*GeckoSystems International Corporation*

# Current Report to Stockholders




**February 25, 2016**

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G1 Execution Services, LLC

KCG Americas LLC

Maxim Group LLC

Vandham Securities Corp.

**MEMORANDUM**

**TO:** William Ney, Esq.

**FROM:** Ami Koldhekar Rodrigues, Esq.

**RE:** Spencer/Georgia RICO

**DATE:** June 25, 2015

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**QUESTION PRESENTED**: What are the necessary elements of a Georgia RICO claim?

**DISCUSSION:**

**Background of Civil RICO Claim**

- A RICO Defendant can be anyone who uses a business in any way to commit two or more of the many racketeering offenses found under state/federal law. In a civil suit, the necessary predicate acts are criminal offenses punishable either by state or federal law.

- Injury to the Plaintiff is an essential element of the cause of action, but the Defendant cannot unintentionally or negligently violate RICO. (Must be an overt act)

- Civil provisions allow for the recovery of treble damages, costs, and attorneys fees, investigative and litigation fees, as well as injunctive relief and "where appropriate," punitive damages to successful RICO Plaintiffs.[1] Georgia courts are also empowered to impose equitable remedies, such as rescission and injunctive relief.[2]

- While state courts have original jurisdiction to enforce the federal RICO statute (18 U.S.C. § 1964), Georgia's RICO statute is independent of, wider in scope, and provides more available remedies than its federal counterpart.[3]

- A Defendant's relationship with the associated enterprise allows RICO to be treated as a separate cause of action in litigation, rather than an enhanced penalty. Most notably, prior predicate acts cannot be collaterally estopped in a cause of

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1 O.C.G.A. §16-14-6(b) and (c).

2 *Id.* To establish a right to equitable relief under Georgia RICO, a Plaintiff is not required, as is usually the case, to show irreparable injury.

3 *See Larson v. Smith*, 391 S.E.2d 686, 688 (Ga. Ct. App. 1990) (Georgia RICO is broader in defining the requisite patter of racketeering activity).

action that includes a RICO claim, because it is necessary to show a "pattern" of racketeering activity.

**Details of Georgia RICO Act, O.C.G.A. § 16-14-1 et seq.**

- The statute of limitations on a Georgia RICO claim is **five years**. The limitations period begins to run once the cause of action accrues *or* "after the conduct in violation of a provision of this chapter terminates."[4]
    - Because RICO Defendants must engage in a pattern of racketeering in order to bring a cause of action under Georgia RICO and this pattern could injure many victims over a period of time, a Georgia RICO victim could potentially have substantially more than five years to file a complaint under Georgia RICO.
- O.C.G.A. §16-14-4(a) provides that "[i]t is unlawful for any person, through a pattern of racketeering activity or proceeds derived therefrom, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise, real property, or personal property of any nature, including money."
    - Analysis: A person can be convicted of a RICO offense if (1) s/he acquired or maintained ownership of *any property* (including money) through a "pattern of racketeering activity" or (2) maintained ownership of any property from the proceeds of any racketeering activity.
- Under §16-14-4(b) if a person is "employed by or associated with" an enterprise, the Georgia RICO statute prohibits that person from conducting or participating in that enterprise through a pattern of racketeering activity.
- §16-14-4(c)'s language providing that it is "unlawful for any person to conspire or endeavor to violate any of the provisions of subsection (a) or (b) of this Code section" criminalizes both conspiracies *and* "endeavors" to violate the other two substantive Georgia RICO provisions.
    - Georgia courts have not addressed the requisite elements of an "endeavor," but this language appears to incorporate the inchoate crime of attempt. Under O.C.G.A. §16-4-1, a person may be convicted of criminal attempt when a "substantial step" has been taken towards the "commission of the crime."
- Looser requirement of "enterprise": §16-14-4(a) and (c) specifically do not require proof of a relationship with a RICO enterprise. Thus, it is possible for a single individual acting unilaterally to violate the statute.[5]

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4 O.C.G.A. §16-4-8 (2014).

5

- Because only subsection (b) of §16-14-4 includes the requirement of an enterprise, arguably the legislative intent was to make a distinction between activities, rather than a statutory ambiguity.

- "Pattern" Requirement: O.C.G.A. §16-14-3(8) defines the crucial elements of a requisite pattern as "at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims, or methods of commissioner or otherwise are interrelated by distinguishing characteristics."

  - The statutory definition requires a relationship between the underlying predicate acts of racketeering, but is silent as to continuity of those acts.

