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 Telephone Consumer Protection Act of 1991	)	CG Docket No. 02-278

Declaration of Scott Z. Zimmermann in Support of Edward Simon's Request to File Supplemental Comment and Edward Simon's Supplemental Comment on the Petition for Waiver of the Commission's Rule on Opt-Out Notices on Fax Advertisements Filed by the RadNet Management, Inc. and It Affiliates

1. I am an attorney of law duly licensed by the State Bar of California. I am co-counsel with Payne & Fears LLP representing Edward Simon ("Simon"). I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein. I make this declaration in support of Simon's Request to File Supplemental Comment and his Supplemental Comment on the Petition for Waiver of the Commission's Rule on Opt-Out Notices on Fax Advertisements Filed by RadNet Management, Inc. and Its Affiliates.

2. Attached hereto as Exhibit A is a true and correct copy of RadNet Management's answers to Requests for Admissions propounded by Simon in *Simon v. RadNet Management, Inc., et al.,* Case No. 2:14-cv-7997 BRO, pending in the United States District Court for the Central District of California (the "Simon Litigation").

3. Attached hereto as Exhibit B is a true and correct copy of RadNet Management's responses to Interrogatories propounded by Simon in the Simon Litigation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed April 15, 2015, at Santa Monica, California.

Scott Z. Zimmermann

4840-9963-6515.1

EXHIBIT "A"

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Attorneys for Defendants RadNet Management, Inc.; RadNet, Inc.; Beverly Radiology Medical Group III; Pronet Imaging Medical Group, Inc.; Breastlink Medical Group, Inc.; and Beverly Radiology Medical Group, Inc.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

EDWARD SIMON, DC, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

RADNET MANAGEMENT, INC., a California corporation; RADNET, INC., a Delaware corporation; BEVERLY RADIOLOGOY MEDICAL GROUP III, a California professional partnership; PRONET IMAGING MEDICAL GROUP, INC., a California corporation; BREASTLINK MEDICAL GROUP, INC., a California corporation; BEVERLY RADIOLOGY MEDICAL GROUP, INC., a California corporation; and DOES 1 through 1,000, inclusive,

Defendants.

CASE NO. CV 14-7997 BRO (PJWx)

Hon. Beverly Reid O'Connell

DEFENDANT RADNET MANAGEMENT INC.'S RESPONSE TO PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSION

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Pursuant to Rule 36 of the Federal Rules of Civil Procedure, defendant RadNet Management, Inc., hereby objects and responds to the Requests for Admission, Set One (the "Requests") propounded by plaintiff Edward Simon, DC ("Plaintiff") as follows:

GENERAL OBJECTIONS

Defendant asserts the following General Objections (the "General Objections") to the Requests, each of which is hereby incorporated by reference into the response to each individual request below. From time to time, and for purpose of emphasis, Defendant may restate one or more of the General Objections as specific objections to individual requests. Such restatement, or the failure to restate, should not be taken as a waiver of any General Objection not restated.

1. Defendant generally objects to the Requests to the extent they seek information that is protected from disclosure by the attorney-client privilege, the work-product doctrine, the privacy privilege, the joint-defense privilege or any other privilege or immunity, and refuses to provide any such information.

2. Defendant generally objects to the Requests to the extent they call for information protected by the privacy rights of its employees or any other person or entity as provided by the California and United States Constitutions and/or any other statute or legal authority.

3. Defendant objects to the definitions and instructions contained in the Requests to the extent that they impose obligations on Defendant beyond those permitted by Federal Rules of Civil Procedure and applicable case law. Defendant interprets each request, and responds pursuant to, and in light of, the requirements of the Rules.

4. Defendant generally objects to the Requests to the extent they call for the production of trade secrets, confidential information and proprietary information regarding Defendant's business activities or business operations.

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5. Defendant objects to the Requests insofar as they seek information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

6. Defendant objects to the Requests to the extent they seek information outside of Defendant's knowledge.

7. Defendant objects to the Requests to the extent it requires Defendant to disclose information that is not within Defendant's possession, custody, or control. Defendant's responses are based solely on what is in its possession, custody or control.

8. It should not be inferred from the form or substance of any objection or response herein that information responsive to any particular request exists.

