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8 Attorney for Plaintiffs
9 **A. HARRISON BARNES, BCG ATTORNEY SEARCH, LAW CROSSING,**
10 **EMPLOYMENT CROSSING, PROFESSIONAL AUTHORITY and LAW FIRM STAFF**

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES – NORTHEAST DISTRICT**

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A. HARRISON BARNES, a California resident; BCG ATTORNEY SEARCH, a Nevada corporation; LAW CROSSING, a Nevada corporation; EMPLOYMENT CROSSING, a Nevada corporation; PROFESSIONAL AUTHORITY, a Nevada corporation; and LAW FIRM STAFF, a Nevada corporation;

Plaintiffs,

v.

ROBERT E. KINNEY, a Texas resident; KINNEY RECRUITING, INC., a Texas corporation; MICHAEL D. WINSTON, an Ohio resident; DOE 1 aka JOE C., a Florida resident; DOE 2 aka ORIGINALPRICE, a California resident; and DOES 3 through 25, inclusive,

Defendants.

CASE NO.: GC041766

[Hon. Joseph De Vanon - Dept. S]

FIRST AMENDED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF BASED ON THE FOLLOWING:

- (1) **LIBEL;**
- (2) **UNFAIR COMPETITION; AND**
- (3) **INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

[DEMAND FOR JURY TRIAL]

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1 Plaintiffs A. HARRISON BARNES, BCG ATTORNEY SEARCH, LAW CROSSING,
2 EMPLOYMENT CROSSING, PROFESSIONAL AUTHORITY and LAW FIRM STAFF
3 (collectively, "Plaintiffs") hereby allege as follows:

4 INTRODUCTION

5 1. Plaintiff A. HARRISON BARNES ("Barnes") is the founder and CEO of
6 Employmentscape.com, the parent company of more than 100 job search websites, employment
7 services, recruiting firms, online employment news magazines and student loan companies.
8 Employmentscape.com employs several hundred employees in several offices throughout the United
9 States and Asia.

10 2. For over the last year, Defendants have gone beyond simply expressing their opinions
11 and mounted a vicious smear campaign against Barnes and his legal recruiting companies.
12 Defendants have anonymously published on the internet false and defamatory statements about
13 Plaintiffs, where they have been predictably picked up and circulated by others. Plaintiffs estimate
14 that the named defendants alone have caused Plaintiffs millions of dollars in damages. In a nutshell,
15 Defendants have recklessly spread the falsehood to thousands, if not millions, of people that Barnes
16 and his companies are nothing more than a "scam." In fact, Barnes' companies are legitimate
17 operations that have helped thousands of attorneys find jobs across the country and provided an array
18 of valuable services to thousands more.

19 3. Perhaps the most egregious and damaging anonymous poster is "Albert." On
20 Ripoffreport.com, "Albert" falsely claimed among other things that Barnes is a "master at shading
21 the truth," claimed he is a "master . . . at manipulating people," has been "cooking the books" to
22 show a lack of profit, and has "negative references from most people who have known him
23 throughout his life from boyhood to his current age of 40." Plaintiffs are informed and believe and
24 based thereon allege that "Albert" posted these comments on or about May 29, 2008, and then
25 modified his statements in an attempt to shield himself from liability.

26 4. As it turns out, "Albert" is actually Defendant ROBERT E. KINNEY ("Kinney").
27 Rather remarkably, Kinney is the founder and president of Defendant KINNEY RECRUITING, INC.
28 ("Kinney Recruiting"), a direct competitor of Plaintiffs. One can only conclude that Kinney covertly

1 operated as “Albert” to destroy Barnes and his companies’ reputations and increase his own
2 company’s revenue and profitability at Plaintiffs’ expense. Apparently realizing that most of what
3 he posted was nonsense, Kinney recently hired a high-priced law firm in a desperate attempt to
4 prevent his identity from being revealed. When his efforts failed, Kinney was exposed as a fraud to
5 the very same audience he was attempting to manipulate.

