

IN THE CIRCUIT COURT OF POPE COUNTY, ARKANSAS

DAVIS NEUROLOGY, P.A. on )  
 behalf of itself and all other entities and )  
 persons similarly situated, )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 DENTAL EQUITIES, LLC; )  
 KIANOR SHAHMOHAMMADI A/K/A )  
 KIANOR SHAH; and JOHN DOES 1-10, )  
 intending to refer to those persons, corporations or )  
 other legal entities that acted as agents, )  
 consultants, and independent contractors or )  
 representatives, )  
 )  
 Defendants. )

CASE NO. 58CV-16-33  
 CLASS ACTION  
 JURY DEMAND

FILED  
 6/14/16  
 CLERK OF COURT

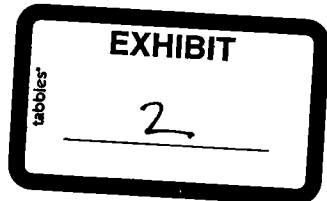
**CLASS ACTION COMPLAINT**

COMES Now David Neurology, P.A. on behalf of itself and all other persons or entities similarly situated, as Representative Plaintiff, and files this Class Action Complaint against the Defendants, Dental Equities, LLC, Kianor Shahmohammadi a/ka/ Kianor Shah, and John Does 1-10 and would respectfully show the following:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff Davis Neurology, P.A. is business offering services in Arkansas. The business is located at 220 North Phoenix Avenue, Russellville, AR 72801. Hereinafter, Davis Neurology, P.A. will be referred to as "Representative Plaintiff."

2. Defendant Dental Equities, LLC (hereinafter, "Dental Equities") is, upon information and belief, a Nevada Corporation, having an address of PO Box 51390, Irvine, CA 92619-1390. The registered agent is listed as REGISTERED AGENT SOLUTIONS, INC, with an address of 4625 West Nevso Dr. Suite 2, Las Vegas, NV, 89103. Both Dental Equities and



Defendant Kianor Shahmohammadi a/ka/ Kianor Shah (hereinafter, "Kianor Shah") do business individually but also under a host of d/b/a's and/or fictitious names including but not limited to: Peer United, Peers Brands, Peers Nexus, Peers Journal, Peer Equities LLC, Doctors Club, Peers Club, Lawyers Club, Students Club, Accountants Club, Seniors Club, Teachers Club, Patient Advance, Patient News, Connect The Doc, Apex, Tribune Group, The Progressive Dentist, Doctor Advance, The Dental Trader, DoWell, Extraction Academy, ADCPA, NAMP, Oral Disability Rescue, Dentist's Advantage, and WCNC Consulting.

3. Defendant Kianor Shah purports to do business through Dental Equities (and its host of fictitious names) with an address of 20701 Spectrum, Irvine, CA 92618.

4. Defendants John Does 1-10 represent those persons, corporations, or other legal entities that acted as agents, consultants, independent contractors or representative of Dental Equities and/or who assisted Dental Equities in creating, publishing, broadcasting and faxing the document received on the fax machine by Representative Plaintiff whose identities at this time are unknown but will be substituted by amendment when ascertained.

5. The claims of the class of persons represented by the Representative Plaintiff arise pursuant to the provisions of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (hereinafter, "TCPA").

6. This Court has jurisdiction over this action pursuant to Ark. Code Ann. §16-4-101 et seq. This Court has jurisdiction over the Defendants because at all relevant times, they conducted business in Arkansas.

7. Venue is proper in this County pursuant to Ark. Code Ann. §16-55-213, et seq., in that the plaintiff is has its principal place of business in and does conduct business in this County.

### **FACTUAL ALLEGATIONS**

8. The Telephone Consumer Protection Act of 1991, Pub. L. 102-243, § 3(a), added Section 227 to Title 47 of the United States Code. 47 U.S.C. § 227 was last amended in 1994. In pertinent part, 47 U.S.C. § 227(b) provides "It shall be unlawful for any person within the United States . . . to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine[.]"

9. In pertinent part, 47 C.F.R. § 64.1200(a), a regulation prescribed under 47 U.S.C. § 227(b) and effective as of December 20, 1992, provides that "No person may . . . [u]se a telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine."

10. As used in both 47 U.S.C. § 227 and 47 C.F.R. 64.1200, "[t]he term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission." (47 U.S.C. § 227(a)(4); 47 C.F.R. § 64.1200(f)(5).)