Without waiving any of the foregoing General Objections and specifically subject thereto, Defendant responds and objects to Plaintiff's Requests as follows:

RESPONSE TO REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Admit that DEFENDANTS did not have an ESTABLISHED BUSINESS RELATIONSHIP with PLAINTIFF at the time the EXHIBIT 1 was sent via facsimile transmission to (818) 761-8705.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Subject to and without waiving the general objections, Defendant responds to this Request as follows: Deny.

REQUEST FOR ADMISSION NO. 2:

Admit that PLAINTIFF did not give PRIOR EXPRESS INVITATION OR PERMISSION to be sent EXHIBIT 1 via facsimile transmission to (818) 761-8705.

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Subject to and without waiving the general objections, Defendant responds to this Request as follows: Defendant admits that Plaintiff did not give prior express consent to be sent the facsimile identified as Exhibit 1 in Plaintiff's Complaint.

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REQUEST FOR ADMISSION NO. 3:

Admit that the sending of EXHIBIT 1 via facsimile transmission to (818) 761-8705 violated the JFPA.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Subject to and without waiving the general objections, Defendant responds to this Request as follows: Deny.

Respectfully submitted,

Dated: March 6, 2015

KATTEN MUCHIN ROSENMAN LLP

By: /s/ Stuart M. Richter
Stuart M. Richter
Attorneys for Defendants RADNET MANAGEMENT, INC.; RADNET, INC.; BEVERLY RADIOLOGY MEDICAL GROUP III; PRONET IMAGING MEDICAL GROUP, INC.; BREASTLINK MEDICAL GROUP, INC.; and BEVERLY RADIOLOGY MEDICAL GROUP, INC.

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EXHIBIT "B"

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

EDWARD SIMON, DC, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

RADNET MANAGEMENT, INC., a California corporation; RADNET, INC., a Delaware corporation; BEVERLY RADIOLOGOY MEDICAL GROUP III, a California professional partnership; PRONET IMAGING MEDICAL GROUP, INC., a California corporation; BREASTLINK MEDICAL GROUP, INC., a California corporation; BEVERLY RADIOLOGY MEDICAL GROUP, INC., a California corporation; and DOES 1 through 1,000, inclusive,

Defendants.

CASE NO. CV 14-7997 BRO (PJWx)

Hon. Beverly Reid O'Connell

DEFENDANT RADNET MANAGEMENT INC.'S RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

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Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant RadNet Management, Inc. ("Defendant"), hereby objects and responds to the first set of Interrogatories (the "Interrogatories") propounded by Plaintiff Edward Simon, DC ("Plaintiff") as follows:

GENERAL OBJECTIONS

1. Defendant generally objects to the Interrogatories to the extent they seek information that is protected from disclosure by the attorney-client privilege, the work-product doctrine, the privacy privilege, the joint-defense privilege or any other privilege or immunity, and refuses to provide any such information.

2. Defendant generally objects to the Interrogatories to the extent they call for the production of information that is protected by its privacy rights or those of any other person or entity as provided by the California and United States Constitutions or any other statute or legal authority.

3. Defendant generally objects to the Interrogatories to the extent they call for the production of trade secrets, confidential information and proprietary information regarding Defendant's business activities or business operations.

4. Defendant generally objects to the Interrogatories to the extent they seek information not reasonably calculated to lead to the discovery of information relevant to a claim or defense in this action.

5. Defendant generally objects to the Interrogatories to the extent they seek information beyond or outside of what is within Defendant's possession, custody or control. Defendant's responses are based solely on what is in its possession, custody or control.

6. Inadvertent production of any information that is privileged, or which is otherwise immune from discovery, shall not constitute, and is in no way intended as, a waiver of any privilege or any other ground for objecting to such discovery or the right of Defendant to object to the use of any such information during any subsequent proceeding.

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7. Defendant generally objects to the definitions contained in the Interrogatories to the extent they seek to impose obligations on Defendant different from or beyond those required by the Federal Rules of Civil Procedure and applicable case law. Defendant will interpret each Interrogatory and respond pursuant to the requirements of the Rules.

8. It should not be inferred from the form or substance of any specific response to an interrogatory that responsive information exists.

Without waiving any of the foregoing General Objections and specifically subject thereto, Defendant responds and objects to Plaintiff's Interrogatories as follows:

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

Separately for each FAX (identified by bate number or other identification used in connection with their production), state the dates and times (or approximate dates and times) they were sent or attempted to be sent, and the number (or approximate number) of successful transmissions of the FAX.

