

STATE OF MICHIGAN
CIRCUIT COURT FOR THE COUNTY OF WAYNE

CANDY CHAN,

Hon.
Case No.

Plaintiff,

v.

PRIORITY RECORDS L.L.C., a California Limited Liability Company; SETTLEMENT SUPPORT CENTER, LLC, a Washington Limited Liability Company, SOBLE ROWE KRICHBAUM LLP, a Michigan Limited Liability Partnership.

Defendants.

JOHN T. HERMANN (P-52858)
Attorney for Plaintiff
2684 West Eleven Mile Road
Berkley, MI 48072
(248) 591-9291

PETER J. RIEBSCHLEGER (P-30680)
Co-Attorney for Plaintiff
4371 State Street
Saginaw, MI 48603
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PLAINTIFF'S COMPLAINT

Plaintiff, CANDY CHAN by and through her attorneys, John T. Hermann, state for her complaint against the above captioned defendants as follows:

GENERAL ALLEGATIONS

1. Plaintiff, CANDY CHAN ("Mrs. Chan") is an individual who resides at 35 Slatestone Drive Saginaw, MI 48603.
2. On information and belief, PRIORITY RECORDS L.L.C is a California limited liability company which at all relevant times conduct continuous and systematic business activities in the State of Michigan including the county of Saginaw.
3. On information and belief SETTLEMENT SUPPORT CENTER, LLC, is a Washington Limited Liability Company which at all relevant times conducts continuous and systematic business activities in the State of Michigan including the county of Wayne. At all pertinent times Defendant operates as collection arm of the coordinated extortion enterprise.

4. On information and belief SOBLE ROWE KRICHBAUM LLP is a Michigan Limited Liability Partnership which at all relevant times conducts continuous and systematic business activities in the State of Michigan including the County of Wayne.
5. Over the past several years many of the major recording labels have attempted to combat the use of peer-to-peer file sharing programs to exchange digital music recordings over the internet.
6. Defendants have attempted to classify their efforts as “investigations” in order to conceal the fact that their combined actions operate as coordinated extortion enterprise.
7. Defendants have employed an outside agency (i.e. MediaSentry) to gather information which they use to bolster their claims of alleged copyright infringement.
8. As part of their coordinated enterprise, Defendants routinely misrepresent and/or mischaracterize the nature of the information that they obtain from outside agencies (i.e. MediaSentry). In particular, Defendants fail to mention their so-called investigative efforts (1) only identify an IP (Internet Protocol) address associated with a peer-to-peer account, (2) cannot identify the person who used the peer-to-peer account, and/or(3) cannot identify whether observable files are in fact copyrighted sound recordings, bogus or inoperative files, or decoys.
9. In March of 2004 MediaSentry’s then president admitted to the previous flaws in their data gathering resulting in routine misidentification of individuals suspected of engaging in copyright infringement.
10. The flaws in MediaSentry’s investigations have been known to the enterprise defendants for years. In Brein et al v. UPC Nederland B.B. et al., No. 1947/KGZA-05-462/BL/EV at 4.30.31(2005) a Dutch court ruled that Media Sentry’s investigation protocol was insufficient to state a claim for copyright infringement because it was unable to identify an actual individual allegedly engaged in copyright infringement.
11. In BMG Canada, Inc. v. John Doe, 2005 FCA 193 (2005) the Canadian Federal court ruled that the investigation protocol used by MediaSentry is so deficient that the “evidence” gathered fails to establish even a prima facie case of infringement.
12. With knowledge and awareness that the information obtained from MediaSentry does not substantiate or support their claims of copyright infringement, Defendants established an elaborate extortion enterprise to threaten and coerce individuals into paying millions of dollars in so-called settlement revenue. Accordingly, the purpose of the extortion enterprise and conduct of each of its members is a “sham.”
13. To conduct the “sham” the enterprise Defendants utilize provisions of the Digital Millennium Copyright Act to sue thousands of unidentifiable “John Doe” defendants. The purpose of the “Doe” lawsuits is to utilize the subpoena power of the court to order Internet Services Providers to turn over the name and identity

of customers whose internet addresses were identified by MediaSentry as a source of suspected copyright infringement.