11. Paragraph (3) of 47 U.S.C. § 227(b) provides:

(3) Private right of action

A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation,

(B) an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater, or

(C) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in

its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

11. Representative Plaintiff has, and at all relevant times had, telephone service at 479.880.0101 and fax service at 479.880.0118 for its offices located at 220 North Phoenix Avenue, Russellville, AR 72801 in Pope County, Arkansas. Representative Plaintiff receives facsimile transmissions (“faxes”) at that number, using a telephone facsimile machine (“fax machine”).

12. Dental Equities offers services where dental professionals can unite administratively, academically, and financially for the benefit of patients and the dental professional.

13. On or about December 18, 2015, Representative Plaintiff received on its fax machine a fax transmission from Dental Equities advertising a Doctors Club Program that claims it “is about empowering the healthcare community without borders in a 3 pronged approach: Administration, Academics, and Finance.” The fax goes on to state that “One of the benefits of Doctors Club is its member identification credit card exclusively created for Healthcare Providers...”

14. Kianor Shahmohammadi (Shah) is the CEO/Chairman of Dental Equities.<sup>1</sup>

15. Kianor Shah’s Twitter page has several references to Peer United, and he has a post from December 16, 2015 that is identical to the fax transmission received by Representative Plaintiff.<sup>2</sup>

16. Kianor Shah’s Google Plus page has a post from December 16, 2015 that is identical to the fax transmission received by Representative Plaintiff.<sup>3</sup>

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<sup>1</sup> <https://www.linkedin.com/in/kianorshah>

<sup>2</sup> <https://twitter.com/kianor1>

17. The Peer United Twitter page also has a post on December 16, 2015 that is identical to the fax transmission received by Representative Plaintiff.<sup>4</sup>

18. A press release was issued on October 1, 2014 listing Doctors Club as a sister brand of Dental Equities and stating that Dr. Kianor Shah is the founding member and chairman of Dental Equities.<sup>5</sup> The press release lists an address of PO Box 51390, Irvine, CA 92619-1390 and a phone number of (949) 732-0033.

19. Another press release was issued on September 9, 2015 by Reuters announcing the “*MasterCard World Elite Program for Healthcare Professionals.*”<sup>6</sup> This press release has a picture of the same credit card on the fax received by Representative Plaintiff, and it quotes from Dr. Kianor Shah. The press release states that Peer United is part of Peer Equities, LLC, and also lists a phone number of (949) 732-0033.

20. The fax received by Representative Plaintiff from Dental Equities on or about December 8, 2015 was wholly unsolicited. A true and correct copy of this fax advertisement is attached hereto as Exhibit A.

21. Exhibit A does not contain an Opt-Out Notice that complies with the requirements of 47 C.F.R. 64.1200(a)(4)(iii) and (iv).

22. Exhibit A does not contain any Opt-Out Notice.

23. Exhibit A does not contain an Opt-Out Notice stating that sender’s failure to comply within 30 days to a request to stop sending such faxes is unlawful.

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<sup>3</sup> <https://plus.google.com/+KianorShah/posts/jamcUZ5eMSr>

<sup>4</sup> <https://twitter.com/peerunited?lang=en>

<sup>5</sup> <http://peersnexus.com/healthcares-first-decentralized-peer-peer-platform/>

<sup>6</sup> <http://www.reuters.com/article/peer-united-idUSnPn7BQJW0+9e+PRN20150909>

24. Exhibit A does not contain an area at the bottom of the Fax that gives the options required by law, that a recipient might use without cost to the recipient, to request that they be removed from the faxing list utilized by Dental Equities.

25. Defendants, and/or its employees and/or its agents, created Exhibit A and had the capability to control the contents thereof.

26. Defendants, and/or its employees and/or its agents, determined the fax telephone numbers to which Exhibit A was sent to the Representative Plaintiff and other recipients.

27. Upon information and belief, Defendants sent fax transmissions of Exhibit A to hundreds, if not thousands, of telephone facsimile machines located in Arkansas and other States offering their business.

28. Said transmissions of Exhibit A were made for the purpose of advertising the commercial availability of goods and services available from Defendants.

29. Representative Plaintiff further alleges that in each instance Defendants did so willfully or knowingly.

30. Plaintiff further alleges on information and belief that in each instance Defendants had actual notice of participation, or a high degree of involvement, in a plan to transmit unsolicited advertisements to telephone facsimile machines (by, for example, knowing the that the transmitted faxes were advertisements or participating in preparing their content, providing or obtaining the fax telephone number of Representative Plaintiff or other recipients, and knowing that Plaintiff or other recipients had not authorized the faxes' transmission by prior express invitation or permission).

