

FILED  
LODGED  
RECEIVED  
**MAIL**

JAN 26 2024

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BY

DEPUTY

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

**ROSA LEE KLANESKI individually and  
on behalf of all others similarly situated,**

**PLAINTIFF,**

v.

**24-CV-00121-  
JCC**

Case number \_\_\_\_\_

**WHITEPAGES, INC.,**

**DEFENDANT**

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

**NATURE OF ACTION**

1. Defendant owns and operates a website which disseminates public records relating to natural persons in a variety of manners and under a number of pricing schemes located at [www.whitepages.com](http://www.whitepages.com).

*Receipt # 20000 3962*

2. Consumers regularly use these services—Defendant’s website states it is “trusted by over 30 million people every month”—and can purchase a range of services for additional background report information relating to court, land, and public records.

3. The Plaintiff is and was a “Premium Member” of the Defendant’s services for several years, a service which is priced at \$5.99 per month and which is the most basic of tools to aggregate information and enables the user to lookup 20 individual’s contact information per month.

4. There are two higher service levels called “Premium Business” and “Premium Business Enterprise” which offer additional functionality and higher total discrete queries which comprise the bulk of the Defendant’s business.

5. A Premium Member like the Plaintiff can access that data about those 20 individuals monthly, and that information is limited to those individuals’ cellphone and landline numbers and home addresses, though the Defendant has a much larger trove of data pertaining to each individual.

6. After a Premium Member like the Plaintiff searches for an individual person’s record by a number of methods, including name, reverse phone, and reverse address, the Defendant logs the record of that Premium Member’s request in a method under its control.

7. At some later date after the initial search of the individual, the Defendant repeatedly sends unsolicited emails to the Premium Members representing that there are “new criminal records” or “new address records” for individual persons who were recently searched.

8. These emails are sent continually by the Defendant for commercial purposes: the gravamen of each unsolicited email advertisement is that the Defendant is notifying the Plaintiff

of “new” information which is relevant to the background or geography of an individual whose record was searched.

9. Each unsolicited email advertisement is intentionally sent by the Defendant in order that it may entice viewers to purchase pricier “background reports” sold on an individual basis which contain information relevant to landlords or other individuals or entities tasked with checking criminal, public, or land records.

10. Those unsolicited emails sent for commercial purposes to provide ongoing revenue to click-through advertisers or through selling pricier personal data products regularly contain misleading and false information and function as the part of the core of the Defendant’s ongoing operations.

11. Through data obtained in an earlier and incomplete adversarial process, the Defendant alleges that irrelevant personal data from over a decade earlier in an individual’s life is “new to Whitepages” and therefore it is fair to market as “new” to consumers.

12. The Defendant attempts to hide its malfeasance by forcing compliance with a terms of service with several unconscionable provisions that limits consumers’ redressability of grievances directed towards the merchantability of the data obtained by the Defendant.

13. The Defendant designed its terms of service in an oppressive and unscrupulous manner in order to avoid actual liability for its ongoing scheme or artifice designed to deceive consumers and profit off of an information asymmetry which is soon to be ended by the advent of AI.

14. The Defendant engages in the regular business of sending unsolicited commercial emails to its users to entice them to purchase more expensive background checks, the contents of which repeatedly demonstrate an objectively misleading advertisement was sent.

15. The Defendant was a disruptive tech startup in 1997 with only the highest mastery of computer data collection and aggregation skills, and it now uses that information asymmetry to oppress consumers nationwide by advertising useless data for sale in a nationwide spam campaign before the advent of artificial general intelligence.

### **PARTIES**

16. Plaintiff Rosa Lee Klaneski is a natural person domiciled at 8 Farmington Meadow Drive, Farmington, CT 06032.

17. Defendant Whitepages, Inc. is a Delaware corporation with a principal place of business at 2033 6th Avenue, Suite 1100, Seattle, WA 98121.

### **JURISDICTION AND VENUE**

18. The court has subject matter jurisdiction because this action alleges ongoing violations of federal statute, specifically 15 U.S.C. § 7704(a)(2).