  - However, caselaw indicates that proof of continuity is not required for a Plaintiff to state a claim under Georgia RICO.[6]

  - Because continuity is not required, a Georgia RICO pattern can be satisfactorily established by the commission of two predicate acts.[7] In *InterAgency, Inc. v. DanCo Financial Group*, the Georgia Court of Appeals held that a civil plaintiff only needs to prove the incident that allegedly harmed them and one additional predicate act to satisfy the pattern requirement.[8]

    - Caselaw varies as to whether the two predicate acts must be distinguishable in order to constitute a RICO pattern, especially where victims are injured in separate transactions.

    - In *InterAgency*, the Georgia Court of Appeals did not find that three sales to three investors did not constitute a pattern.[9]

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[6] *See Dover v. State*, 192 Ga. App. 429, 431, 385 S.E. 2d 417 (1989), a violation of O.C.G.A. §16-14-4(a) "does not require that there be proof of an 'enterprise,' but only that the accused 'through a pattern of racketeering activity or proceeds derived therefrom,…acquire or maintain, directly or indirectly, any…, real property or personal property of any nature, including money."

[7] *See InterAgency, Inc. v. Danco Financial Corp.*, 417 S.E.2d 46, 53 (Ga. Ct. App. 1992). In *InterAgency*, the Georgia Court of Appeals held that a civil plaintiff only needs to prove the incident that allegedly harmed them and one additional predicate act to satisfy the pattern requirement.

[8] *Id. See also* Martin, 376 S.E. 2d 888, 898 (Ga. Ct. App. 1988) ("Any two of these counts would have sufficed to make up the essential elements required by O.C.G.A §§ 16-14-3 and 16-14-4."); *Bethune v. State*, 402 S.E.2d 276, 277 (Ga. Ct. App. 1991) (even after removal of predicate offenses for which Defendant previously acquitted from indictment, "any two [remaining offenses] would be sufficient to sustain the single RICO conviction…")

[9] *InterAgency*, 417 S.E.2d at 54.

Likewise, in *Emich v. Windsor*[10] the Georgia Court of Appeals held that "two joint victims of one isolated transaction" were not sufficient to demonstrate a pattern."

- However, this is distinguishable from a single transaction that gives rise to multiple types of offenses, or an act that can be characterized as several types of offenses.[11] Georgia courts have held that such an act would be considered a pattern because it satisfies the requirement of more than one predicate act.

**Summary of Predicate Acts under RICO**

- Violent Crimes: §16-14-3(9) enumerates predicate acts that are violent crimes usually associated with organized crime (homicide, assault, kidnapping, burglary, commercial gambling, prostitution, terroristic threats, arson, and robbery).[12]
- Definition of "racketeering activity":
  - §16-14-3(9)(A)(ix) incorporates all forms of statutory theft under Georgia law. The common law definition of fraud has also been incorporated by its inclusion as "theft by deception."
  - §16-14-3(9)(A)(xxix) – relating to other unspecified federal crimes ("Any conduct defined as "racketeering activity" under 18 U.S.C. §1961(1)(A), (B), (C), and (D)")[13]
    - Incorporates those crimes defined as racketeering activity under 18 U.S.C. §1961(1)(A), including mail, wire, and financial institutions

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*Id.* at 52-53.

10 401 S.E.2d 76,77 (Ga. Ct. App. 1991).

11 *See also Dover*, 385 S.E.2d at 419 (Court rejected defendant's claim that there was one underlying action – the burning of a trailer for insurance proceeds – and instead held for the government, who presented evidence of arson, false statement to local officials concerning the cause of the fire, and false statements to defraud an insurance company); *see also Caldwell v. State*, 321 S.E.2d 704, 707 (Ga. 1984) (scheme to extort campaign contributions from state workers could give rise to an indictable RICO claim where the underlying act contained the predicate acts of theft by deception, extortion, false statements, and false swearing).

12 For a list of predicate acts under the Official Code of Georgia Annotated, please refer to pp. 6-7 of this memo.

13 For a list of predicate acts under the applicable United States Code, please refer to pp 5-6 of this memo.

fraud.[14] Incorporation of this section indicates that federal crimes may be charged under Georgia law.

- §16-14-3(9)(B) – relating to the commission of similar enumerated crimes in other states.[15]

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[14] *See State v. Shearson Lehman Bros., Inc.*, 372 S.E.2d 276, 278 (Ga. Ct. App. 1988) (mail fraud and wire fraud are predicate acts under the Georgia RICO Act).

