

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**
CHRISTOPHER S. FERGUSON, and DOES 1 through 5, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
JEANETTE BUNN

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA, SAN DIEGO COUNTY
Central Branch
330 West Broadway, San Diego, CA 92101

CASE NUMBER:
(Número del Caso): **GIC 843652**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

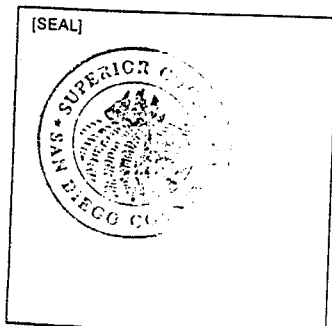
Fred C. James (Bar # 069040)
Guevara, Phippard & James P.C.
1420 Kettner Blvd., Suite 600, San Diego, CA 92101

Phone No. (619) 531-0123
Fax No. (619) 544-0056

DATE: **MAR 09 2005**
(Fecha)

Clerk, by *[Signature]*, Deputy
(Secretario) **RUSSELL TAYLOR** (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):

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Fred C. James #69040
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Professional Corporation
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Attorneys for Plaintiff
JEANETTE BUNN

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION

JEANETTE BUNN,

Plaintiff,

v.

CHRISTOPHER S. FERGUSON,
and DOES 1 through 5, inclusive,

Defendant.

) Case No. **GIC 843652**
)
) **COMPLAINT FOR DAMAGES**

-) 1. **ABUSE OF PROCESS**
-) 2. **VIOLATION OF BUSINESS AND PROFESSIONS CODE §17200, ET SEQ.--UNFAIR BUSINESS PRACTICE**
-) 3. **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

DEPT:
JUDGE:

COMES NOW Plaintiff JEANETTE BUNN to complain and allege against Defendant CHRISTOPHER S. FERGUSON as follows:

GENERAL ALLEGATIONS

- 1. Plaintiff JEANETTE BUNN ("Plaintiff or Bunn") is, and at all times mentioned herein was, an individual residing in San Diego County.
- 2. Plaintiff is informed and believes and thereon alleges that Defendant CHRISTOPHER S. FERGUSON ("Defendant or Ferguson") is, and at all times mentioned herein was, an individual residing in Salt Lake City, Utah.

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3. Plaintiff alleges that San Diego County is the proper venue because Defendant submitted himself to this jurisdiction when he applied for and obtained a sister-state judgment against Plaintiff in this Court, in Case No. IC 832345.

4. Plaintiff is unaware of the true names and capacities, whether individual, associations, partnerships, corporations, or otherwise of the defendants sued herein as DOES 1 through 5, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff alleges on information and belief that each of the fictitiously named defendants is responsible in some manner for the occurrences herein alleged, and Plaintiff will amend her complaint when the true names of such defendants have been ascertained.

5. Plaintiff is informed and believes and thereon alleges, that the defendants, including those named as DOES, were at all times relevant herein the agents, servants, and/or employees of their co-defendants, and each of them, and in doing the things herein alleged, were acting at least in part within the course and scope of their authority as such agents, servants and/or employees of their co-defendants, and each of them.

6. Plaintiff is informed and believes and thereon alleges, that the acts and/or omissions of defendants, including those named as DOES, were authorized and/or ratified by officers, directors, and/or managing agents of defendants, and each of them.

FIRST CAUSE OF ACTION

(Abuse of Process)

7. Plaintiff realleges and incorporates by reference paragraphs 1 through 6 as though fully set forth herein.

8. On January 23, 2004, Ferguson filed a small claims proceeding in the Third District Court, State of Utah, against Bunn seeking \$3,630.00 for an alleged violation of the Telephone Consumer Protection Act of 1991 (47 U.S.C. §227). It appears from the affidavit and order in the small claims court that Ferguson alleged and

1 represented to the Utah court that he had received an unsolicited business advertisement
2 via his fax machine from Bunn, personally, and that, by this act, she violated three
3 separate laws: a statute of the United States, a Federal Communications Commission
4 regulation, and a Utah statute.

5 9. Bunn is the President of JD&T Enterprises, Inc., a California
6 corporation, dba Travel To Go (hereinafter "Travel To Go"). In January of 2004,
7 Ferguson addressed a letter to Travel To Go as "Jeanette Bunn-Travel To Go." Bunn's
8 name does not appear in any company sponsored advertisements. Bunn is informed and
9 believes and thereon alleges that the only way Ferguson could have gotten Bunn's name
10 is to access California corporate or other business records available to the public. As
11 acknowledged by the way he addressed the letter, the purported act upon which
12 Ferguson based his lawsuit was, at best, a corporate act. Ferguson had knowledge of
13 that fact, but he misled the Utah court by suppressing that fact and instead, by naming
14 Bunn personally.

