

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Junk Fax Prevention Act of 2005	)	CG Docket No. 05-338
	)	
Rules and Regulations Implementing the	)	CG Docket No. 02-278
Telephone Consumer Protection Act of 1991	)	

**Exhibits to TCPA Plaintiffs' Comments on Petitions for Waiver  
of the Commission's Rule on Opt-Out Notices on Fax Advertisements Filed by  
Alma Lasers, ASD Specialty Healthcare, Den-Mat Holdings, and Stryker Corp.**

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Rolling Meadows, IL 60008  
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December 12, 2014

STATE OF MISSOURI )  
 )  
COUNTY OF ST. LOUIS )

2008 OCT -1 11 18 53  
JOHN...  
COURT...

**IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
STATE OF MISSOURI**

RADHA GEISMANN, MD PC )  
 )  
 )  
Plaintiff, )  
 )

Cause No. 08SL-CC04126

Division 10

v. )  
 )  
 )  
ALMA LASERS, INC )

AMOUNT OVER \$3000

**Serve at:** )  
**CT CORPORATION SYSTEM)**  
**Registered Agent** )  
**208 So. Lasalle St.** )  
**Suite 814** )  
**Chicago, IL 60604** )

DAMAGES EXCEEDING  
\$25,000

(County of Cook, IL) )  
 )  
Defendant. )  
 )

**PETITION**  
**BREACH OF TELEPHONE CONSUMER PROTECTION ACT**

**DEFENDANT PARTY**  
**ALMA LASERS, INC (ALMA)**

1. Defendant, Alma Lasers, Inc., (hereafter Alma), is registered in the state of Illinois as a foreign corporation doing business at 485 Half Day Rd., Buffalo Grove, IL.

2. Defendant Alma transacts any business in Missouri as contemplated

by R.S.Mo. sec. 506.500(1), and this cause of action arises out of such transaction(s).

3. Defendant Ama has committed one or more tortious acts in Missouri as contemplated by R.S. Mo. sec. 506.500(3), and this cause of action arises out of such act(s).

4. Upon information and belief, Defendant Alma has sent, caused to be sent, or allowed to be sent, numerous facsimile and / or advertising materials to recipients in the state of Missouri.

5. Defendant Alma is without any property, bank accounts, or other assets in Missouri, and is as if insolvent in this state, and as a consequence, Plaintiff has no adequate remedy at law.

### **JURISDICTION**

6. This Court has subject matter jurisdiction over this action pursuant to R.S. Mo. section 407.025.

7. Venue is proper in this Court pursuant to R.S. Mo. Section 407.020 in that the acts described *infra* occurred, among other places, in St. Louis County, Missouri.

### **COUNT I**

COMES NOW Plaintiff, Radha Geismann, MD PC, and for its cause of action (COUNT 1) against Defendant states as follows:

8. Plaintiff is a doctor, licensed to practice medicine in Missouri, with a principal place of business in Missouri, and has a fax telephone service at (314) 872-9174.

9. Plaintiff has authorized Radha Geismann, licensed doctor, to proceed with said lawsuit.

10. Between December 2007 and the present, Defendant or its agent(s) sent, caused to be sent, or allowed to be sent, more than eight (8) transmissions by fax to Plaintiff's telephone facsimile machine at the above fax telephone number.

11. Attached hereto marked as **Exhibit A** is a copy of an advertisement faxed by Defendant.

12. The fax transmission of the document attached as **EXHIBIT A** contains material advertising the commercial availability of any property goods or services.

13. Between December 2007 and the present Defendant or its agent(s) sent, caused to be sent, or allowed to be sent, unsolicited transmissions by fax to Plaintiff's fax telephone number in violation of 47 U.S.C. sec. 227(b)(1)(c) and 47 C.F.R. sec. 64.1200(a)(3).

14. Plaintiff did not authorize the Defendant to send the transmissions by fax to Plaintiff.

15. Plaintiff did not otherwise authorize or accept the transmissions by fax pursuant to any exception under the Telecommunications Act of 1934, as amended by the Telephone Consumer Protection Act of 1991 (**TCPA**), 47 U.S.C. sec. 227, nor did Plaintiff authorize or accept the transmissions by fax pursuant to any exception to the rules promulgated by the Federal Communications Commission (FCC).