19. For the class action, the aggregate of all members of the proposed class are in excess of \$5,000,000.00, exclusive of interest and costs, and Plaintiff, together with most members of the proposed class, are citizens of states different than Whitepages.

20. The court has general personal jurisdiction over the Defendant because Whitepages maintains its principal place of business in Washington state.

21. Pursuant to 28 U.S.C. § 1391, this Court is the proper venue for this action because a substantial part of the events, omissions, and acts giving rise to the claims herein occurred in this District. Additionally, Defendant maintains its principal place of business in this district.

**FACTS COMMON TO ALL CAUSES OF ACTION**

22. The Defendant Whitepages is in the business of selling information to the Plaintiff, a Connecticut domiciliary with ongoing needs for address and phone number lookups in the course of her daily business.

23. Several years prior to this action, the Plaintiff entered into a contract with the Defendant wherein she paid a nominal sum (originally \$4.99 per month and now at \$5.99 per month) for a “premium membership” which enabled her to avail herself ad-free of many searches for individuals throughout the country.

24. As a part of her personal lookups, it appeared that the Defendant was sending unsolicited emails to her inbox informing her of additional data relevant to individuals she was searching, or who were related somehow to the individuals she was searching.

25. The Plaintiff had no reason to doubt the veracity of the information being provided, because there did not appear to be errors in the physical street addresses of the individuals she had searched.

26. The Defendant regularly sent unsolicited emails informing the Plaintiff of new and relevant information about individuals she had searched, and these emails came in regularly to her inbox, until she received a particular email of note.

27. That email (“Exhibit 1”) stated that a social acquaintance of the Plaintiff who she knew from past and present impressions to have only the highest of morals and scruples had a “new criminal record” as a part of her public record.

28. After enticing the recipient of the email with the subject line “New Criminal Record Update,” the recipient is then solicited to purchase a background report for an additional sum (\$19.99 plus applicable taxes and fees) which will reveal that new criminal record advertised in the unsolicited email.

29. The Plaintiff purchased the report and received the report appended as “Exhibit 2.” The report contains wholly accurate information, however the purported “new criminal record” was actually a traffic citation from 2006 for illegal display of a handicapped plate [in a parked vehicle], a non-moving vehicular violation whose criminality and newness was suspect.

30. The Plaintiff’s reaction was that perhaps presumably, while using your husband’s handicapped placard to run an errand you are unintentionally ticketed at a busy stop imputes negligence, based on the overall statutory scheme running the gamut from murder and robbery and arson to petit larceny and DUI, a receiving a traffic ticket for a non-moving violation is not a serious criminal offense.

31. The Plaintiff did not believe that a parking ticket had relevance to this individual’s character at present, nor was it relevant to any implication that her future conduct would be in conformity with this character, especially when the “criminal act” occurred on December 7, 2006.

32. Under no understanding of the word “new” does it mean within 16 years, unless speaking in generalities of concepts that extend far beyond the short lives of humans, and a party claiming a 16-year-old parking ticket is “new” appears deceptive on its face.

33. The Plaintiff ignored the issue and accepted the loss of her background check fee simply as a cost of doing business in the rough and tumble world of commerce.

34. The Plaintiff had not yet examined enough of the Defendant's representations to understand why this particular interaction occurred as it did.

35. The Defendant continued to send unsolicited emails advertising that new records were available about people that she may know. Another is attached as "Exhibit 3."

36. Presumably, because the Plaintiff had used her computer to search for "Lourdes Marty" in order to obtain her physical address to send a personal note to her home, the Defendant sent her a targeted unsolicited email to check out the background of her husband, Adam Pio, who also had a "New Criminal Record."

37. This time, cautious as to the outcome, the Plaintiff clicked through to the next screen, which appears as "Exhibit 4."

38. The Defendant lists as "Report Monitor Updates" that there are "3 Changes, Criminal and Traffic" and lists on page three of Exhibit 4 that Adam Pio has "6 Criminal and Traffic Records."

39. Mr. Pio also has seven property records and two public records, and two licenses or permits. The page asks the viewer to "unlock criminal records."