14. After being served with a “John Doe” subpoena, the Internet Service Providers routinely inform their customers that they have been named as an unidentified individual in a lawsuit and that their name, address, and account information will be provided to the requesting party in compliance with the third-party subpoena. No inquiry is performed to verify the proofs or allegations since the proceedings are conducted on an ex parte basis.
15. Once the account holder’s information is released, Defendants acting together and in concert contact the accountholders demanding that the named individual pay thousands of dollars regardless of the facts and or circumstances.
16. According to the information obtained from MediaSentry there is no way for the Defendants to substantiate whether the account holder or someone else using their internet account (i.e. teenage child, household member, or someone else using the individual’s identity) was engaged in the alleged activity.
17. According to the information obtained from MediaSentry there is no way for the Defendants to substantiate whether the, the screen shots of “suspected” files are in fact protected sound recordings.
18. Other than matching an internet IP address to a “suspected” file, no other investigation or due diligence is performed to verify the allegations of copyright infringement.
19. Other than matching the name of a “suspected” file to the name of an artist or familiar sound recording no other investigation or due diligence is performed to verify whether the file data contains copyrighted material.
20. When confronted with facts or evidence that did not support the allegations of copyright infringement, Defendants acting together and in concert are trained to engage in a wide variety of illegal and/or unconscionable tactics to obtain lucrative payments.
21. The risk of mistake and abuse was magnified – and made more probable—by the fact that the companies hired by the record labels are compensated based on the number of potential infringers identified by their search results.
22. On August 11, 2003, the members of Net Coalition (an association of several internet service providers) urged the Defendants and/or their representatives to explain what “due diligence” methods it was taking to ensure the accuracy of its information and what compensatory actions were in place for individuals who were wrongfully targeted.
23. Not surprisingly, Defendants and their representatives failed to respond to Net Coalition’s request and its lack of investigation into such claims has led to a widespread number of cases where individuals have been wrongfully sued.

24. On June 22, 2004, Defendants through their representatives filed suit against 213 John Doe defendants based information purchased from MediaSentry which purported to identify certain IP address suspected of copyright infringement. (Loud Records, L.L.C., et al. v. Does 1-213, United States District Court for the Eastern District of Missouri Case No. 04-04-cv-00769)
25. On June 24, 2004, Defendants acting together and in concert sought leave to conduct ex parte discovery in order to determine the identity of the IP account holders for each of the 213 fictitious John Doe defendants.
26. On July 7, 2004, the court entered its order allowing Defendants and/or their representatives to conduct ex parte discovery and on July 8, 2004, Defendants through their representatives issued a subpoena to Charter Communications seeking to disclose the name and address of the 213 Doe defendants.
27. In July of 2004, Defendants through their representatives sent Plaintiff a letter falsely accusing her of illegal copyright infringement stating that she had made "copyrighted sound recording owned by the record company plaintiffs available for mass distribution over a peer-to-peer network."
28. The letter falsely alleged that a representative of the record company had already secured evidence conclusively establishing that Mrs. Chan was liable for copyright infringement using the username and/or e-mail address of *spicybrwnyedgrl@fileshare*.
29. The letter urged Ms. Chan to contact a representative of the record company to discuss settlement and provided a contact number. Soon thereafter, Ms. Chan spoke with Mark Eiler of the "Settlement Support Group" who insisted that Ms. Chan owed his client several hundred thousand dollars for her illegal activities, but offered to drop the case in exchange for an immediate payment of \$4,000.00. Mr. Eiler emphasized that no other options were available.
30. At that time, Ms. Chan explained that she (1) had no idea what he was talking about, (2) did not know how to operate a computer, (3) has never heard of a peer-to-peer file sharing program, (4) has never used the e-mail address of *spicybrwnyedgrl@fileshare*, (5) has never downloaded any music recordings.
31. In addition, Ms. Chan explained that she has several teenage children who may have used a household computer and requested the Mr. Eiler provide her with additional information so that she could inquire of teenage her children.
32. Mr. Eiler responded stating that "it didn't matter what she knew or what her children did since her computer was used to "illegally steal" music and that "someone was going to have to pay" or else she could end up in jail.
33. In addition to the payment demand, Mr. Eiler instructed Ms. Chan that she had to delete data from the computer registered to her internet account – data which could have conclusively established that Mrs. Chan was not involved in any acts of copyright infringement. Mr. Eiler even instructed Ms. Chan how to alter the computer registered to her internet account so as to accomplish requested data deletion.