[15] Though this has not been addressed in case law, the constitutional validity of expanding the state's criminal jurisdiction to acts committed outside the state are questionable. Similarly, for acts that fall within Georgia's state boundaries but is not considered a crime in Georgia is also questionable under due process concerns. However, the constitutionality of incorporating *federal* crimes into the Georgia RICO Act was addressed by the Georgia Supreme Court in *Chancey v. State*, which upheld the constitutionality of §16-14-4(b).

**List of RICO Predicate Acts Under 18 U.S.C. §1961**

Part (A)

- Any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (listed under §102 of the Controlled Substances Act)

Part (B)

- Bribery
- Sports bribery
- Counterfeiting
- Theft from interstate shipment if the act is felonious
- Embezzlement from pension and welfare funds
- Extortionate credit transactions
- Fraud and related activity in connection with identification documents
- Transmission of gambling information
- Mail fraud
- Wire fraud
- Financial institution fraud
- Fraud in foreign labor contracting
- Procurement of citizenship or nationalization unlawfully
- Reproduction of naturalization or citizenship papers
- Sale of naturalization or citizenship papers
- Engaging in obscene matter
- Obstruction of justice
- Obstruction of criminal investigations
- Obstruction of State or local law enforcement
- Tampering with a witness, victim, or an informant
- Retaliating against a witness, victim, or an informant
- False statement in application and use of passport
- Fraud and misuse of visas, permits, and other documents
- Peonage, slavery, and trafficking in persons
- Interference with commerce, robbery, or extortion
- Racketeering
- Interstate transportation of waging paraphernalia
- Unlawful welfare fund payments
- Use of prohibited gambling businesses
- Laundering of monetary instruments
- Engaging in monetary transactions in property derived from specified unlawful activity
- Use of interstate commerce facilities in the commission of murder-for-hire
- Use of illegal money transmitters
- Sexual exploitation of children
- Interstate transportation of stolen motor vehicles
- Interstate transportation of stolen property
- Trafficking in counterfeit labels for phonorecords, computer programs, or

computer program documentation or packaging and copies of motion pictures or other audiovisual works
- Criminal infringement of a copyright
- Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances
- Trafficking in goods or services bearing counterfeit marks
- Trafficking in certain motor vehicles or motor vehicle parts
- Trafficking in contraband cigarettes
- Engaging in white slave traffic
- Unlawfully possessing biological weapons
- Unlawfully possessing chemical weapons
- Unlawfully possessing nuclear materials

Part (C) – Engaging in any act indictable under 29 U.S.C. §186
- Dealing with restrictions on payments and loans to labor organizations
- Embezzlement from union funds

Part (D)
- Fraud connected with a case under Title 11 Bankruptcy
- Fraud in the sale of securities
- The felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (defined in §102 of the Controlled Substances Act)

**List of RICO Predicate Acts Under O.C.G.A. §16-14-3**

Subparagraph (9)(A) – To commit, attempt to commit, or to solicit, coerce, or intimidate another person to commit any of the following crimes:

- Dealing in controlled substances
- Dealing in a drug listed under the "Dangerous Drug Act"
- Dealing in marijuana
- Homicide
- Inflicting or threat of inflicting bodily injury and related offenses
- Arson and use of destructive devices
- Engaging in burglary or smash-and-grab burglary
- Forgery in any degree
- Theft, as defined by Chapter 16
- Robbery, as defined by Chapter 16

- Prostitution and pandering
- Distributing obscene materials
- Bribery
- Influencing witnesses
- Perjury and other falsifications, as defined by Chapter 16
- Tampering with evidence
- Commercial gambling
- Distilling or making liquors
- Violating the Georgia Firearms and Weapons Act
- Unauthorized transfers and reproductions of recorded material
- Violations of the Georgia Uniform Securities Act of 2008
- Unlawful distillation, manufacture, and transportation of alcoholic beverages
- Unlawful use of financial transaction cards
- Certain felonies involving certificates of title, security interest, or liens concerning motor vehicles, as defined by Chapter 40.
- Removal or falsification of identification numbers, as defined by Chapter 40
- Possession of motor vehicle parts from which the identification has been removed, as defined by Chapter 40
- Use of an article, apparatus, or piece of equipment with an altered identification mark, as defined by §16-9-70
- Violation of the Georgia Computer Systems Protection Act, defined by Title 16, Chapter 9 (including computer theft, computer trespass, computer invasion of privacy, computer forgery, and computer password disclosure)
- Motor vehicle hijacking
- Tampering with witnesses, victims, or informants
- Intimidation of grand or trial juror or court officer
- Identity fraud, including fraudulent identification documents and information
- False records and reports of currency transactions