16. Defendant's sending of the unsolicited advertisements to Plaintiff causes Plaintiff to pay for paper and toner used by the facsimile machine receiving these advertisements. The facsimile machine and those supplies would otherwise have been used to receive requested messages.

17. Plaintiff's receipt of Defendant's unsolicited advertisements prevents other requested messages from being received. Moreover, Defendant's unsolicited faxes are bothersome and a harassment to Plaintiff.

18. Defendant or its agent(s) knew it was sending, causing to be sent,

or allowed to be sent the facsimiles.

19. Defendant or its agent(s) knew it was sending, causing to be sent, or allowed to be sent advertising materials via facsimile.

20. Defendant or its agent(s) voluntarily engaged in sending, causing to be sent, or allowed to be sent the facsimiles.

21. Defendant or its agent(s) contacted Plaintiff's fax number intentionally, and not by accident.

22. Defendant did not, does not presently, and has never had an established business relationship with Plaintiff.

23. Defendant or its agent(s) willfully or knowingly (as defined in the 1934 Telecommunications Act) violated the regulations prescribed under 47 U.S.C. sec. 227(b), and, therefore, should be required to pay three (3) times the amount of available damages under 47 U.S.C. sec. 227 (b)(3)(B).

WHEREFORE, Plaintiff, Radha Gelsmann, MD, PC, prays judgment against Defendants in an amount exceeding twenty-five thousand dollars (\$25,000.00) plus Court costs and for such other and further relief as this Court may deem proper.

**COUNT TWO**  
**Injunctive Relief**

Count One is restated as if set forth herein.

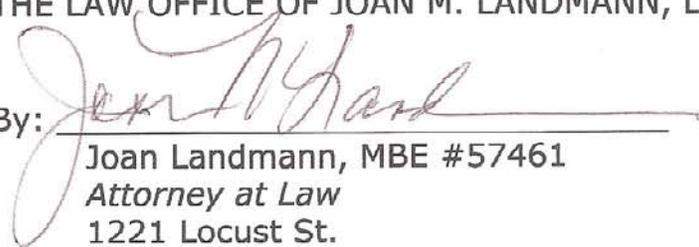
24. As provided by 47 U.S.C. sec. 227(b)(3)(A) Defendant or its agent(s) should be permanently enjoined from sending any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person's facsimile machine without that person's prior express invitation or permission or pursuant to an exception under the TCPA.

WHEREFORE, Plaintiff prays judgment against Defendant in an amount exceeding twenty-five thousand dollars (\$25,000.00), that Defendants be enjoined from sending unsolicited faxes as provided for under the TCPA, plus court costs, and for such other and further relief as this Court deems proper.

Respectfully submitted,

THE LAW OFFICE OF JOAN M. LANDMANN, LLC

By:

A handwritten signature in cursive script, appearing to read "Joan Landmann", is written over a horizontal line.

Joan Landmann, MBE #57461

*Attorney at Law*

1221 Locust St.

Suite 1000

St. Louis, MO 63103

Tel.: (314) 588-7630

Email: [landmannlaw@sbcglobal.net](mailto:landmannlaw@sbcglobal.net)



ALMA LASERS INVITES YOU TO A  
**Comprehensive Medical Aesthetics  
 Evening Seminar**

*Alma Lasers presents a unique and complimentary evening training course  
 ... certificates included!*

**TUITION: FREE**

Course includes food and beverage, lectures, hands-on treatment observations, parking and a certificate of attendance for all physicians and staff attending. Registration is required & late registration will be accepted if space is available.

**OBJECTIVES:**

Lectures and discussions will review laser physics, safety, treatment parameters, techniques, and the latest in laser technology. Participants will observe patient treatments and gain experience through a hands-on lab.