31. Representative Plaintiff therefore alleges that defendants violated 47 U.S.C. § 227 and 47 C.F.R. § 64.1200.

**CLASS ACTION REGARDING SIMILARLY SITUATED PLAINTIFFS**

32. Pursuant to Ark. R. Civ. P. 23, Representative Plaintiff brings this action on behalf of a Class of individuals defined as follows:

All persons or entities, natural or otherwise, in the United States and its territories who received one or more unsolicited facsimile transmissions from Defendants advertising goods and services for a commercial purpose with content which contains one or more of the deficiencies identified in paragraphs 21-24 herein during the period from January 15, 2012 through the present.

Excluded from the Class are: (1) Defendants and any entity in which Defendants have a controlling interest, and their legal representatives, officers, directors, assignees, and successors, and any co-conspirators; and (2) any judge or justice to whom this action is assigned, together with any relative of such judge or justice within the third degree of relationship, and the spouse of any such person.

33. Upon information and belief, Representative Plaintiff alleges that noncompliant facsimile advertisements sent on behalf of the Defendants to advertise their products and services have been transmitted to hundreds, if not thousands, of telephone facsimile machines in Arkansas and, presumably, other states through an intentional and persistent course of conduct. Each such transmission constitutes a separate violation of the TCPA. Because the Class members are dispersed and are believed to number in the hundreds if not thousands, individual joinder is impractical in satisfaction of Fed. R. Civ. P. 23(a)(1). The disposition of the claims of the Class members in a single action will provide substantial benefits to all parties and to the Court.

34. Representative Plaintiff's claims are typical of the claims of the Class, as required by Fed. R. Civ. P. 23(a)(3), in that Representative Plaintiff received an unsolicited facsimile

advertisement from Dental Equities advertising goods and services for a commercial purpose during the proposed Class Period.

35. The factual and legal bases of Dental Equities' misconduct are common to all members of the Class and represent a common cause of injury to Representative Plaintiff and the Class members.

36. Numerous questions of law and fact are common to the Class and predominate over questions affecting only individual Class members, as required by Fed. R. Civ. P. 23(a)(2) and 23(b)(3). Such common questions including, but are not limited to:

- i. Whether Defendants had a business practice of sending unsolicited facsimile advertisements for its commercial goods and services in violation of the TCPA;
- ii. Whether the unsolicited facsimile advertisements sent by Defendants contained an Opt-Out Notice that complies with the requirements of 47 C.F.R. 64.1200(a)(4)(iii) and (iv);
- iii. Whether Defendants harmed Representative Plaintiff and the Class;
- iv. Whether Representative Plaintiff and the Class are entitled to compensatory damages and, if so, in what amount;
- v. Whether Representative Plaintiff and the Class are entitled to additional statutory damages and, if so, in what amount; and
- vi. Whether Representative Plaintiff and the Class are entitled to equitable and/or injunctive relief.

37. Representative Plaintiff's claims are typical of the claims of the Class because they arise from the same course of conduct by Defendants and the relief sought is common.

38. The Class is ascertainable, as the Class is defined using objective criteria and Class Members who received unsolicited facsimile advertisements from Defendants are easily identifiable based on existing telephone records.



39. Representative Plaintiff will fairly and adequately represent and protect the interests of the Class, as required by Fed. R. Civ. P. 23(a)(4). Moreover, Representative Plaintiff has retained counsel with substantial experience in the prosecution of nationwide class actions. Representative Plaintiff and his counsel are committed to the vigorous prosecution of this action on behalf of the Class and have the financial resources to do so. Neither Representative Plaintiff nor its counsel has any interests adverse to those of the Class.

**COUNT 1**  
**VIOLATIONS OF 47 USC §227 AND C.F.R. § 64.1200**

40. Representative Plaintiff re-alleges and incorporates Paragraphs 1 through 39 above as if fully set forth herein.

41. The TCPA requires that all persons who send advertisements to fax machines must include an Opt-Out Notice fully compliant with FCC regulations enacted pursuant to the TCPA found at 47 C.F.R. 64.1200(a)(3)(iii) and (iv).

42. As a result of the foregoing, any members of the proposed Class who received a facsimile from Defendants that did not include a fully compliant Opt-Out Notice are entitled to \$500.00 in damages for each fax transmission in violation of the TCPA pursuant to 47 U.S.C. §227(b)(3)(B).