15 10. The Utah statute for service of process on an out-of-state defendant
16 provides that an individual can be served by mail only if the defendant personally signs
17 a receipt indicating that delivery of the summons and complaint was effected. Rule
18 4(d)(2), Utah Rules of Civil Procedure. The Utah Rules of Civil Procedure further
19 mandate that the proof of service on an individual made pursuant to Rule 4(d)(2) shall
20 include a receipt signed by the defendant. Rule 4(e)(1), Utah Rules of Civil Procedure.
21 A copy of Rule 4 of the Utah Rules of Civil Procedure is attached hereto as
22 **Exhibit "A"** and incorporated herein by reference.

23 11. In addition, the rules of the Utah small claims court require that, if a
24 plaintiff serves the defendant by mail, the certificate of receipt must be signed by the
25 defendant. The rules provide that an "example would be registered or certified mail
26 with return receipt requested to be signed by the addressee only." A copy of the Utah
27 Small Claims Affidavit and Order with the Rules setting forth the requirements for

1 proof of service on a defendant by mail is attached hereto as **Exhibit "B"** and
2 incorporated herein by reference.

3 12. Ferguson represented to the Utah small claims court that he had effected
4 service of process on Bunn by mail and that he had complied with both Rule 4 of the
5 Utah Rules of Civil Procedure and the Utah Small Claims Court Rules when he had not.
6 He did this by filing with the court a proof of service with a return receipt that was
7 signed not by the Defendant, but by an individual named "C. Talbot." The return
8 receipt was not signed by the "Defendant" or the "Addressee only" as required by law.

9 13. This fact is confirmed by the return receipt provided by the U.S. Postal
10 Service as well as the proof of service filed with the Utah small claims court. The U.S.
11 Postal Service return receipt is attached hereto as **Exhibit "C"** and incorporated herein
12 by reference. The alleged service of process on Bunn was not valid. With personal
13 knowledge that the service was not valid, Ferguson thereafter obtained a small claims
14 judgment by default on March 9, 2004.

15 14. After judgment was entered against Bunn, Ferguson brought a motion
16 before the Utah small claims court to require Bunn to appear for a judgment debtor's
17 exam. There is nothing in the Utah court file that indicates Bunn was served with this
18 motion. When she failed to appear on April 29, 2004, for the exam, Ferguson had the
19 court issue a bench warrant for her arrest. On May 17, 2004, Ferguson delivered the
20 bench warrant to the San Diego Sheriff's office with instructions to process it on Bunn.

21 15. Ferguson then made application to the San Diego Superior Court for
22 entry of judgment on the sister-state judgment, designated as Case No. IC 832345. On
23 July 6, 2004, the San Diego Court entered judgment against Bunn in the amount of
24 \$3,730.52.

25 16. Bunn brought a motion to set aside the sister-state judgment. Ferguson
26 was properly and timely served with notice of the motion. The court granted Bunn's
27 motion and on September 21, 2004, entered an order vacating the judgment on the

1 grounds that no personal jurisdiction over Bunn existed in the Utah case; and that she
2 was not served with process in accordance with Utah law.

3 17. Ferguson misused the court process to obtain a judgment against Bunn,
4 in an attempt to coerce her to pay monies she was not obligated to pay. In addition to
5 filing the action in a distant forum without personal jurisdiction over Bunn, Ferguson
6 misrepresented to the court that he had effected service of process, and then he used the
7 wrongfully obtained judgment to cause a bench warrant to be issued for Bunn's arrest.
8 Ferguson's actions constituted "distant forum abuse" in that he sued Bunn in a distant
9 location with the ulterior purpose to obtain a collateral advantage over Bunn by
10 depriving her of the opportunity to defend herself in order to coerce a default judgment
11 and inequitable settlement based on a false claim.

12 18. As a proximate result of the actions of Ferguson, Bunn has been
13 generally damaged in an amount to be proved at time of trial.

14 19. At all times mentioned herein, Ferguson acted willfully with the
15 wrongful intention of injuring Bunn and from an improper or evil motive amounting to
16 malice. Bunn is thus entitled to recover punitive damages from Ferguson.

17 **SECOND CAUSE OF ACTION**

18 **(Violation of Business and Professions Code §17200, et seq.--**

19 **Unfair Business Practice)**

20 20. Plaintiff realleges and incorporates by reference paragraphs 1 through 19
21 as though fully set forth herein.