**TUESDAY, FEBRUARY 26, 2008  
 Kansas City, MO**

**EVENT TIME:** 6:30 pm to 9:30 pm

6:30 pm Registration

Wine and Hors d'oeuvres will be served

**EVENT LOCATION:**

Kansas City Marriott Country Club Plaza | 816-531-3000  
 4445 Main Street | Kansas City, MO 64111

**SPEAKER:**

*Amber Brown, MD, Emergency Medicine  
 Owner, Cosmetic Care Clinic*

**EVENING SEMINAR FEATURES:**

- Practice Management – Building a Power Aesthetic Practice
- "Pain Free" Hair Removal
- Skin Tightening
- Pixel- Fractional Resurfacing
- LIVE Patient Treatments
- Certificate of Training

**3 Ways to Register!**

Click: [AlmaLasers.com](http://AlmaLasers.com)

Call: 1.888.269.0550

Fax: 1.888.269.0559

*(Complete form at right)*

*To be removed from the fax list  
 please call 1.800.783.1714.*

**Alma Lasers™**  
 Wellbeing Through Technology

[www.AlmaLasers.com](http://www.AlmaLasers.com)

**REGISTRATION FORM:**

Yes! I will attend the evening seminar on Tuesday, February 26, 2007

I cannot attend, but would like additional information.

Name of Attendee: \_\_\_\_\_

Specialty: \_\_\_\_\_

Facility Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Additional Attendee Names: (print clearly for certificates)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO**

<b>SANDUSKY WELLNESS CENTER, LLC</b> , an Ohio limited liability company, individually and as the representative of a class of similarly-situated persons,	)	
	)	Case No. 13-cv-02085
	)	
Plaintiff,	)	Honorable Jack Zouhary
	)	
v.	)	
	)	
<b>ASD SPECIALTY HEALTHCARE, INC, d/b/a BESSE MEDICAL, AMERISOURCEBERGEN SPECIALTY GROUP, INC., and JOHN DOES 1-10,</b>	)	
	)	
	)	
Defendants.	)	
	)	

**BESSE MEDICAL’S SUPPLEMENTAL OBJECTIONS AND  
ANSWERS TO PLAINTIFF’S FIRST SET OF  
INTERROGATORIES DIRECTED TO DEFENDANT**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant ASD Specialty Healthcare, Inc. d/b/a Besse Medical (“Besse Medical”), by its attorneys, hereby submits the following supplemental answers to the First Set of Interrogatories submitted by Plaintiff Sandusky Wellness Center (“Plaintiff”):

**GENERAL OBJECTIONS**

Besse Medical incorporates by reference all prior objections set forth in its Objections and Answers to Plaintiff’s First Set of Interrogatories Directed to Defendant.

**SPECIFIC OBJECTIONS AND ANSWERS TO INTERROGATORIES**

12. Fully identify each person who was involved in handling or responding to removal or opt out request(s) for any advertisement during the Relevant Time Period.

**RESPONSE:** Besse Medical incorporates by reference its general objections and objections to definitions and instructions as set forth above. Besse Medical further objects to Interrogatory No. 12 on the ground that it is vague and ambiguous to the extent that the phrase “involved in handling or responding to removal or opt out request(s)” is not defined and is open to multiple reasonable interpretations. Besse Medical objects to Interrogatory No. 12 to the extent that it is not limited to information relating to facsimiles that may have been transmitted by or on behalf of Besse Medical to Plaintiff under circumstances, or pursuant to practices, similar to the circumstances or practices that led to the alleged transmission of the facsimile attached as Exhibit A to the Complaint in this lawsuit. Besse Medical further objects to Interrogatory No. 12 on the ground that it is overly broad and unduly burdensome to the extent that it exceeds the scope of initial discovery as established by the Court at the January 16, 2014 initial case management conference in this case, during which the Court directed the parties to limit discovery to Exhibit A to the Complaint and any other facsimiles, transmitted by or on behalf of Defendants, that may have been received by Sandusky.

Subject to and without waiving its objections, Besse Medical states that personnel in Besse Medical’s Account Setup Department would have processed any opt-out or request for removal for the facsimile transmissions referred to in response to Interrogatory No. 2. Specifically, the following Besse Medical employees were assigned to the Account Setup Department during the relevant time period: Brigid E. Besse, Jennifer Brown, Matthew Elwood and Kate Collins. In addition, the following former employee of Besse Medical was employed in the Besse Medical Account Setup Department during the

relevant time period: Kelly S. Kiser (last known address: 4225 Leeper Street, Cincinnati, Ohio 45223).