- Insurance fraud
- Fraudulent payday loans
- Deceptive commercial email, as defined by §16-9-101
- Residential mortgage fraud
- Assisted suicide

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IN THE SUPERIOR COURT OF ROCKDALE COUNTY
STATE OF GEORGIA

| | |
|---|---|
| **R. MARTIN SPENCER and ELAINE G. SPENCER,** | |
| **Plaintiffs,** | |
| **v.** | **CIVIL ACTION** |
| **NEIL T. WALLACE, BETTE WALLACE, THE ESTATE OF HAROLD WALLACE, and DANIELLE SIMS,** | **FILE NO.** 2015-CV-1800-M |
| **Defendants.** | |

## COMPLAINT

Plaintiffs, Martin Spencer and Elaine Spencer ("Plaintiffs"), respectfully file this Complaint against Defendants, Neil Wallace, Bette Wallace, the Estate of Harold Wallace, and Danielle Sims (collectively, "Defendants"), and shows this Court the following.

### NATURE OF ACTION

1.

This is an action for participation in a conspiracy to intentionally intimidate and injure Plaintiffs and to manipulate the stock of the business Plaintiffs founded. Defendants have engaged in a multi-year campaign of threats, intimidation, defamation, stalking and abuse of the judicial system, all of which has been directed against Plaintiffs. While Plaintiffs have endured this campaign as long as possible, they now seek remuneration in the form of a money judgment in the hopes of ending Defendants' harassment.

PARTIES

2.

Martin Spencer is, and at all times relevant to this action has been, a citizen of the State of Georgia, residing in Conyers, Rockdale County, Georgia.

Elaine Spencer is, and at all times relevant to this action has been, a citizen of the State of Georgia, residing in Conyers, Rockdale County, Georgia.

4.

Neil Wallace ("Neil Wallace") is, and at all times relevant to this action has been, a citizen of the State of Virginia. Neil Wallace may be served at 105 Luffness New, Williamsburg, Virginia 23188.

5.

Upon information and belief, Bette Wallace is, and at all times relevant to this action has been, a citizen of the State of New York or Florida. Further discovery will be necessary in order to determine service information.

6.

The Estate of Harold Wallace was, at all times relevant to this action, is an Estate created under the laws of Florida. Further discovery will be necessary in order to determine service information.

7.

Danielle Sims ("Sims") is, and at all times relevant to this action has been, a citizen of the State of Georgia. Sims may be served at 2622 Bailey Drive, Norcross, Georgia 30071.

## JURISDICTION AND VENUE

8.

This Court has jurisdiction over the subject matter of this action.

9.

This Court has personal jurisdiction over all of the parties to this action.

10.

Venue is proper in this Court.

## FACTS

11.

Plaintiffs are the founders of and officers of a publicly traded robotics company named GeckoSystems International Corporation ("GeckoSystems").

12.

Several years ago, GeckoSystems hired Neil Wallace to assist with legal work.

13.

Wallace performed poorly, and his employment was terminated.

14.

Wallace subsequently filed a lawsuit in Georgia, seeking damages from GeckoSystems. Wallace refused to comply with a Court Order to apply for *pro hac vice* since he is an attorney. The case of later dismissed.

15.

Next, Wallace filed two lawsuits in the state of Delaware where GeckoSystems was incorporated at the time. One was for himself, and the other for his parents, Harold Wallace and

Bette Wallace. At the time, Spencer was unable to hire a lawyer, and two default judgments were obtained, one for Wallace and the other for Harold Wallace and Bette Wallace.

16.

Wallace used his parents' judgment to levy against a block of stock owned by Martin Spencer.

17.

Pursuant to the levy, the Estate of Harold Wallace and Bette Wallace were able to obtain title to Spencer's stock for significantly less than market value. They paid $1,000 for his stock valued at **$1,116,151** at the time of the sale which was significant unjust enrichment for the Wallace family.

18.

Wallace's default judgment is presently being litigated in Delaware.

19.

Thereafter, Wallace inexplicably became obsessed with causing damage to Plaintiffs and manipulating the value of GeckoSystems stock.

20.

This obsession was manifested in numerous frivolous lawsuits and warrant applications filed by Wallace in hundreds, if not thousands, of defamatory internet postings by Wallace, by attempts to manipulate and to drive down the price of GeckoSystems stock and by other acts of intimidation.

21.

