

Answer to Complaint

FILED
IN CLERKS OFFICE

Christopher Zammito and
Zammito Automotive Group, Inc.
Plaintiffs

Summons in Civil Action
Case Number
08 CA 11936 NC
DEC -5 A 11: 16
U.S. DISTRICT COURT
DISTRICT OF MASS.

Richard M. Havrda Jr.
26 Prospect St Apt 2r
S. Dartmouth, Ma 02748
Defendant

1. I admit Plaintiff Christopher Zammito may be the owner of Zammito Automotive Group Inc. and a resident of Dartmouth, Massachusetts.
2. I admit Plaintiff Zammito Automotive Group, Inc. may be a Massachusetts corporation with its principal place of business in Dartmouth, Ma.
3. I, Defendant Richard M. Havrda Jr. have no knowledge that the Plaintiff has conducted automobile sales under the trademark "Zammito Auto Group" in Rhode Island for five years and Massachusetts for nine years.
4. I admit Defendant Richard M. Havrda Jr., is a resident of Dartmouth, Massachusetts and a former employee of the Plaintiff.
5. I admit in September 2005 Plaintiff terminated Defendant but I deny the poor performance and conduct as a salesperson complaint.
6. I admit I registered the domain name zammitoautogroup.com through the website register.com after my termination.
7. I admit to making a partial implied statement that the reader would have to use their imagination to complete.
8. I admit to writing Zammito Auto Group, writing a slogan, listing a picture, which the Plaintiff willingly posed for and making a partial implied statement, which the reader would have to use their imagination to complete.
9. I deny any clear intent to divert those interested in the Plaintiff's products and services to a site which disparages said products and services. It took three years for the Plaintiff to notice the site existed. It has never been advertised or listed on search engines to arrive or appear in any search results. No products or services were mentioned or offered for sale on the website.
10. I admit that on October 16, 2008 that the Defendant offered in an email to let the Plaintiffs have the domain name zammitoautogroup.com in exchange for \$1200 demonstrator money that the sales manager David Lee and the controller Fred Pacillo who worked for the Plaintiff failed to pay the Defendant. I also admit I requested a \$100 gift certificate to the Black Bass Grille in Padanarum, South Dartmouth, MA. The reason I asked for this is it is the location where the Defendant loudly proclaimed the derogatory statements about his wife in a drunk and disorderly fashion in front of the restaurant's staff and my personal friends. This embarrassed the Defendant. In the same email I admit I also requested an

apology for the statement that I was terminated for poor performance as a salesman. According to performance reports and feedback from management, I was a model employee and excellent salesman. I was Toyota Certified, which means I had a high customer satisfaction index based on surveys and I achieved excellent sales volume.

11. Count 1 paragraph 10 of the complaint is not complete or fully stated. My answer 10.above is.

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12. I have no knowledge that the Plaintiffs have a valid trademark in "Zammito Auto Group"
13. I admit I have no legitimate interest in the domain name "zammitoautogroup.com"
14. I deny I acquired this domain name and have used the Zammito Auto Group trademark in bad faith with the intent to defame Plaintiffs. I exercised free speech on my website and I posted a photograph that the Plaintiff willingly posed for. I deny trying to profit from its sale to the Plaintiffs. I wanted an apology and the money that the Plaintiff failed to pay me.
15. I deny any knowledge that the Plaintiffs continue to sustain damages. I deny any clear intent to divert those interested in the Plaintiffs products and services to a site which disparages said products and services. Three years passed before the Plaintiff noticed the site existed. The site has never been advertised or listed on search engines to arrive or appear in any search results. The site has no commercial content, nothing was sold and no products were disparaged.

Count 2

16. I do not know if this line needs a response.
17. I deny that I used or continue to use the Plaintiffs' "Zammito Auto Group" trademark in a manner likely to confuse customers seeking out the Plaintiffs' products and services. It is not clear that the Plaintiff even has a trademark on Zammito Auto Group. It took three years for the Plaintiff to notice the site existed. **Upon the Plaintiffs' discovery of the website and request for an immediate cease and desist I, the Defendant removed all content from the website.**
18. I deny that I divert consumers to any website. I have no knowledge that the Plaintiff has a trademark on "Zammito Auto Group".
19. I have no knowledge of the Plaintiffs sustaining damages.

Count 3

20. I do not know if line 20 needs a response.

21. I deny intentionally malicious defamation of the Plaintiff and have only partially written a statement, which the Plaintiff loudly proclaimed in a public place. I have only exercised free speech. The Plaintiff, Christopher Zammito is a public figure, he willingly posed for the photograph and he defames himself. The Plaintiff impairs his own standing in the community and business opportunities.
22. I admit that Defendant's statements are of and concerning Christopher Zammito.
23. I deny the partial statements were made public. The website zammitoautogroup.com has never been advertised or listed on search engines to arrive or appear in any search results. It took the Plaintiff three years to discover the website.
24. I deny the statements are false and posted with actual malice. Any reasonable person would probably laugh if they saw the website and it was all in good fun.
25. I do not have any knowledge of the Plaintiffs sustaining damages.

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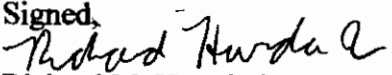
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It took three years for the Plaintiff to notice the website existed. It has never been advertised or listed on search engines to arrive or appear in any search results. There has been no diversion to the site, no products have been sold or disparaged. Upon the Plaintiffs' discovery of the website and request for an immediate cease and desist I, the Defendant removed all content from the website.

I am truly sorry and sincerely apologize to Chris Zammito and the Zammito family.

I, Richard M. Havrda Jr., with a dismissal with prejudice will surrender immediately and completely the website www.zammitoautogroup.com to Christopher Zammito and Zammito Automotive Group, Inc.

Signed,

Richard M. Havrda Jr.
December 3, 2008