13. Describe in detail how you obtained or developed a list of persons and/or telephone numbers to which telephone calls have been initiated by or on behalf of you that utilized a facsimile transmission identified in response to Interrogatory No. 2.

**RESPONSE:** Besse Medical incorporates by reference its general objections and objections to definitions and instructions as set forth above, and also incorporates by reference its objection to Interrogatory No. 2.

Subject to and without waiving its objections, Besse Medical states that based on its investigation to date, the telephone numbers for persons or entities to whom the facsimiles identified in response to Interrogatory No. 2 may have been transmitted were obtained from a third party, InfoUSA, Inc. Investigation continues.

14. If you instructed any person to construct, develop, purchase, or otherwise use a list of persons and/or telephone numbers to send any facsimile transmission referred to in Interrogatory 2, describe in detail all directions and/or instructions given to such third party for determining the contents of such a list.

**RESPONSE:** Besse Medical incorporates by reference its general objections and objections to definitions and instructions as set forth above, and also incorporates by reference its objections to Interrogatory No. 2.

Subject to and without waiving its objections, Besse Medical states that Besse Medical provided instructions to InfoUSA to provide a list of persons to whom facsimiles identified in response to Interrogatory No. 2 may have been transmitted. Besse Medical may have instructed InfoUSA to provide contact information for specific specialties or other specific parameters. Investigation continues.

15. Identify any entity other than you that operated the equipment used to send any facsimile transmissions identified in response to Interrogatory No. 2.

**RESPONSE:** Besse Medical incorporates by reference its general objections and objections to definitions and instructions as set forth above, and also incorporates by reference their objections to Interrogatory No. 2.

Subject to and without waiving its objections, Besse Medical states that Besse Medical's marketing personnel used facsimile services provided by WestFax, Inc. to transmit facsimiles to existing and prospective customers. On information and belief, WestFax, Inc. may be contacted through its counsel, William Hayes, Esq.: email: [sqhayes@aol.com](mailto:sqhayes@aol.com); telephone: 303-514-0658.

18. Identify which AmerisourceBergen entities which during the Relevant Time Period: (A) received any of the monies received from the sale of the Prolia or any other product advertised by fax, (B) owned the following telephone numbers listed on Exhibit A to Plaintiffs Complaint: 800-543-2111, 800-772-6436, 877-776-5421, 800-543-8695, and 888-736-8868; and (C) the website [www.besse.com](http://www.besse.com).

**RESPONSE:** Besse Medical incorporates by reference its general objections and objections to definitions and instructions as set forth above. Besse Medical further objects to Interrogatory No. 18 on the grounds that it is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to information not relevant to the claims or defenses of any party to the lawsuit. Besse Medical also objects to Interrogatory No. 18 on the ground that it is vague and ambiguous to the extent that the term "owned" is not defined and is subject to multiple reasonable interpretations. Besse Medical further objects to Interrogatory No. 18 to the extent that it seeks information that is not within the possession, custody or control of Defendants.

Subject to and without waiving its objections, Besse Medical states that Besse Medical received monies from the sale of Prolia. Further answering, Besse Medical states

that 800-543-2111, 800-543-8695 and 888-736-8868 are telephone numbers that connect to Besse Medical's offices. The telephone number 877-776-5421 connects to The Lash Group, Inc. Besse Medical further states that the website www.besse.com is registered to ASD Specialty Healthcare, Inc. on behalf of Besse Medical. Except as so stated, Besse Medical lacks information sufficient to answer the remainder of Interrogatory No. 18.

19. Identify each person and their employer who created or prepared Exhibit A or any other advertisement sent by fax, and which AmerisourceBergen entity paid for the transmission or creation of Exhibit A or any other advertisement sent by fax.