By way of example only, these false statements which were publicly made on stock message boards:

(a) On June 9, 2015, Defendant Wallace, using the screen name *rms_savior* falsely accused Plaintiff of lying in Court filings;

(b) On June 4, 2015, Defendant Wallace, using the screen name *navy12272325* falsely accused Plaintiff of lying to the judge in a case pending in Delaware;

(c) On May 26, 2015, Defendant Wallace, using the screen name *moron_martie* falsely stated that "Despite no sales, revenues or profits and negative ROI, [Mr. Spencer] awarded himself and [Mrs. Spencer] 120 million shares for 'services rendered.

(d) On April 6, 2015, Defendant Wallace, using the screen name *moron martin* falsely stated that "[Mr. Spencer] has six kids from four different women."

(e) On February 25, 2015, Defendant Wallace, using the screen name *moron martin* falsely stated that "[Mr. Spencer] today confessed to animal cruelty . . . Since [Mr. Spencer] is a criminal wanted in two states, he likely abused small animals as a child."

(f) On January 14, 2014, Defendant Wallace, using the screen name *moron martin* falsely accused Plaintiffs of involvement in a multimillion dollar embezzlement scheme and suggested that they had improperly taken money from a relative.

(g) On January 15, 2015, Defendant Wallace, using the screen name *robotgeek62*, falsely accused Plaintiffs of participating in an embezzlement scheme.

(h) On August 12, 2013, Defendant Wallace, using the screen name *robotgeek62* falsely stated that Mr. Spencer had undergone a sex change operation; and

(i) On July 12, 2013, Defendant Wallace, using the screen name *robotgeek62* falsely accused Spencer of "being raised by an anti-semite and a homophobe . . ."

22.

These are only a few of the myriad examples of false and defamatory statements made by Wallace. Similar false statements have been made by Sims.

23.

Additionally, Defendant Wallace has physically stalked Plaintiffs and, on one occasion, left a decapitated rabbit at Plaintiffs' residence. A 30 day Protective Order was entered on Plaintiffs' behalf as a result of Defendant Wallace's conduct. However, due to jurisdictional matters the judge was unable to grant a permanent Protective Order.

24.

Additionally, Neil Wallace conspired with Sims to file a frivolous and malicious lawsuit in Georgia, falsely accusing Plaintiffs of embezzling funds from an elderly family member.

25.

This lawsuit was dismissed, and Sims was sanctioned in the amount of $10,000.00.

26.

Plaintiffs have been significantly damaged as a direct and proximate result of the foregoing acts by Wallace.

COUNT ONE - LIBEL AND LIBEL *PER SE*

27.

All paragraphs of this Complaint are hereby incorporated into this paragraph by this reference as if fully restated verbatim herein.

28.

Defendants have engaged in libel and libel *per se* by publishing false and defamatory statements intended to injure Plaintiffs in their trade or business.

29.

Plaintiffs are entitled to judgment against Defendants for libel and libel *per se*.

30.

Plaintiffs have been damaged as a result of Defendants' conduct.

31.

Plaintiffs are entitled to recover damages, post-judgment interest, costs, and all litigation expenses, including reasonable attorneys' fees and costs of collection against Defendants.

COUNT TWO – SLANDER AND SLANDER *PER SE*

32.

All paragraphs of this Complaint are hereby incorporated into this paragraph by this reference as if fully restated verbatim herein.

33.

Defendants have made specific false and defamatory oral statements about Plaintiffs concerning Plaintiffs' business.

34.

Defendants have engaged in slander *per se* by knowingly publishing false statements intended to injure Plaintiffs in their trade or business.

35.

Plaintiffs have been damages as a result of Defendants' conduct.

36.

Plaintiffs are entitled to judgment against Defendants for libel and libel *per se*.

37.

Plaintiffs are entitled to recover damages, post-judgment interest, costs, and all litigation expenses, including reasonable attorney's fees and costs of collection.

COUNT THREE – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

38.

All paragraphs of this Complaint are hereby incorporated into this paragraph as if fully restated verbatim herein.

39.

Defendants have engaged in extreme and outrageous conduct with the intent of disrupting Plaintiffs' personal and professional lives.

40.

Plaintiffs have suffered severe emotional distress as a result of Defendants' conduct.

41.

Defendants are liable to Plaintiffs for intentional infliction of emotional distress.

42.

Plaintiffs are entitled to recover from Defendants jointly and severally for all damages suffered by Plaintiff as a result of the Defendants' conduct together with post-judgment interest, attorneys' fees, litigation expenses and costs from Defendants.