40. The Plaintiff purchased the record for \$19.99 and now appends a redacted version as "Exhibit 5."

41. Exhibit 5 states that Adam Pio has the following criminal and traffic records, in order from newest to oldest:

- a. Operation of a vehicle while using a cellphone on 8/19/2007.
- b. Creating a public disturbance on 10/15/2004.

- c. Speeding over 70 mph on 11/12/1998.
- d. Sixth degree Larceny on 12/6/1997.
- e. Speeding over 60 mph on 9/10/1997.

42. The Plaintiff is unclear as to which three “new” “records” are “changes” as they mostly occurred two decades ago in her friend’s youthful exuberance and have de minimis relevance to anyone investigating someone’s character outside of perhaps the FBI.

43. At this point, the Plaintiff felt fairly certain that while one misleading email could have potentially been an oversight, a second unsolicited targeted email with the same scheme (the Defendant says an email that it has new information about criminal records, however that information is actually old and irrelevant) appeared an intentional scheme or artifice designed to deceive.

44. The Plaintiff filed suit in her local Connecticut small claims court in order to settle her claim with the Defendant over what she believed to be a garden variety dispute over the merchantability of virtual goods alleging unfair trade practices but not a federal question. That suit is attached as “Exhibit 6.”

45. The Defendant filed an untimely answer, appended as “Exhibit 7.” While it appears to be a rudimentary motion to dismiss without any briefing or an answer with special defenses, the gravamen of the answer was that the information was “new to the Whitepages database” which is why the data were labeled as “new” records.

46. The Defendant’s position on the public record is that the “newness” of the records it sells had to do only with the newness of their mining or purchase or other aggregation by the Defendant, and that newness did not mean not the objective newness of the underlying conduct found in the report.



47. Such an answer offends all notions of fair play and justice and the Plaintiff filed a timely reply, appended as “Exhibit 8” which is incorporated into these pleadings.

48. After that point the scope of discovery was litigated in the Connecticut small claims forum. During that discovery process, the Plaintiff attempted to settle her dispute with the Defendant’s representative, and when she was met with pushback and no settlement counteroffer, the Plaintiff amended her complaint to include the federal question at bar in order to incentivize an efficient disposition of the dispute.

49. That motion and amended complaint is attached as “Exhibit 9” and alleged in addition to the common law and consumer protection counts, a violation of the CAN-SPAM Act.

50. Throughout the course of their state court litigation, the Defendant amazingly continued to send unsolicited emails to the Plaintiff as presumably part of the targeted advertising directed at her by the Defendant based on her past and present searches for address records.

51. From the period 4/20/2023 until 11/30/2023 the Defendant emailed her no fewer than 800 times. A record of all of those emails [in individual list form] is appended as “Exhibit 10.”

52. The Plaintiff does not have the means to validate the truthfulness of all 800 solicitations before a Class certification, but instead can attest to two additional records that are demonstrably misleading based on even more outrageous fact patterns.

53. One of those 800 informed the Plaintiff that her 92-year-old Great Aunt Lucia Bianchi who had emigrated from Italy in the 1940s and had moved to her home in Woodbridge where she lived the totality of her life had a “new” address record.

54. After clicking through the link and requisite click advertising to fund the Defendant's scheme or artifice designed to deceive, that information appears as "Exhibit 11." This "record" shows an address of "7 Winthrop Drive, Farmington, CT 06032."

55. While hard of hearing, Lucia Bianchi is mentally sound and competent and explained that she did not know what that address was.

56. The Plaintiff approached her son (her only living relative in America) and he informed the Plaintiff that he had actually lived at that address for a six-month period in the late 1990's during the time when his first wife was sick but had not yet passed away.

57. The physical address record which was advertised as a new address record for Lucia Bianchi does not have a connection to Lucia Bianchi.

58. In further support, Lucia Bianchi's son represented that if he did have a lease there at all, it would have been only potentially signed by his father, Lucia Bianchi's late husband Massimo Bianchi, who had passed away decades ago and had managed the family's finances, not Lucia Bianchi herself. Therefore, no circumstances existed where such an address has any ascertainable connection to Lucia Bianchi.