6 5. It also appears that Kinney operated under the name “Albert” to carry out a personal
7 vendetta against Barnes, who was Kinney’s boss when he worked at Plaintiff BCG ATTORNEY
8 SEARCH (“BCG”) from 2002 to 2004. Barnes promptly fired Kinney after he admitted that he was
9 conspiring with Danny Allen (“Allen”), an associate at the law firm of Preston Gates & Ellis
10 (“Preston Gates”) at the time, to hire Kinney’s candidate in exchange for an “under the table”
11 payment. This type of unethical “kickback” violated the standards of decency in the legal
12 community and, if Kinney and Allen had followed through on their plan, would have breached the
13 company’s obligations to Preston Gates. Showing his true character, Kinney asked Barnes if he
14 wanted to be involved in this scheme and apparently thought nothing of it. As shown in the e-mails
15 attached hereto as Exhibit “A,” Barnes was very concerned about Kinney’s statement that he had
16 promised Allen that he would “give him something for helping us out,” and he called a special
17 meeting with his top recruiters to discuss the situation. Kinney was terminated shortly thereafter.

18 6. Since Kinney posted his false and defamatory statements on Ripoffreport.com, other
19 anonymous posters have re-circulated, re-characterized, and otherwise built on the web of lies being
20 spun through cyberspace. A perfect example of this is Defendant MICHAEL D. WINSTON
21 (“Winston”), a job searching solo practitioner who started a blog dedicated largely to trashing Barnes
22 and his companies anonymously. For reasons which remain unclear, Winston has developed a
23 disconcerting obsession with Barnes and gone through extraordinary lengths to inflict as much
24 damage on the reputation of Barnes and his companies as possible. Winston has gone so far as to
25 verbally harass several of Barnes’ employees after they attempted to explain to him that BCG
26 actually did have employees. In one particularly disturbing post, Winston wrote:

27 “Carey asked me what was the purpose of me wanting the information. I told her that it has
28 been alleged that she is working for a scam operation, and I would just like one or two

1 references that who has used them. She asked, 'Who says we are a scam?' I wanted to say
2 'BITCH, DO YOU USE THE INTERNET?? CAN YOU READ?'"

3 7. Continuing with his obsessive behavior and his excessive fixation with Barnes and
4 his companies, instead of waiting three weeks to meet Barnes who had offered to meet him in
5 Columbus, Ohio, Winston jumped into his car on a Friday morning and drove over five hours to
6 Chicago to go inside of BCG's offices and stalk its employees. When the BCG employees realized
7 what Winston had done and heard that he was boasting about his bizarre behavior on his blog, they
8 immediately consulted with an attorney about getting a temporary restraining order against Winston
9 and are currently exploring their options with respect thereto.

10 8. Although the banner of Winston's blog brazenly proclaims "I know everything," he
11 apparently does not. Winston has recently taken steps to remove his writings and apologized to
12 Barnes. A copy of Winston's recent e-mail regarding same is attached hereto as Exhibit "B." As
13 shown, Winston stated, "Harrison: I apologize for putting that stuff on my blog about you. I will
14 take it down." Unfortunately, the damage has been done, and Winston continues to post false and
15 defamatory statements about Plaintiffs.

16 9. As discussed further below, Kinney, Winston and the other Defendants have spewed
17 their venom under total anonymity (at least until now) and destroyed much of the trust, confidence
18 and goodwill that Barnes and the hundreds of employees at his companies have built over the years
19 through hard work, dedication, and most importantly by helping attorneys find jobs. Plaintiffs are
20 informed and believe and based thereon allege that, as a result of Defendants' wrongful conduct, they
21 have lost out on lucrative business opportunities, watched valued recruiters leave because it was no
22 longer possible to adequately do their jobs, witnessed a marked loss of morale and overall job
23 performance, and lost countless customers. Plaintiffs seek a judgment of no less than \$10,000,000
24 in damages, plus punitive damages, against Defendants, and each of them. Plaintiffs also seek
25 injunctive relief against Defendants Kinney and Kinney Recruiting to force them to stop engaging
26 in their deceitful and unlawful business practices.