COUNT FOUR – TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS

43.

All paragraphs of this Complaint are hereby incorporated into this paragraph as if fully restated verbatim herein.

44.

With regard to Plaintiffs' business relations, Defendants have engaged in improper and wrongful actions without privilege.

45.

Defendants' actions were purposeful, malicious and intended to injure Plaintiffs in their business relations.

46.

Defendants' actions have caused third parties to discontinue their business relations with Plaintiffs.

47.

Defendants are liable to Plaintiffs for tortious interference with business relations.

48.

Plaintiffs are entitled to recover from Defendants jointly and severally for all damages suffered by Plaintiff as a result of the Defendants' conduct.

COUNT FIVE – TORTIOUS INTERFERENCE WITH POTENTIAL BUSINESS RELATIONS

49.

All paragraphs of this Complaint are hereby incorporated into this paragraph as if fully restated verbatim herein.

50.

With regards to Plaintiffs' potential business relations, Defendants have engaged in improper and wrongful actions without privilege.

51.

Defendants' actions were purposeful, malicious and intended to injure Plaintiffs in their potential business relations.

52.

Defendants' actions have prevented third parties from entering into business relations with Plaintiffs.

53.

Defendants are liable to Plaintiffs for tortious interference with potential business relations.

54.

Plaintiffs are entitled to recover from Defendants jointly and severally for all damages suffered by Plaintiff as a result of the Defendants' conduct as well as their reasonable attorneys' fees, litigation, costs and post-judgment interest.

COUNT SIX – TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS

55.

All paragraphs of this Complaint are hereby incorporated into this paragraph as if fully restated verbatim herein.

56.

With regards to Plaintiffs' contractual relations, Defendants have engaged in improper and wrongful actions without privilege.

57.

Defendants' actions were purposeful, malicious and intended to injure Plaintiffs in their business relations.

58.

Defendants' actions have caused third parties to breach their contractual obligations to Plaintiffs.

59.

Defendants are liable to Plaintiffs for tortious interference with contractual relations.

60.

Plaintiffs are entitled to recover from Defendants jointly and severally for all damages suffered by Plaintiff as a result of the Defendants' conduct as well as their reasonable attorneys' fees, litigation expenses, costs and post-judgment interest.

COUNT SEVEN – VIOLATIONS OF GEORGIA RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT O.C.G.A. §§ 16-14-1, *et seq.*

61.

All paragraphs of this Complaint are hereby incorporated into this paragraph as if fully stated verbatim herein.

62.

Defendants have, through a pattern of racketeering activity, acquired and maintained, directly and indirectly, an interest in an enterprise, *to wit*, stock in GeckoSystems from Plaintiff.

64.

Defendants' pattern of racketeering activity consists of multiple acts of mail fraud, wire fraud, stock manipulation and perjury.

64.

Defendants have threatened and intimidated Plaintiffs and manipulated the courts in order to accomplish their unlawful scheme.

65.

Plaintiffs have been damaged as a result of the foregoing conduct.

66.

Defendants' acts, as set forth herein, violate O.C.G.A. §16-14-1, *et. seq.*

67.

Plaintiffs are entitled to recover from Defendants jointly and severally for all damages suffered by Plaintiff as a result of the Defendants' conduct as well as their reasonable attorneys' fees, litigation expenses, costs and post-judgment interest.

COUNT EIGHT – RECOVERY OF ATTORNEYS' FEES AND COSTS OF LITIGATION

68.

All paragraphs of this Complaint are hereby incorporated into this paragraph as if fully restated verbatim herein.

69.

Defendants have acted in bad faith, have been stubbornly litigious and have caused Plaintiffs unnecessary trouble and expense.

70.

Pursuant to O.C.G.A. § 13-6-11, Plaintiffs are entitled to recover their reasonable fees and expenses of litigation from Defendants.

ALLEGATIONS REGARDING PUNITIVE DAMAGES

71.

Defendants have each committed intentional and malicious torts upon Plaintiff and are each liable to Plaintiff for punitive and exemplary damages. Said Defendants' acts, omissions, breaches, violations of law and tortious conduct have damaged Plaintiff in an amount to be proven at trial.

72.

The actions of Defendants in this case each demonstrate willful misconduct, malice, fraud, wantonness, oppression and that entire want of care which raises the presumption of conscious indifference to consequences.

73.