**COUNT 2**  
**TREBLE DAMAGES**

43. Representative Plaintiff realleges and incorporates Paragraphs 1 through 42 above as if fully set forth herein.

44. Defendants' actions willfully or knowingly violated the Telephone Consumer Protection Act.

45. As a result of the foregoing, the Court may, in its discretion, increase the amount of the statutory damages up to an amount equal to \$1,500.00 per TCPA violation pursuant to 47 U.S.C. §227(b)(3)(C).

46. The Court should use its discretion to increase the amount of statutory damages to an amount equal to \$1,500.00 per TCPA violation due to the Defendants' willful or knowing conduct.

**COUNT 3**  
**DEFENDANT KIANOR SHAH IS INDIVIDUALLY LIABLE FOR DAMAGES BOTH  
DIRECTLY AND UNDER A VEIL-PIERCING THEORY**

47. Representative Plaintiff realleges and incorporates Paragraphs 1 through 46 above as if fully set forth herein.

48. Representative Plaintiff alleges that Kianor Shah is personally liable under a veil-piercing theory because he has demonstrated an abuse of the corporate form to commit the violations and wrongs alleged in this complaint.

49. Mr. Shah exercised complete domination of Dental Equities both individual and under its host of fictitious names in respect to the alleged facts, and such domination was used to commit the violations against the Class, resulting in the injuries alleged in this complaint.

50. Kianor Shah is personally liable for violations and wrongs set forth in this Complaint because the alleged facts show Dental Equities is merely Kianor Shah's alter ego, the individual and the company being indistinguishable from another in management, business, operation, and ownership.

51. Dental Equities has a mailing address that is a PO Box and has no physical address.

52. As mentioned above, Kianor Shah is the Founding Member and CEO/Chairman of Dental Equities, and his Twitter and Google Plus pages have several references to Peer United and both have posts of the actual fax transmission received by Representative Plaintiff.

53. Kianor Shah is listed as the Admin, Chairman, and Owner on the Dental Equities LinkedIn Page, and therefore he is directly liable as the individual most responsible for directing that the fax transmission be sent to Representative Plaintiff and the Class.<sup>7</sup>

54. For these reasons, Kianor Shah, as an individual, is personally liable as a Defendant in this action and held jointly and severally liable with the other Defendants for the misconduct alleged in this Complaint.

#### **PRAYER FOR RELIEF**

WHEREFORE, Representative Plaintiff respectfully prays for the following relief:

a. That the court enters an Order certifying the claims of the Representative Plaintiff and all other persons similarly situated as class action claims set forth regarding Counts 1 and 2, as provided by Ark. R. Civ. P. 23, and appointing Plaintiff and his counsel as representative plaintiff and class counsel, respectively.

b. Pursuant to Count 1, that the Court enter judgment in favor of Representative Plaintiff and the proposed Class against Defendants, in an amount of \$500.00 for each fax transmission in violation of the Telephone Consumer Protection Act;

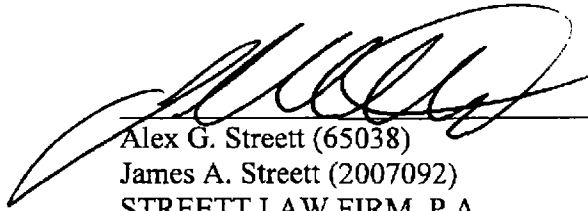
c. Pursuant to Count 2, that the Court find that Defendants willfully or knowingly violated the Telephone Consumer Protection Act and increase the statutory damages against the Defendants to a total of \$1,500.00 for each and every fax transmission in violation of the Telephone Consumer Protection Act;

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<sup>7</sup> <https://www.linkedin.com/groups/6591256/profile>

- d. Trial by jury as to all issues so triable; and
- e. That the Representative Plaintiff and the members of the proposed Class be granted such other and further relief as is just and equitable under the circumstances.

Respectfully submitted,



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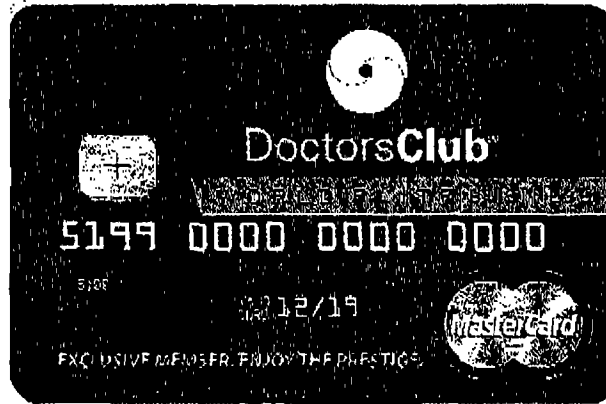
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