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1 County of Los Angeles, State of California, during all times material hereto. Plaintiffs are further
2 informed and believe and based thereon allege that Kinney has owned and operated Kinney
3 Recruiting during all times material hereto. As discussed above, Kinney has claimed among other
4 things that Barnes is a “master at shading the truth,” claimed he is a “master . . . at manipulating
5 people,” has been “cooking the books” to show a lack of profit, and has “negative references from
6 most people who have known him throughout his life from boyhood to his current age of 40.” All
7 of these statements are untrue.

8 17. Kinney has also claimed that Legal Authority charges subscribers to its website “an
9 average of \$1,200” for “twenty minutes” of its time and “a couple hundred sheets of paper,” that
10 “there is a minimum quota of sent resumes at BCG that is enforced,” and that nothing in Barnes’
11 video on Employmentcrossing.com is true. Each of these statements is false. Kinney has further
12 alleged that Barnes “does not take old jobs down” from the LawCrossing website, has “obscured the
13 fact that he was running [LawCrossing] from the recruiters at BCG,” and has often stated in Kinney’s
14 presence, “If you say it, people will want to believe it.” Once again, each of these statements is false.
15 Kinney has also alleged that Barnes “got into a little trouble” by calling his student consolidation
16 company a bank, and that he “was bragging recently at having made \$5 million in a single year.”
17 Each of these statements is also false.

18 18. Plaintiffs are informed and believe and based thereon allege that Kinney first posted
19 the above false and defamatory statements on or about May 29, 2008, and then modified his
20 statements when he realized that he would be sued. Furthermore, Plaintiffs strongly suspect that
21 Kinney, in an attempt to intimidate and scare Plaintiffs from enforcing their rights against him,
22 anonymously sent a mass e-mail to Barnes’ employees warning them that they will be deposed if this
23 lawsuit moves forward and advising them to hire their own legal counsel.

24 19. Plaintiffs are informed and believe and based thereon allege that Defendant KINNEY
25 RECRUITING, INC. (“Kinney Recruiting”) is and has been a Texas corporation doing business in
26 the County of Los Angeles, State of California, during all times material hereto. Plaintiffs are
27 informed and believe and based thereon allege that Kinney Recruiting is a legal recruiting company
28 that helps attorneys find jobs, and therefore a direct competitor of Plaintiffs. Plaintiffs are

1 informed and believe and based thereon allege that Kinney was not only acting in his own individual
2 capacity when engaging in the wrongful conduct alleged herein, he was acting on behalf of Kinney
3 Recruiting and possibly others.

4 20. Plaintiffs are informed and believe and based thereon allege that Defendant
5 MICHAEL D. WINSTON ("Winston") is and has been a resident of the State of Ohio during all
6 times material hereto. On or about January 28, 2009, Winston falsely and anonymously claimed on
7 his blog that Barnes "has never actually practiced law" and was an "internet scammer[] targeting
8 professionals." Winston further falsely and anonymously claimed that Plaintiffs fraudulently listed
9 job openings on their websites that did not exist, and that Plaintiffs fraudulently accepted money
10 from attorneys looking for jobs but never forwarded their resumes to potential employers. In fact,
11 Plaintiffs make great efforts to prevent expired jobs from being posted and have never accepted
12 money for services that it had no intention of providing. Winston also falsely and anonymously
13 claimed that "all the jobs listed on Barnes' sites are written by Barnes or [Carleen] Trapp," and that
14 Barnes was "under investigation by the feds" (claims which he later removed). In the comments
15 section of his blog, Winston claimed that "Barnes has NO business offices in Chicago, only an
16 answering service" and concluded his malicious post by claiming that Barnes' entire operation was
17 a "scam." All of this is untrue.