Said Defendants' actions were specifically intended to harm Plaintiffs, and, thus, Plaintiffs are entitled to recover punitive and exemplary damages from such Defendants without limitation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully demands a jury trial in this action with respect to all claims and issues in this action triable to a jury by law and respectfully requests the following relief:

(a) That Plaintiffs be awarded judgment in this action against Defendants, jointly and severally;

(b) That Plaintiffs recover all legally cognizable damages of every kind, however denominated, from Defendants, jointly and severally, together with post-judgment interest;

(c) That Plaintiffs recover from Defendants, jointly and severally, all of their reasonable attorneys' fees and expenses of litigation incurred by Plaintiff in the prosecution of this action;

(d) That Plaintiffs recover from Defendants, jointly and severally, all costs incurred by Plaintiff in this action; and

(e) That Plaintiffs recover from Defendants, jointly and severally, all additional remedies and/or relief of every kind that this Court may deem just and proper.

Dated: July 10, 2015

Respectfully submitted,

WILLIAM BRENT NEY
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DONNA-MARIE HAYLE
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IN THE SUPERIOR COURT OF ROCKDALE COUNTY

STATE OF GEORGIA

| | | |
|---|---|---|
| R. Martin Spencer and<br>Elaine G. Spencer, | ) | |
| | ) | |
| Plaintiffs, | ) | |
| | ) | |
| vs. | ) | CASE NO. 2015-CV-1800-I |
| | ) | |
| Neil T. Wallace, Bette Wallace,<br>The Estate of Harold Wallace,<br>and Danielle Sims | ) | |
| | ) | |
| Defendants | ) | |

**NOTICE FOR LEAVE TO FILE SUPPLEMENTAL AMENDED COMPLAINT**

**COMES NOW** Plaintiffs R. Martin Spencer and Elaine G. Spencer in the above styled action, and pursuant to the Georgia Rule of Civil Procedure §9-11-15, the Plaintiffs hereby provide the court with new and additional information to further support claims made in the original Complaint.

On January 26, 2016 this court granted Neil T. Wallace's ("Wallace") Motion to Dismiss due to Personal Jurisdiction (Exhibit A). This Supplemental and Amended Complaint provides further information asserting that this Court does have further proof of personal jurisdiction over Wallace due to new and additional relevant actions by him since the original filing of this Complaint.

This Pleading further demonstrates how Wallace's years of legal and online activities across four state lines and internationally were all done in order to unjustly enrich himself, his family, and his associates in a self proclaimed amount in excess of $2,400,000.

Exhibit B, submitted under O.C.G.A. 9-11-15(d), is one pertinent page (page 4) from a forty five page filing made on October 29, 2015 in the U.S. District Court for the Northern District of Georgia, case #1:15-cv-03797. The filing was submitted by Atlanta SEC attorney Richard W. Jones. As seen on Page 4, #17, Mr. Jones states that Plaintiff Martin Spencer's stock, which was purchased at a Sheriff's Sale in Delaware for $1,000.00 by Wallace, is now valued by him in excess of $2,400,000 with his mother as a surrogate.

Wallace has consciously secured an extraordinarily broad Power of Attorney (POA) for his mother, Bette Wallace, Exhibit C. As can be seen in Exhibit D, Wallace attempted to represent his mother in Delaware; however, the Delaware Superior Court denied his request and his family continues to retain Adam Gerber, Esq.

Using that POA the Plaintiffs are of information and belief Wallace retained Mr. Jones to assist in removing the legends on the stock such that it will be free trading and capable of being sold in the public OTC stock markets. Further, it is upon information and belief that Wallace intends to give a portion of those shares to his associates, George MacLeod and Greg Stone (both residing in the UK), to cover any naked short positions (selling of stock not actually owned) they have initiated and engendered in manipulating the stock of the Plaintiffs' company, GeckoSystems International Corporation.

It is upon information and belief that one or more of these brokerage firms are meaningfully participating in naked shorting the stock under their direction: Automated Trading Desk Financial Services, LLC, Canaccord Genuity Inc., Cantor Fitzgerald & Co., Citadel Securities, LLC, G1 Execution Services, LLC, KCG Americas LLC, Maxim Group LLC, and Vandham Securities Corp.

The remaining stock Wallace can sell and make over two (2) million of dollars per his own affirmation. The stock was bought by Wallace for only $1,000.00 and was ostensibly only to cover a $17,100 default judgment awarded to Wallace's parents in Delaware.

Retention of a Georgia attorney by Wallace on his mother's behalf constitutes doing business in the State of Georgia and thus gives this Court personal jurisdiction over Wallace.