22 21. Defendant's acts, omissions, misrepresentations, practices, and non-
23 disclosures constituted unfair and fraudulent business acts and practices within the
24 meaning of California Business and Professions Code §17200, et seq.

25 22. Defendant has engaged in unfair and fraudulent business acts and
26 practices by employing an ostensibly legitimate legal process to sue Plaintiff, and others
27 similarly situated, on false, unprovable claims in a distant forum to deprive them of

1 basic opportunities which should be afforded all litigants. Defendant did so in
2 furtherance of a scheme devised by Defendant which would benefit him financially, but
3 which would be detrimental to Plaintiff, and did so with the intent to coerce Plaintiff,
4 and others similarly situated, to enter into a settlement with Ferguson on his small
5 claims cases.

6 23. In this case, Ferguson misused the court process by misrepresenting to
7 the small claims court that (1) Bunn was the real party in interest (2) Ferguson had
8 effected service of process on her and (3) that the court had personal jurisdiction over
9 Bunn. Ferguson further misused the court process by having a warrant issued for her
10 arrest, requesting that the San Diego Sheriff serve her with the warrant at her business,
11 and by obtaining a sister-state judgment in San Diego.

12 24. Defendant has engaged in a fraudulent business act or practice in that the
13 representations and omissions of material fact described herein have a tendency and
14 likelihood to deceive the court, the individuals wrongfully sued, and the general public.

15 25. Plaintiff is informed and believes and thereon alleges that Defendant
16 performed the herein alleged acts for the purpose of gaining a financial advantage to the
17 detriment of Plaintiff. Defendant has also engaged in an unfair business act or practice
18 in that the justification for performing the acts alleged herein is outweighed by the
19 gravity of the resulting harm, particularly considering the available alternatives, and
20 offends public policy, is unscrupulous and unethical, and has caused damage to
21 Plaintiff's business and reputation, as well as to others similarly situated. Accordingly,
22 Defendant has violated §17200's proscription against engaging in an unfair business act
23 or practice.

24 26. As a direct and proximate result of the above alleged acts of Defendant,
25 Plaintiff has suffered actual monetary damages in that she incurred attorney's fees in
26 being forced to set aside the sister-state judgment. Plaintiff has suffered, and will
27 continue to suffer, monetary damages in an amount to be proved at trial, together with

1 interest thereon and attorney's fees, in excess of the jurisdictional minimum of this
2 court. These damages include damages for mental distress, as well as expenditures on
3 legal fees and costs incurred herein.

4 **THIRD CAUSE OF ACTION**

5 **(Intentional Infliction of Emotional Distress)**

6 27. Plaintiff realleges and incorporates by reference paragraphs 1 through 26
7 as though fully set forth herein.

8 28. The acts of Defendant herein alleged were intentional and malicious and
9 done for the purpose of causing Plaintiff to suffer humiliation, mental anguish, and
10 emotional and physical distress. Defendant intentionally and maliciously sued Plaintiff
11 in a distant forum that had no jurisdiction over Plaintiff in order to deprive her of an
12 opportunity to defend herself and to coerce an inequitable settlement based on a false
13 claim. Defendant caused an arrest warrant to be issued and gave instructions for service
14 of the warrant on Plaintiff in San Diego at her business, and then obtained a sister-state
15 judgment against her, knowing that Plaintiff's emotional and physical distress would
16 thereby increase. These acts were all done with a wanton and reckless disregard of the
17 consequences to Plaintiff.

18 29. As a proximate result of the acts alleged herein, Plaintiff suffered
19 humiliation, mental anguish, and emotional and physical distress, all to Plaintiff's
20 damage in an amount to be proved at trial.

21 30. The acts of Defendant alleged herein were willful, wanton, malicious,
22 and oppressive, and justify an award of exemplary and punitive damages to Plaintiff.

23 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 24 1. For compensatory damages, according to proof, with interest thereon as
25 provided by law.
- 26 2. For consequential and actual damages, according to proof, with interest
27 thereon as provided by law.

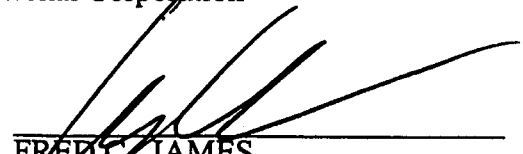
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- 3. For exemplary and punitive damages.
- 4. For attorney's fees.
- 5. For costs of suit and such other relief as the Court deems just and proper.

Dated: March 2, 2005

GUEVARA, PHIPPARD & JAMES
Professional Corporation

By:


FRED C. JAMES
Attorney for Plaintiff
JEANETTE BUNN