18 21. Plaintiffs are informed and believe and based thereon allege that Defendant DOE 1
19 aka JOE C. ("Joe C.") is and has been a resident of the State of Florida during all times material
20 hereto. On or about September 5, 2008, Joe C. falsely and anonymously claimed on
21 Ripoffreport.com that EmploymentCrossing engaged in "scheming and unethical business practices,"
22 that Barnes is a "fraudster," and that Plaintiffs engaged in "Data theft." Joe C. also falsely and
23 anonymously claimed that Barnes engaged in "fraudulent activities with . . . vendors, such as
24 Microsoft, Dun & Bradstreet, Abode etc." and "rips-off innocent consumers." Furthermore, Joe C.
25 falsely and anonymously labeled Plaintiffs as "fraudulent companies." Joe C. wrote all of this under
26 the false and defamatory banner: "Andrew Harrison Barnes, Law Crossing, Employment Crossing:
27 SCAM, FRAUD and tons of SPAM." Plaintiffs strongly suspect that Joe C. is in fact Kinney
28 although they have not been able to confirm it. Joe C. has been even better than Kinney about

1 protecting his identity.

2 22. Plaintiffs are informed and believe and based thereon allege that Defendant DOE 2
3 aka ORIGINALPRICE (“Originalprice”) is and has been a resident of the County of Los Angeles,
4 State of California, during all times material hereto. On or about January 1, 2009, Originalprice
5 falsely and anonymously claimed on Ripoffreport.com that “all EmploymentCrossing does is collect
6 jobs from other FREE websites and then charges members \$29.95 a month simply for collecting
7 FREE information and putting it in one place.” This is untrue. Originalprice also published the
8 following false and defamatory banner above his posting: “EmploymentCrossing IS a SCAM (oh,
9 and its run by a less than scrupulous CEO).”

10 23. The true names and capacities of Does 3 through 25 are unknown to Plaintiff who
11 therefore sues said Defendants by fictitious names. Plaintiffs will amend this complaint to show
12 their true names and capacities when ascertained. Kinney, Kinney Recruiting, Winston, Joe C.,
13 Originalprice, and Does 3 to 25, inclusive, shall be collectively referred to herein as “Defendants.”

14 24. Plaintiffs are informed and believe and based thereon allege that Defendants Kinney
15 and Kinney Recruiting were co-conspirators, joint venturers, owners, principals, partners, agents or
16 employees of each other in doing the acts complained of herein, each was acting within the course
17 and scope of said agency, partnership, employment, conspiracy, ownership, or joint venture, and/or
18 each was acting in concert with the other. Plaintiffs are further informed and believe and based
19 thereon allege that the acts and conduct alleged herein of Kinney and Kinney Recruiting were known
20 to, authorized by, and/or ratified by the other.

21 **FIRST CAUSE OF ACTION**

22 **(Libel Against All Defendants)**

23 25. Plaintiffs repeat, reallege, adopt and incorporate each and every allegation contained
24 in paragraphs 1 through 24, inclusive, as though fully set forth herein.

25 26. Plaintiffs are informed and believe and based thereon allege that Defendants, and each
26 of them, caused the above false and defamatory statements to be printed, published, disseminated
27 and circulated to the public at large and intended that they would be heard and read by thousands,
28 if not millions, of persons.

1 32. Plaintiffs are informed and believe and based thereon allege that Defendants Kinney
2 and Kinney Recruiting, and each of them, by their acts and omissions herein alleged, have engaged
3 in unlawful, unfair and fraudulent business practices and unfair competition and have utilized the
4 aforesaid improper, unlawful and tortious means to unjustly enrich themselves. Among other things,
5 Defendants Kinney and Kinney Recruiting, and each of them, have communicated to the public at
6 large and, more specifically, to attorneys looking for jobs and law firms looking to hire them that
7 Plaintiffs are nothing more than a “scam” and should not be trusted in any way.

8 33. The foregoing acts of Defendants Kinney and Kinney Recruiting described
9 hereinabove constitute unfair competition and unfair business practices in violation of, among other
10 things, California Business & Professions Code §§ 17200 through 17204, 17500 and 17535.