59. It appears that whenever the Defendant uncovers information unknown to its databases previously, even when that record is over two decades old and has questionable connection to the subject of the user's query, an email goes out to individuals who have searched that person recently.

60. This pattern continued when the Plaintiff was informed that her own domestic partner Colette Nakhoul had a new address record, an allegation that the Plaintiff (who had cohabitation at the same address with that partner for seventeen years) knew to be patently false. The Plaintiff is appending that misleading email as "Exhibit 12."

61. Once the relevant click-through advertising pays the Defendant's bills, the new address record for Colette Nakhoul turned out to be "242 Trumbull St., Hartford, CT 06013." That page is appended as "Exhibit 13."

62. The Plaintiff concedes that the address has a connection to Colette Nakhoul, but the breadth, depth, and relevance of that connection are suspect.

63. Colette Nakhoul did travel to 242 Trumbull Street in Hartford when we first became acquainted because that address was where she worked ten years ago.

64. The Plaintiff is attaching the application for certificate of authority for a foreign corporation filed 2/24/1995 with the Connecticut Secretary of State for Smith Whiley Securities as "Exhibit 14."

65. Smith Whiley and Company operated legally in Connecticut for a period of time and its founders are a matter of public record. (See "Exhibit 15," the company's introductory page on LinkedIn.)

66. However, the company vacated that address years ago. The Plaintiff is appending Smith Whiley's 2014 annual report as "Exhibit 16." This exhibit demonstrates that as of 7/2/2014, 242 Trumbull Street was no longer the business's principal office, which was changed to 8 Clermont Park, Farmington, CT and was changed again later.

67. 242 Trumbull Street was only a relevant business address for Smith Whiley until 2014, and is an eight-story commercial building on a main thoroughfare in the urban center of Hartford, Connecticut which had many tenants aside from Smith Whiley.

68. The Smith Whiley business was shuttered on May 17, 2016 when it was dissolved in Delaware and ended its perpetual existence. That application for certificate of withdrawal filed with the Connecticut Secretary of State is appended as "Exhibit 17."

69. The Defendant's data mining capability assumedly allowed it to review public records, but the name of the Defendant's going concern is "Whitepages.com" not something akin to "LinkedIn" or another database purporting to contain employment related data and yet the Defendant is advertising individual's work addresses as home addresses.

70. The Plaintiff propounds that the address of anyone's employer is not the type of address record which should be connected to their home address as a record of their domicile, and worse still was to solicit the Plaintiff to click through its advertising and make it money in order to investigate a misleading claim.

71. Armed with this information, the Plaintiff attempted to settle her dispute with employee of the Defendant Nadine Thisselle, who promptly explained to her that if she were to bring her claim in federal court "her claim would be dismissed" because of the Defendant's Terms of Service. Those terms are appended as "Exhibit 18."

72. The Plaintiff avers that the Defendant has knowledge of its service model and has designed these terms of service specifically to oppress consumers across the country.

73. The Defendant has designed a scheme or artifice to deceive by selling unmerchantable data through misleading spam emails and it avoids liability through an unconscionable terms of service that limits the redressability of grievances, a large number of which are implied by the scope of the wrongdoing.

#### **CLASS REPRESENTATION ALLEGATIONS**

74. The Plaintiff seeks to represent a class defined by all consumers who have ongoing monthly billing plans with Defendant Whitepages.com (the "Class") over the course of

the last six years who received email solicitations to purchase additional background check services.

75. Members of the Class are so numerous that their individual joinder herein is impracticable. On information and belief, members of the class numbers over 30 million. The precise number of Class members and their identities are unknown to the Plaintiff at this time but may be determined through discovery. Class members may be notified of the pendency of this action by mail and/or publication through the distribution records of the Defendant and third-party retailers and vendors.