**RESPONSE:** Besse Medical incorporates by reference its general objections and objections to definitions and instructions as set forth above. Besse Medical further objects to Interrogatory No. 19 on the ground that it is vague and ambiguous to the extent that the phrase "or any other advertisement sent by fax" is not defined and is open to multiple reasonable interpretations. Besse Medical further objects to Interrogatory No. 19 on the ground that the phrase "or any other advertisement" is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to require Besse Medical to review and analyze every facsimile sent by Besse Medical during the putative class period, including those which are not actionable under the Telephone Consumer Protection ACT ("TCPA"). Besse Medical also objects to Interrogatory No. 19 on the ground that it is compound and includes multiple subparts which, when properly treated as separate interrogatories, cause Plaintiff's total number of interrogatories to exceed 25 in number, in violation of Rule 33(a) of the Federal Rules of Civil Procedure. Although Besse Medical has attempted to meet the fair substance of this interrogatory in its substantive answer below it has done so without waiving (and instead

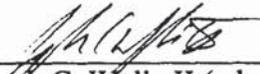
preserving) its objection that no further answer is required in light of the numerosity of Sandusky's interrogatories, as well as Sandusky's other objections.

Subject to and without waiving its objections, Besse Medical states that Besse Medical personnel identified in response to Interrogatory No. 1 created or prepared Exhibit A and the facsimile transmissions referred to in response to Interrogatory No. 2. In addition, Besse Medical paid for the transmission and creation of Exhibit A and the facsimile transmissions referred to in response to Interrogatory No. 2.

Dated: May 12, 2014

Respectfully submitted,

Defendant ASD Specialty Healthcare, d/b/a  
Besse Medical



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Joseph C. Wylie II (admitted *pro hac vice*)  
Molly K. McGinley (admitted *pro hac vice*)  
Nicole C. Mueller (admitted *pro hac vice*)  
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Jennifer J. Dawson (ID No. 0033707)  
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Eighth Floor  
Toledo, Ohio 43604  
Phone: (419)249-7100  
Facsimile: (419)249-7151  
E-mail: dawson@marshall-melhorn.com  
*Counsel for Defendant*

**VERIFICATION**

Pursuant to 28 U.S.C. § 1746, I, Eric Besse, Vice President, Information Solutions of ASD Specialty Healthcare, Inc. d/b/a Besse Medical verify under penalty of perjury that the factual statements contained in the foregoing Besse Medical's Supplemental Objections and Answers to Plaintiff's First Set of Interrogatories Directed to Defendant are true and correct.

Executed on May 12, 2014

  
Eric Besse

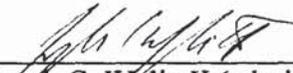
**CERTIFICATE OF SERVICE**

The undersigned, an attorney, certifies that on this 12th day of May 2014, the foregoing **Defendant Besse Medical's Supplemental Objections and Answers to Plaintiff's First Set of Interrogatories Directed to Defendant** was served by e-mail and U.S. first-class mail on the following:

Brian J. Wanca  
Ryan M. Kelly  
ANDERSON + WANCA  
3701 Algonquin Road, Suite 760  
Rolling Meadows, IL 60008  
bwanca@andersonwanca.com  
rkelly@andersonwanca.com

George D. Jonson  
Matthew Stubbs  
MONTGOMERY, RENNIE & JONSON  
36 East Seventh Street  
Cincinnati, OH 45202  
gjonson@mrjlaw.com  
mstubbs@mrjlaw.com

Respectfully submitted,

  
\_\_\_\_\_  
Joseph C. Wylie II (admitted *pro*  
*hac vice*)



**RESPONSE:** Besse Medical incorporates by reference its general objections as set forth above. Besse Medical also objects to the term “sent” on the ground that it calls for a legal conclusion.

Subject to and without waiving its objections, Besse Medical admits that it instructed WestFax, Inc., on behalf of Besse Medical, to transmit Exhibit A to more than 40 persons in the United States, and that WestFax informed Besse Medical that it had transmitted Exhibit A to more than 40 persons in the United States. Besse Medical lacks knowledge or information sufficient to form a belief as to the truth of the remaining statements contained in Request No. 3 and accordingly denies such facts.

4. You or someone on your behalf has sent Exhibit A to more than 1,000 persons.

**RESPONSE:** Besse Medical incorporates by reference its general objections as set forth above. Besse Medical also objects to the term “sent” on the ground that it calls for a legal conclusion.