11 34. Defendant Kinney and Kinney Recruiting’s unfair, misleading and deceptive conduct
12 described hereinabove has created confusion in the public’s mind and has damaged Plaintiffs’
13 respective reputations as a result thereof. Plaintiffs are informed and believe and based thereon
14 allege that, as a direct and proximate result of the aforementioned acts of Defendants Kinney and
15 Kinney Recruiting, and each of them, Plaintiffs have suffered general and special damages in an
16 amount according to proof at trial, believed to be in excess of \$10,000,000.

17 35. As a result of the wrongful acts alleged herein, Defendants Kinney and Kinney
18 Recruiting, and each of them, have been unjustly enriched and have benefitted from their wrongful
19 acts at the expense of Plaintiffs. Defendants Kinney and Kinney Recruiting, and each of them,
20 should be ordered to pay Plaintiff the entire amount by which they have been unjustly enriched.

21 36. Plaintiffs are informed and believe and based thereon allege that unless the Court
22 issues temporary, preliminary and permanent injunctive relief, restraining and enjoining Defendants
23 Kinney and Kinney Recruiting, and each of them, from their wrongly conduct alleged herein,
24 Defendants Kinney and Kinney Recruiting will continue to damage Plaintiffs’ respective reputations
25 and unfairly and unlawfully benefit therefrom.

26 37. Plaintiffs are informed and believe and based thereon allege that the aforementioned
27 acts of Defendants Kinney and Kinney Recruiting, and each of them, were done intentionally or with
28 a conscious disregard of Plaintiffs’ rights and with the intent to vex, injure or annoy Plaintiffs such

1 as to constitute oppression, fraud, or malice. Thus, Plaintiffs are entitled to exemplary and punitive
2 damages in an amount appropriate to punish or set an example of Defendants Kinney and Kinney
3 Recruiting, and each of them, and to deter such conduct by Defendants Kinney and Kinney
4 Recruiting and others in the future, the amount of which shall be proven at trial.

5 **THIRD CAUSE OF ACTION**

6 **(Intentional Interference with Prospective Economic**
7 **Relations Against Kinney and Kinney Recruiting)**

8 38. Plaintiffs repeat, reallege, adopt and incorporate each and every allegation contained
9 in paragraphs 1 through 37, inclusive, as though fully set forth herein.

10 39. In building their recruiting business, Plaintiffs have formed valuable economic
11 relationships with many third parties, including but not limited to law firms, attorneys, subscribers,
12 and customers, with the probability of gaining future economic benefit from them. Plaintiffs are
13 informed and believe and based thereon allege that Defendants Kinney and Kinney Recruiting, and
14 each of them, had knowledge of these relationships, particularly given the fact that they are also in
15 the legal recruiting business and understand how it works.

16 40. Plaintiffs are informed and believe and based thereon allege that Defendants Kinney
17 and Kinney Recruiting, and each of them, have committed intentional acts designed to disrupt their
18 valuable relationships. Among other things, Defendants Kinney and Kinney Recruiting, and each
19 of them, have communicated to the public at large and, more specifically, to attorneys looking for
20 jobs and law firms looking to hire them that Plaintiffs are nothing more than a “scam” and should
21 not be trusted in any way. In that regard, Plaintiffs are informed and believe and based thereon
22 allege that the actions of Defendants Kinney and Kinney Recruiting, and each of them, have in fact
23 caused actual and substantial disruption of their relationships with law firms, attorneys, subscribers,
24 customers and others.

25 41. Plaintiffs are informed and believe and based thereon allege that, as a direct and
26 proximate result of the aforementioned acts of Defendants Kinney and Kinney Recruiting, and each
27 of them, Plaintiffs have suffered general and special damages in an amount according to proof at
28 trial, believed to be in excess of \$10,000,000.

1 42. Plaintiffs are informed and believe and based thereon allege that unless the Court
2 issues temporary, preliminary and permanent injunctive relief, restraining and enjoining Defendants
3 Kinney and Kinney Recruiting, and each of them, from their wrongful conduct alleged herein,
4 Defendants Kinney and Kinney Recruiting will continue to damage Plaintiffs' respective reputations
5 and unfairly and unlawfully benefit therefrom.