RESPONSE TO INTERROGATORY NO. 1:

Expanding on the general objections, Defendant objects to this Interrogatory because it is ambiguous. Plaintiff requests materials Defendant sent by facsimile transmission relating to the property, goods or services of "MEDVERSANT" or "HEALTHWAYS" but Defendant has never sent any facsimile transmissions to these entities and further, has no relationship with either entity. It appears these are form interrogatories that are not specific to this action, which would explain their overbreadth and inherent ambiguity.

Defendant further objects to this Interrogatory because it is overly broad and burdensome. Plaintiff's defined term "FAX" is over-inclusive and would involve faxes not received by the Plaintiff, faxes that are not advertisements and faxes that were actually solicited by the recipient. Defendant has filed a petition for waiver with

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the FCC. If granted, then faxes that were solicited are not violations and are therefore not relevant. The burden of responding at this time as to all faxes is substantial and involves, among other things, a review of faxes sent out of various regions, the review of electronic communications and extensive document review. Defendant will only respond as to faxes sent to Plaintiff, and will not respond as to faxes sent to any other persons for the relevant time period. Subject to these general and specific objections, Defendant responds as follows: Pursuant to Federal Rules of Civil Procedure rule 33(d)(1), the following documents are responsive: RAD0000001 to RAD0000003, RAD0000200 to RAD0000205, RAD000389, and RAD0000506 to RAD0000507. These faxes were sent to Plaintiff in 2014. Defendant is attempting to find faxes that might have been sent prior to 2014 and will continue to make a good faith investigation. Defendant will supplement these responses when and if additional faxes are identified.

INTERROGATORY NO. 2:

State how, when and through what means DEFENDANTS or any other PERSON obtained the facsimile telephone numbers on the LISTS.

RESPONSE TO INTERROGATORY NO. 2:

Subject to and without waiving the general objections, Defendant responds as follows: All facsimile numbers in Defendant's database were provided by the owners of the numbers in connection with business dealings with Defendant. Defendant does not now and has never purchased lists of fax numbers. Nor does Defendant search for fax numbers on websites or through other publicly available data.

INTERROGATORY NO. 3:

Separately for each FAX, IDENTIFY each SENDER of the FAX.

RESPONSE TO INTERROGATORY NO. 3:

Expanding on the general objections, Defendant objects to this Interrogatory because it is ambiguous. Plaintiff requests materials Defendant sent by facsimile transmission relating to the property, goods or services of "MEDVERSANT" or

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"HEALTHWAYS" but Defendant has never sent any facsimile transmissions to these entities and further, has no relationship with either entity. It appears these are form interrogatories that are not specific to this action, which would explain their overbreadth and inherent ambiguity.

Defendant further objects to this Interrogatory because it is overly broad and burdensome. Plaintiff's defined term "FAX" is over-inclusive and would involve faxes not received by the Plaintiff, faxes that are not advertisements and faxes that were actually solicited. Defendant has filed a petition for waiver with the FCC. If granted, then faxes that were solicited are not violations and are therefore not relevant. The burden of responding as to all faxes is substantial and involves, among other things, a review of faxes sent out of various regions, the review of electronic communications and extensive document review. Defendant will only respond as to faxes sent to Plaintiff, and will not respond as to faxes sent to any other persons for the relevant time period. Subject to these general and specific objections, Defendant responds as follows: The faxes identified by Bates Numbers RAD0000001 to RAD0000003, RAD0000200 to RAD0000205, RAD000389, and RAD0000506 to RAD0000507 were sent by AdMax Marketing on behalf of Defendant. These faxes were sent in 2014 and Defendant is attempting to find faxes that might have been sent prior to 2014. Defendant will continue to make a good faith investigation and will supplement these responses when and if additional faxes are identified.

INTERROGATORY NO. 4:

IDENTIFY each PERSON who you contend gave PRIOR EXPRESS INVITATION OR PERMISSION to be sent the FAXES.

RESPONSE TO INTERROGATORY NO. 4:

Expanding on the general objections, Defendant objects to this Interrogatory because it seeks information that is not relevant, nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's defined term "FAX" includes facsimile transmissions relating to the property, goods or services of

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"MEDVERSANT" or "HEALTHWAYS" but Defendant has not sent facsimile transmissions to those entities and has no relationship with those entities. Subject to and without waiving these objections, Defendant responds that it cannot identify, without reviewing files and documents for each putative class member, researching communications with each class member, and interviewing each class member who gave permission to receive faxes. Certain class members have executed contracts with Defendant that specify communications shall be by fax. At this time, without further investigation, Defendant is aware that Pacific Coast Sports Medicine gave prior invitation or permission.