Subject to and without waiving its objections, Besse Medical admits that it instructed WestFax, Inc., on behalf of Besse Medical, to transmit Exhibit A to more than 1,000 persons in the United States, and that WestFax informed Besse Medical that it had transmitted Exhibit A to more than 1,000 persons in the United States. Besse Medical lacks knowledge or information sufficient to form a belief as to the truth of the remaining statements contained in Request No. 4 and accordingly denies such facts.

5. You or someone on your behalf has sent Exhibit A to more than 5,000 persons.

**RESPONSE:** Besse Medical incorporates by reference its general objections as set forth above. Besse Medical also objects to the term “sent” on the ground that it calls for a legal conclusion.

Subject to and without waiving its objections, Besse Medical admits that it instructed WestFax, Inc., on behalf of Besse Medical, to transmit Exhibit A to more than 5,000 persons in the United States, and that WestFax informed Besse Medical that it had transmitted Exhibit A to more than 5,000 persons in the United States. Besse Medical lacks knowledge or information sufficient to form a belief as to the truth of the remaining statements contained in Request No. 5 and accordingly denies such facts.

6. You or someone on your behalf has sent Exhibit A to more than 10,000 persons.

**RESPONSE:** Besse Medical incorporates by reference its general objections as set forth above. Besse Medical also objects to the term "sent" on the ground that it calls for a legal conclusion.

Subject to and without waiving its objections, Besse Medical admits that it instructed WestFax, Inc., on behalf of Besse Medical, to transmit Exhibit A to more than 10,000 persons in the United States, and that WestFax informed Besse Medical that it had transmitted Exhibit A to more than 10,000 persons in the United States. Besse Medical lacks knowledge or information sufficient to form a belief as to the truth of the remaining statements contained in Request No. 6 and accordingly denies such facts.

7. You or someone on your behalf has sent Exhibit A to more than 40 telephone numbers.

**RESPONSE:** Besse Medical incorporates by reference its general objections as set forth above. Besse Medical also objects to the term "sent" on the ground that it calls for a legal conclusion.

Subject to and without waiving its objections, Besse Medical admits that it instructed WestFax, Inc., on behalf of Besse Medical, to transmit Exhibit A to more than 40 telephone numbers, and that WestFax informed Besse Medical that it had transmitted Exhibit A to more

than 40 telephone numbers in the United States. Besse Medical lacks knowledge or information sufficient to form a belief as to the truth of the remaining statements contained in Request No. 7 and accordingly denies such facts.

8. You or someone on your behalf has sent Exhibit A to more than 1,000 telephone numbers.

**RESPONSE:** Besse Medical incorporates by reference its general objections as set forth above. Besse Medical also objects to the term "sent" on the ground that it calls for a legal conclusion.

Subject to and without waiving its objections, Besse Medical admits that it instructed WestFax, Inc., on behalf of Besse Medical, to transmit Exhibit A to more than 1,000 telephone numbers, and that WestFax informed Besse Medical that it had transmitted Exhibit A to more than 1,000 telephone numbers in the United States. Besse Medical lacks knowledge or information sufficient to form a belief as to the truth of the remaining statements contained in Request No. 8 and accordingly denies such facts.

9. You or someone on your behalf has sent Exhibit A to more than 5,000 telephone numbers.

**RESPONSE:** Besse Medical incorporates by reference its general objections as set forth above. Besse Medical also objects to the term "sent" on the ground that it calls for a legal conclusion.

Subject to and without waiving its objections, Besse Medical admits that it instructed WestFax, Inc., on behalf of Besse Medical, to transmit Exhibit A to more than 5,000 telephone numbers, and that WestFax informed Besse Medical that it had transmitted Exhibit A to more than 5,000 telephone numbers in the United States. Besse Medical lacks knowledge or

information sufficient to form a belief as to the truth of the remaining statements contained in Request No. 9 and accordingly denies such facts.

10. You or someone on your behalf has sent Exhibit A to more than 10,000 telephone numbers.

**RESPONSE:** Besse Medical incorporates by reference its general objections as set forth above. Besse Medical also objects to the term “sent” on the ground that it calls for a legal conclusion.