76. Common questions of law and fact exist as to all class members and predominate over questions affecting only individual Class members include without limitation:

- a. whether or not Defendant Whitepages is violating the CAN-SPAM Act (15 U.S.C. § 7704(a)(2)),
- b. whether or not the Defendant was unjustly enriched,
- c. whether or not the Defendant regularly tortiously interfered with its existing contracts, and,
- d. whether or not the Defendant compelled consumers to agree to a patently unfair terms of service which effectively waives any standards of merchantability of its products while simultaneously unduly restricting redressability of grievances arising out of its own misconduct.

77. The claims of the Plaintiff are typical of the claims of the Class.

78. The Plaintiff is an adequate representative of the Class and can retain counsel experienced in prosecuting class actions to prosecute this action vigorously if the Court certifies the class.

79. The class mechanism is superior to other available means for the fair and efficient adjudication of the claims of the Class. Each individual Class member may lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish the Defendant's liability.

80. The class mechanism will further justice for consumers who have been wronged by a bad actor acting with intentionality which has engineered a scheme or artifice to deceive consumers by preying on their fears, and the Defendant does so with small sums of money so de minimis that without a class action like this matter it could continue its wrongdoing in an unfettered manner.

81. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case.

82. Individualized litigation also presents a potential for inconsistent or contradictory judgments. In contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court on the issue of Defendant's liability. Class treatment of the liability issues will ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues inherent in this action.

**COUNT I**

**VIOLATION OF THE CAN-SPAM ACT (15 U.S.C. § 7704(a)(2))**

83. Plaintiff incorporates by reference and re-alleges herein all paragraphs alleged above.

84. Plaintiff brings this claim individually and on behalf of members of the Class.

85. The CAN-SPAM Act was passed in order to curb the flood of unsolicited emails from bad actors taking advantage of a cheap communication system with a broad reach and proscribes any American business from sending misleading unsolicited emails to consumers.

86. The Defendant Whitepages violated and continues to violate this statute with respect to its business purpose of sending solicitation emails to existing clients to incentivize them to purchase products it has knowledge are unmerchantable.

87. The Defendant initiated the transmission of commercial electronic mail messages to the Plaintiff with actual knowledge and/or knowledge fairly implied on the basis of objective circumstances that the subject heading of its emails would likely mislead its recipients.

88. Specifically, the Plaintiff propounds that in keeping with the least sophisticated consumer standard and notions of fairness, justice, and reasonableness, when the Defendant spams computers advertising a “new” product, it should take reasonable steps to verify the veracity of its statements.

89. Through its false advertising and misleading representations, the Defendant either intentionally misrepresented fact in trade or commerce or conducted itself with reckless disregard to the truthfulness of data when it literally acts as a steward of large amounts of personally-identifying data.

90. The Defendant has knowledge that information it claims is “new to them” is actually outdated, irrelevant, unmarketable or otherwise unmerchantable, and with that

knowledge, it continues to send unsolicited emails to its paid monthly membership base and preying on consumer's fears to purchase useless information.

91. Additionally, the Defendant regularly updates physical address information which is based on suspect data and addresses which are extremely old or not even homes, and spams consumers to represent new data exist when actually nothing new has occurred.

92. Using the specific term "new" as it relates to a business or personal record (or even more so for a criminal record) is patently misleading and unfair when those data represent conduct occurring after statute of limitations or so long in the past as to be objectively considered irrelevant.

93. The Defendant has actual knowledge that the data it mines or aggregates is irrelevant but continues to send unsolicited emails with misleading subject lines as a normal course of its business operations.

## **COUNT II**

### **BREACH OF CONTRACT**

94. Plaintiff incorporates by reference and re-alleges herein all paragraphs alleged above.

95. The Defendant regularly solicits consumers to purchase its background check products and advertises that it can provide timely and relevant data referring to public records.

96. Upon consumers' purchase of those background reports, the data actually purchased do not meet even minimum reasonable standards of merchantability.



97. The Defendant regularly delivers non-conforming digital goods without appropriate consumer redressability, and regularly breaches its contractual obligations to provide merchantable data after collecting payment from consumers as demonstrated by the Exhibits appended to this Complaint.