Per O.C.G.A. §9-11-15(a) Exhibit E is entered as additional information. This letter dated May 22, 2015 from Wallace to Plaintiffs' SEC attorney in Florida, is extremely insightful for a number of reasons: (1) he states that the shares in question have new owner registration and yet to date he will not allow the Delaware court to mark his parents' $17,100 default judgment satisfied with those shares; now valued in excess of $2.4M; (2) he signs the letter as attorney for his mother, Bette Wallace who is a resident of Florida. At the time Wallace wrote the letter he was, and still is, ineligible to practice law in Florida, according the Florida Bar Association. This deliberate misrepresentation of his status with the Florida Bar Association is meant to intimidate and influence adversely the Plaintiffs' SEC attorney; (3) he has no basis for complaining to the Plaintiffs' SEC attorney about stock issuances; (4) the last sentence of his letter is a personal threat toward the Plaintiffs. This letter is an excellent example of Wallace's attempt to harass, threaten and intimidate in achieving his goal of unjust enrichment. He has written many similar letters over the past eight years to the Plaintiffs' business partners and associates. Given the foregone realities, there are many incidents of tortuous interference conducted by Wallace to harm the Plaintiffs.

Plaintiffs assert that Wallace's misrepresentation to Mr. Leinwand goes further than just intimidation. Making a false statement regarding his status as an attorney such as Wallace has

done in this letter constitutes interstate fraud due to his intent to deceive, either by wire or mail, depending on how the letter was sent to Mr. Leinwand from Virginia.

O.C.G.A.§16-14-4 (a) states that it is unlawful for any person, through a pattern of racketeering activity or proceeds derived therefrom, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise, real property, or personal property of any nature, including money.

The Plaintiffs will show during Discovery and Trial how, since 2007, Wallace has conducted multiple, serially connected activities outlined in the original complaint in order to acquire or maintain, directly or indirectly, any interest in or control of any enterprise, real property, or personal property of any nature, including money."

In order to accomplish this unjust enrichment of receiving stock (stock his SEC attorney has valued in excess of $2,400,000.00), Wallace has used the mail, telephone, computers, the internet and various courts. Since Wallace is barred in Florida and New York he has been able to use his legal knowledge to manipulate the courts to further and enhance his advantage, as will be shown herein.

The Plaintiffs' attorney, Donald Gouge, addressed the Delaware Court of Common Pleas, in a recent letter dated January 21, 2016 (Exhibit F), submitted per O.C.G.A. §9-11-15(d). The letter was regarding a hearing scheduled at that time for January 25, 2016. However, due to severe inclement weather in Delaware, the hearing was rescheduled for March 7, 2016.

As can be seen, Mr. Gouge's letter expresses significant frustration with Wallace while giving an excellent summary of the matter at hand. Wallace informed the Delaware court on August 27, 2013 (Exhibit G) he and his family would satisfy the judgment after sale of the stock and ownership registration had changed. That happened and yet he still refuses to have the court

mark his parents' default judgment of $17,100 satisfied. It is believed that Wallace does not want the default judgment marked satisfied at this time because having that legal declaration will not fit into his plans for receiving unjust enrichment in excess of $2,400,000.00 in stock for himself, his family and his cohorts in the United States and the United Kingdom.

To begin Discovery, Interrogatories and Document Request were mailed to Defendant Sims and this court on February 2, 2016. After she legally responds to these requests, Plaintiffs believe they will be able to show with substance Wallace's involvement with this Georgia resident and why that involvement constitutes one of several Predicate Acts.

Other Predicate Acts committed by Wallace were submitted to this court September 9, 2015 wherein the Plaintiffs' argue that jurisdiction in Georgia is appropriate. Again, O.C.G.A. §16-14-3 (c) states that it is a crime for "a person to put false information into a computer." Wallace has been putting false information into his computer and sending it out via emails, the internet, and letters for years which have culminated in a pattern of illicit activities against the Plaintiffs, always furthering his goal of unjust enrichment.

**WHEREFORE**, having submitted this Notice for Leave to File Supplemental Information, Plaintiffs ask that this Court allow such submission, whether through motion or reasonable notice, based on facts uncovered after the original filing.

Although this Court Order of January 26, 2016 granted Wallace his Motion to Dismiss, Plaintiffs are requesting that, upon a thorough review of all facts and statements provided in this filing, this Court declare personal jurisdiction in Georgia over Neil T. Wallace.

This 16th day of February 2016

R. M. Spencer

R. Martin Spencer
Pro se Plaintiff

Elaine G. Spencer

Elaine G. Spencer
Pro se Plaintiff