Subject to and without waiving its objections, Besse Medical admits that it instructed WestFax, Inc., on behalf of Besse Medical, to transmit Exhibit A to more than 10,000 telephone numbers, and that WestFax informed Besse Medical that it had transmitted Exhibit A to more than 10,000 telephone numbers in the United States. Besse Medical lacks knowledge or information sufficient to form a belief as to the truth of the remaining statements contained in Request No. 10 and accordingly denies such facts.

13. Within a four-year period from the date of the original Complaint, you or someone on your behalf has sent more than 40 advertisements to telephone numbers.

**RESPONSE:** Besse Medical incorporates by reference its general objections as set forth above. Besse Medical further objects to Request No. 13 on the ground that it is overly broad and vague as the term “advertisements” is not defined and is open to multiple reasonable interpretations. Besse Medical also objects to Request No. 13 on the ground that it seeks to elicit a legal conclusion as to whether Besse Medical has “sent” “advertisements” to recipients by facsimile transmission.

Subject to and without waiving its objections, Besse Medical admits that it instructed WestFax, Inc., on behalf of Besse Medical, to transmit Exhibit A and a Cervarix document, referenced in Besse Medical’s Answer to Interrogatory No. 2, to more than 40 telephone

numbers and that WestFax informed Besse Medical that it had transmitted Exhibit A and the Cervarix document to more than 40 telephone numbers in the United States. Besse Medical lacks knowledge or information sufficient to form a belief as to the truth of the remaining statements contained in Request No. 13 and accordingly denies such facts.

14. Within a four-year period from the date of the original Complaint, you or someone on your behalf has sent more than 1,000 advertisements to telephone numbers.

**RESPONSE:** Besse Medical incorporates by reference its general objections as set forth above. Besse Medical further objects to Request No. 14 on the ground that it is overly broad and vague as the term “advertisements” is not defined and is open to multiple reasonable interpretations. Besse Medical also objects to Request No. 14 on the ground that it seeks to elicit a legal conclusion as to whether Besse Medical has “sent” “advertisements” to recipients by facsimile transmission.

Subject to and without waiving its objections, Besse Medical admits that it instructed WestFax, Inc., on behalf of Besse Medical, to transmit Exhibit A and a Cervarix document, referenced in Besse Medical’s Answer to Interrogatory No. 2, to more than 1,000 telephone numbers and that WestFax informed Besse Medical that it had transmitted Exhibit A and the Cervarix document to more than 1,000 telephone numbers in the United States. Besse Medical lacks knowledge or information sufficient to form a belief as to the truth of the remaining statements contained in Request No. 14 and accordingly denies such facts.

15. Within a four-year period from the date of the original Complaint, you or someone on your behalf has sent more than 5,000 advertisements to telephone numbers.

**RESPONSE:** Besse Medical incorporates by reference its general objections as set forth above. Besse Medical further objects to Request No. 15 on the ground that it is overly broad and vague as the term “advertisements” is not defined and is open to multiple reasonable

interpretations. Besse Medical also objects to Request No. 15 on the ground that it seeks to elicit a legal conclusion as to whether Besse Medical has “sent” “advertisements” to recipients by facsimile transmission.

Subject to and without waiving its objections, Besse Medical admits that it instructed WestFax, Inc., on behalf of Besse Medical, to transmit Exhibit A and a Cervarix document, referenced in Besse Medical’s Answer to Interrogatory No. 2, to more than 5,000 telephone numbers and that WestFax informed Besse Medical that it had transmitted Exhibit A and the Cervarix document to more than 5,000 telephone numbers in the United States. Besse Medical lacks knowledge or information sufficient to form a belief as to the truth of the remaining statements contained in Request No. 15 and accordingly denies such facts.

16. Within a four-year period from the date of the original Complaint, you or someone on your behalf has sent more than 10,000 advertisements to telephone numbers.

**RESPONSE:** Besse Medical incorporates by reference its general objections as set forth above. Besse Medical further objects to Request No. 16 on the ground that it is overly broad and vague as the term “advertisements” is not defined and is open to multiple reasonable interpretations. Besse Medical also objects to Request No. 16 on the ground that it seeks to elicit a legal conclusion as to whether Besse Medical has “sent” “advertisements” to recipients by facsimile transmission.