**COUNT III**

**UNJUST ENRICHMENT**

98. Plaintiff incorporates by reference and re-alleges herein all paragraphs alleged above.

99. The Defendant enriched itself through its conduct soliciting payments for digital goods that are outdated and irrelevant and are based on material misrepresentations of fact, which has caused an impoverishment for the Plaintiff and the members of the class and an unjust enrichment for the Defendant.

**COUNT IV**

**TORTIOUS INTERFERENCE WITH BUSINESS EXPECTANCIES**

100. Plaintiff incorporates by reference and re-alleges herein all paragraphs alleged above.

101. The Defendant has existing business relationships with the Plaintiff and putative members of the Class because they are engaged in an ongoing business relationship billed monthly for access to its services.

102. The Defendant made materially false and salacious statements which were designed to induce fear, worry, concern, and alarm in order that it could sell additional search products and additional subscription services to the Plaintiff and members of the putative Class. Such actions are intentional interference with an existing business relationship.

103. Disseminating materially misleading representations to consumers while in a business relationship with them is tortious conduct and disrupts existing contracts and undermines fairness, efficiency, and predictability in contracting.

#### **COUNT V**

#### **VIOLATION OF RCWA 19.86.020**

104. Plaintiff incorporates by reference and re-alleges herein all paragraphs alleged above.

105. The Defendant has engineered a scheme or artifice designed to deceive consumers and limit their remedies by forcing them to agree to an unconscionable terms of service to access its data.

106. The “Terms of Service” appended to this complaint unfairly limit redressability for consumers who have been harmed by their relationship with the Defendant by limiting their damages, fora for adjudication, and legal remedies.

107. The “Terms of Service” likewise disclaims any warranties and literally preemptively denies liability for any claims arising out of the merchantability of its products while the Defendant acts in reckless disregard towards the interest of consumers.

108. The Defendant has engineered a scheme to allow itself to send useless and irrelevant information across America while making sure that it cannot be held accountable in the judiciary for its ongoing malfeasance.

109. The “Terms of Service” is unfair on its face since it allows the Defendant to supply useless and irrelevant data for a fee but then unfairly restricts complaints about the merchantability of that very data while putting a small cap on damages and limiting choices of fora.

110. Because the Defendant has actual knowledge that the bulk of its records are actually outdated and worthless, it has scienter as it has sought to keep itself profitable in a changing data landscape where the advent of artificial general intelligence stands to decimate all information asymmetry in the near future.

111. Creating an oppressive and unconscionable “Terms of Service” that does not comport with Washington’s regulatory scheme with the express intent to spam people with salacious emails and subsequently profit off of fears of consumers by regularly selling unmerchantable data is exactly the type of conduct this statute seeks to proscribe.

112. The Plaintiff avers that the Defendant is violating Washington consumer protection law and continues to do so with its unscrupulous and unconscionable terms of service designed to oppress the consumer and allow the Defendant to unjustly enrich itself.

### **PRAYER FOR RELIEF**

Wherefore, the Plaintiff, individually and on behalf of all others similarly situated, seeks judgment against the Defendant, as follows:

- a. For an order certifying the Class under Rule 23 of the Federal Rules of Civil Procedure and subsequently allowing the Plaintiff to be representative of that Class and appoint attorneys as Class Counsel to represent members of the Class;
- b. For an order declaring that the Defendant's conduct violates the statutes references herein;
- c. For an order finding in favor of the Plaintiff and the Class on all counts asserted herein;
- d. For compensatory, statutory, and punitive damages in amounts to be determined by the Court and/or jury;
- e. For prejudgment interest on all amounts awarded;
- f. For an order of restitution and all other forms of equitable monetary relief;
- g. For all injunctive relief the court finds appropriate; and
- h. For an order awarding the Plaintiff and the Class their reasonable attorneys' fees and expenses and costs of suit.

### **JURY DEMAND**

The Plaintiff demands a jury trial of all issues so triable.

Dated: January 18, 2024

Rosa Lee Klaneski  
8 Farmington Meadow Drive  
Farmington, CT 06032-2040  
860-214-4000  
rosaklaneski@outlook.com

A handwritten signature in black ink, appearing to be 'Rosa Lee Klaneski', written over a light gray circular stamp or watermark.