModifiedDate: 2009-04-18 19:39:36 (Pacific)  
Area: bakersfield  
GeographicArea: N/W bako  
Category: general  
PostingTitle: spa... free!! u pick up!  
EmailDisplay: no email address shown  
InvoiceItemID: 0  
CurrentPostStatus: staff deleted  
PostingBody  
=====

cal spa only 2 years old, works all accesories, freel, haas to be picked up this weekend!, house forclosed..moving , off of olive drive, heavy bring lots of help..I have a bad back  
<br>

<br>

<br>

<br>

<br>

<br>

----- TEAMREAD ROW 2

1 **PROOF OF SERVICE**  
2 **STATE OF CALIFORNIA, COUNTY OF ORANGE**

3 I am employed in the County of Orange, State of California. I am over the age of 18 and  
4 not a party to the within action; my business address is 200 West Santa Ana Boulevard, Suite  
5 300, Santa Ana, California 92701.

6 On May 17, 2010, I served the foregoing document described as **PLAINTIFF'S**  
7 **OPPOSITION TO DEFENDANT CRAIGSLIST'S DEMURRER; MEMORANDUM OF**  
8 **POINTS AND AUTHORITIES; DECLARATION OF GRACE H. CHANG; EXHIBITS** on  
9 the interested parties by placing a true copy thereof enclosed in sealed envelopes addressed as  
10 follows:

11 Michael Helsley, Esq.  
12 **JONES HELSLEY PC**  
13 8365 N Fresno St. Suite 301  
14 Fresno, CA 93720  
15 (559) 233-4800  
16 (559) 233-9330 Fax

Philip A. Leider, Esq.  
Liling Poh, Esq.  
**PERKINS COIE LLP**  
Four Embarcadero Center, Suite 2400  
San Francisco, CA 94111  
(415) 344-7000  
(415) 344-7050 Fax

11 **Attorneys for Defendants**  
12 **Foster Dairy Farms and Alberto Carreno**

**Attorneys for Defendant**  
**CRAIGSLIST, INC.**

13 xx **BY MAIL:** I deposited such envelope in the mail at Santa Ana, California.  
14 The envelope was mailed with postage thereon fully prepaid. I am "readily  
15 familiar" with the firm's practice of collection and processing correspondence for  
16 mailing. It is deposited with U.S. postal service on that same day in the ordinary  
17 course of business. I am aware that on motion of party served, service is  
18 presumed invalid if postal cancellation date or postage meter date is more than  
19 one day after date of deposit for mailing in affidavit.

17            **BY FAX:** I utilized a facsimile machine, telephone number (714) 547-5523  
18 by transmitting a copy of the document. The facsimile machine that I used  
19 complied with *California Rules of Court Rule 2003(3)* and no error was reported  
20 by the machine. Pursuant to *Rule 2005(i)*, I caused the machine to print a record  
21 of the transmission, a copy of which is attached to this declaration. A true and  
22 correct copy of the said transmission report is attached to the original of this  
23 declaration of service by fax transmission and incorporated herein by reference.

21            **BY FEDERAL EXPRESS:** I deposited said envelope(s) into a Federal Express  
22 Box for earliest next business day morning with fees fully prepaid and addressed  
23 to the office of or the residence of the addressee as shown above.

23 Executed on **May 17, 2010**, at Santa Ana, California.

24 I declare under penalty of perjury under the laws of the State of California that the  
25 foregoing is true and correct.

26   
27 \_\_\_\_\_  
28 Shahna Cervantes