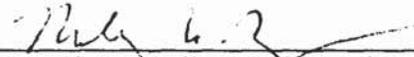
Subject to and without waiving its objections, Besse Medical admits that it instructed WestFax, Inc., on behalf of Besse Medical, to transmit Exhibit A and a Cervarix document, referenced in Besse Medical’s Answer to Interrogatory No. 2, to more than 10,000 telephone numbers and that WestFax informed Besse Medical that it had transmitted Exhibit A and the Cervarix document to more than 10,000 telephone numbers in the United States. Besse Medical

lacks knowledge or information sufficient to form a belief as to the truth of the remaining statements contained in Request No. 16 and accordingly denies such facts.

Dated: May 12, 2014

Respectfully submitted,

Defendant ASD Specialty Healthcare, d/b/a  
Besse Medical

  
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## CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that on this 12th day of May 2014, the foregoing **Defendant Besse Medical's Amended Objections and Answers to Plaintiff's First Request for Each Defendant's Admissions** was served by e-mail and U.S. first-class mail on the following:

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*vice*)



## Participate in an Emerging Technologies Symposium

### EVENT DATE/LOCATION

Thursday, September 15th  
Charlotte Marriott SouthPark  
2200 Rexford Rd.  
Charlotte, NC 28211

### EVENT TIME

6:30pm – 9:30pm

### EVENT COST

No Charge

### AGENDA

6:30pm-7:00pm	Cocktails & Hors D'oeuvres, Welcome
7:00pm-8:30pm	Symposium
8:30pm-9:30pm	Hands on demonstrations Coffee and Dessert

*Register today and be entered  
into a drawing for a new iPad2  
Winner will be selected  
after symposium presentation*

Gary Maulsby, your local Alma Lasers Business Specialist invites you to join key note speaker Dr. Richard Carlino in Charlotte, NC as he discusses new technology trends and innovations aesthetic medicine and his approach to maximizing these services and increasing ROI.

### *Symposium Presentations Will Include:*

- Fractional Resurfacing options with the *new* iPixel Series
- Virtually Painless Laser Hair Removal
- Combination Therapy Strategies and Techniques

### *Special Presentation by Dr. Michael Girouard*

- Body Contouring, Cellulite Reduction and Weight Loss: Tips & Techniques to maximize patient satisfaction to “keep them coming back”.

*Reserve your seat today*

### About our Speakers:

Richard Carlino, M.D. Dr. Richard Carlino is a board certified plastic surgeon currently practicing in Raleigh, NC. As a member of the American Society of Plastic Surgeons, the American Society of Aesthetic Plastic Surgeons, and a fellow of the American College of Surgeons, he is requested as an expert speaker in the advancement of cosmetic rejuvenation.

Michael Girouard, M.D. Weight Loss and Wellness Center, in Huntersville, NC. Dr. Girouard opened his practice in May 2000. Dr Girouard has dedicated nearly 30 years treating and researching better approaches to weight management. Dr Girouard is a sought after speaker and is considered an expert in obesity and weight loss

### **Register by:**

#### FAX

Fax registration form to:  
646-805-1312

#### ONLINE

[www.almalasers.com/NC915](http://www.almalasers.com/NC915)

#### EMAIL:

[Events@almalasers.com](mailto:Events@almalasers.com)

You have received this fax because you have had previous contact or requested information from Gary Maulsby/or Alma Lasers. To be removed from fax list, please supply fax number below and fax to 646-805-1312 & number will be removed immediately. We apologize for any inconvenience! Fax number to be removed

### **REGISTRATION FORM:**

- Yes, I will attend the September 15<sup>th</sup> event in Charlotte, NC.
- No, I cannot attend but would like to schedule an in-office demonstration or meeting.
- No, I cannot attend but would like more information about the Emerging Technology Symposium.

Name of Attendee: \_\_\_\_\_

Specialty: \_\_\_\_\_

Facility Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Cell: \_\_\_\_\_ E-mail: \_\_\_\_\_

Additional Attendees: \_\_\_\_\_

Event confirmation will be emailed within 24 hours of receipt of your request.

**ALMA002140**

**EXHIBIT D**