INTERROGATORY NO. 5:

For each PERSON identified or mentioned in response to Interrogatory No. 4, describe the COMMUNICATIONS (including date, nature, content and parties thereto) by which such PERSON gave PRIOR EXPRESS INVITATION OR PERMISSION.

RESPONSE TO INTERROGATORY NO. 5:

Subject to and without waiving the general objections, Defendant responds as follows: Prior express consent is typically given orally in the context of business communications. Contracts with certain recipients may specify that communications are by fax.

INTERROGATORY NO. 6:

IDENTIFY each PERSON who you contend had an ESTABLISHED BUSINESS RELATIONSHIP with DEFENDANTS at the time the FAXES were sent or attempted to be sent to such PERSON.

RESPONSE TO INTERROGATORY NO. 6:

Subject to and without waiving the general objections, Defendant responds as follows: All persons who received fax transmissions sent on behalf of Defendant had established business relationships with Defendant.

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INTERROGATORY NO. 7:

For each PERSON identified or mentioned in response to Interrogatory No. 6, state the circumstances of how, when and with whom the ESTABLISHED BUSINESS RELATIONSHIP was started or otherwise was formed.

RESPONSE TO INTERROGATORY NO. 7:

Subject to and without waiving the general objections, Defendant responds that each person on the list who received a fax transmission either referred a patient to Defendant and in doing so provided a fax number, or has a contract with Defendant and the contract specifies that information shall be communicated by fax.

INTERROGATORY NO. 8:

If your response to any Request for Admission concurrently propounded by PLAINTIFF is anything other than an unqualified admission, state all facts you contend support your response.

RESPONSE TO INTERROGATORY NO. 8:

Subject to and without waiving the general objections, Defendant responds as follows:

Response to Request for Information No. 1: Defendant denies because all person or entities on Defendant's contact list had engaged in prior voluntary communications by fax with respect to patient referrals and services rendered on behalf of patients referred by physicians.

Response to Request for Information No. 3: Defendant denies because Plaintiff had an existing business relationship with Defendant. The fax attached to the complaint was not an advertisement.

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Respectfully submitted,

Dated: March 6, 2015

KATTEN MUCHIN ROSENMAN LLP

By: /s/ Stuart M. Richter
Stuart M. Richter
Attorneys for Defendants RADNET MANAGEMENT, INC.; RADNET, INC.; BEVERLY RADIOLOGY MEDICAL GROUP III; PRONET IMAGING MEDICAL GROUP, INC.; BREASTLINK MEDICAL GROUP, INC.; and BEVERLY RADIOLOGY MEDICAL GROUP, INC.

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VERIFICATION

I am Vice President of Operations at RadNet, Inc. RadNet Management, Inc. ("RadNet") is a wholly-owned subsidiary of RadNet, Inc. I am authorized to make this verification for and on behalf of RadNet and I make this verification for that reason. I have reviewed RadNet's Response to Plaintiff Edward Simon DC's First Set of Interrogatories ("Response") and know its contents. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 6, 2015.

Ryan Dyer

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Orange, State of California. My business address is 4 Park Plaza, Suite 1100, Irvine, CA 92614.

On April 15, 2015, I served true copies of the following document(s) described as **Declaration of Scott Z. Zimmermann in Support of Edward Simon's Request to File Supplemental Comment and Edward Simon's Supplemental Comment on the Petition for Waiver of the Commission's Rule on Opt-Out Notices on Fax Advertisements Filed by the RadNet Management, Inc. and It Affiliates** on the interested parties in this action as follows:

Stuart M. Richter, Esq. Andrew J. Demko James E. Payer KATTEN MUCHIN ROSENMAN LLP 2029 Century Park East, Suite 2600 Los Angeles, CA 90067-3012 Tel: (310) 788-7700 Fax: (310) 788-4471	Attorneys for Defendants RadNet Management, Inc.; RadNet, Inc.; Beverly Radiology Medical Group III; Pronet Imaging Medical Group, Inc.; Breastlink Medical Group, Inc.; and Beverly Radiology Medical Group, Inc.

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Payne & Fears LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on April 15, 2015, at Irvine, California.

Matthew K. Brown, Esq.

4817-2808-7331.1