6 43. Plaintiffs are informed and believe and based thereon allege that the aforementioned
7 acts of Defendants Kinney and Kinney Recruiting, and each of them, were done intentionally or with
8 a conscious disregard of Plaintiffs' rights and with the intent to vex, injure or annoy Plaintiffs such
9 as to constitute oppression, fraud, or malice. Thus, Plaintiffs are entitled to exemplary and punitive
10 damages in an amount appropriate to punish or set an example of Defendants Kinney and Kinney
11 Recruiting, and each of them, and to deter such conduct by Kinney and Kinney Recruiting and others
12 in the future, the amount of which shall be proven at trial.

13 **WHEREFORE**, Plaintiffs pray for a judgment against Defendants, and each of them, as
14 follows:

15 **AS TO THE FIRST CAUSE OF ACTION:**

16 1. For damages against Defendants, and each of them, in an amount according to proof
17 at trial, believed to be in excess of \$10,000,000; and

18 2. For exemplary and punitive damages against Defendants, and each of them, in an
19 amount sufficient to punish and deter them and others from committing similar acts in the future;

20 **AS TO THE SECOND CAUSE OF ACTION:**

21 3. For damages against Defendants Kinney and Kinney Recruiting, and each of them,
22 in an amount according to proof at trial, believed to be in excess of \$10,000,000;

23 4. For exemplary and punitive damages against Defendants Kinney and Kinney
24 Recruiting, and each of them, in an amount sufficient to punish and deter them and others from
25 committing similar acts in the future; and

26 5. For permanent injunctive relief, restraining and enjoining Defendants Kinney and
27 Kinney Recruiting, and each of them, from the wrongful conduct alleged herein;

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AS TO THE THIRD CAUSE OF ACTION:

6. For damages against Defendants Kinney and Kinney Recruiting, and each of them, in an amount according to proof at trial, believed to be in excess of \$10,000,000;

7. For exemplary and punitive damages against Defendants Kinney and Kinney Recruiting, and each of them, in an amount sufficient to punish and deter them and others from committing similar acts in the future; and

8. For permanent injunctive relief, restraining and enjoining Defendants Kinney and Kinney Recruiting, and each of them, from the wrongful conduct alleged herein;

AS TO ALL CAUSES OF ACTION:

9. For all costs of suit incurred by Plaintiffs;

10. For pre-judgment and post-judgment interest; and

11. For such other relief as the Court deems just and appropriate.

DATED: August 5, 2009

LAW OFFICES OF PAUL S. BERRA


By: 
PAUL S. BERRA
Attorney for Plaintiffs
A. HARRISON BARNES, BCG ATTORNEY
SEARCH, LAW CROSSING, EMPLOYMENT
CROSSING, PROFESSIONAL AUTHORITY
and LAW FIRM STAFF

EXHIBIT A

----- Original Message -----

From: A. Harrison Barnes

To: Robert E. Kinney

Sent: Thursday, March 04, 2004 7:40 PM

Subject: Re: Question

Robert-

I cannot pay bribes to law firms for hiring our people. Are you kidding? Are you doing this? If you are, we need to talk. This is not how I have ever done business, or ever will do business and I 100% will not compromise this company by being associated with this sort of thing in any way whatsoever. I am extremely concerned by this email and will call you when I get back. If I can find a phone today I will call you as well.

-Harrison

----- Original Message -----

From: Robert E. Kinney

To: 'A. Harrison Barnes'

Sent: Thursday, March 04, 2004 1:53 PM

Subject: RE: Question

Well, you can hook me up with 15% and let anyone handle it. I don't care, but this friend of mine is leaving and I told him I'd give him something for helping us out. Most of it will go to him. He's leaving the firm this summer. Let me know if that's alright; I will pass it up to him.

EXHIBIT B

-----Original Message-----

From: Michael Winston [mailto:michaeldwinston@gmail.com]

Sent: Sunday, July 26, 2009 11:31 PM

To: hbarnes@employmentscape.com

Subject:

Harrison: I apologize for putting that stuff on my blog about you. I will take it down.