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35. Over the next several weeks, Mr. Eiler continued to harass Ms. Chan with threats that his client would eventually take away everything that she owned including her home unless she paid \$4,000.00.
36. On September 9, 2004, Defendants acting together and in concert filed a lawsuit claiming that Mrs. Chan had utilized a computerized online media distribution program to illegally download/exchange protected sound recordings. At the time of the filing, Defendants knew or that the facts as alleged were false and/or unsupported.
37. After being served with a copy of the complaint, Mrs. Chan's representative contacted Defendants' national representative in an effort to extort money under the guise of settling the lawsuit.
38. Mrs. Chan's representative again re-iterated that Ms. Chan (1) did not own or know how to operate a computer, (2) has never heard of a peer-to-peer file sharing program, (3) has never used the e-mail address of *spicybrwnyedgrl@fileshare*, (4) has never downloaded any music recordings.
39. Defendants' representative insisted that Mrs. Chan's lack of involvement was irrelevant and that she would be liable for hundreds of thousands of dollars whether or not she was engaged in the file sharing of music.
40. In response, counsel for Mrs. Chan then asked Defendants' representative to provide a factual and/or legal basis for its position. Defendants' representative responded that "It didn't matter, someone is going to be responsible and someone is going to have to pay," or else she could end up in jail.
41. Defendants' representative further threatened that unless Ms. Chan paid \$4,000.00 immediately, his client authorized him to conduct extensive discovery which would only increase the amount that she would eventually owe and end up costing her more in attorney fees than the amount of the settlement.
42. On January 4, 2004, Defendants' representatives served a series of written discovery requests on Mrs. Chan. On February 7, 2004, Mrs. Chan responded to the requests stating that she (1) did not own a computer, (2) has never utilized a peer-to-peer file sharing program, (3) has never used the e-mail address of *spicybrwnyedgrl@fileshare*, (4) and has never downloaded any music recordings.
43. On February 8, 2005, Defendants' representative conducted the deposition of Mrs. Chan. At that time, Ms. Chan again stated that: (1) she has never downloaded or exchanged any sound recordings, (2) she does not own the computer that Defendants claims was used to facilitate the downloading or exchange of protected sound recordings, (3) she has never utilized an online media distribution program, (4) and has never utilized the e-mail address *spicybrwnyedgrl@fileshare* that was registered to the online distribution program.

44. Although they were unable to demonstrate the existence of any claims against Ms. Chan for copyright infringement, Defendants' representative insisted that unless she submit to their demands they would retaliate by filing suit against one or more of her teenage daughters forcing her to incur additional costs and/or fees. When confronted on the illegality of such actions,¹ Defendants' representative responded by stating "It doesn't matter because no self-respecting parent is going to hang their kid out to dry."
45. After nearly 10 months of threatening Mrs. Chan with further litigation Defendants' representative filed a motion to dismiss their claims against Ms. Chan so that they could pursue similar claims against her other family members. On May 19, 2005, the Court dismissed the case against Ms. Chan with prejudice thereby fully and finally resolving the matter in her favor.
46. Even after the dismissal, Defendants' representative continued to threaten litigation against Mrs. Chan's other family members unless she submitted to their financial demand.
47. On September 9, 2005, the Defendants' representative filed suit against Mrs. Chan's then fifteen year old daughter knowing that she was a minor and therefore not a proper party to a lawsuit nor subject to the compulsory process of the court. In violation of a local administrative order, Defendants included the name of the minor in the case caption without redaction or deletion.
48. Defendants' again threatened to continue their litigation efforts against Mrs. Chan's daughter unless Mrs. Chan agreed to pay their financial demand. When Mrs. Chan refused Defendants representative sought to asses all administrative costs in the proceeding against Mrs. Chan who was not a party to the case and who had been previously dismissed with prejudice from the prior lawsuit involving the same or similar claim. The request was eventually denied by the court on February 13, 2006.
49. Notwithstanding the court's instruction, Defendants' representative continued to threaten Mrs. Chan in retaliation for her failure to pay the so-called settlement sum.
50. On March 27, 2006, the court dismissed the action against Mrs. Chan's daughter for violation of its previous order and instructions. On March 14, 2007, the court refused to re-instate the case against Mrs. Chan's daughter and characterized their as incredulous, obtrusive, and defiant of the court's previous orders.

¹ MCL 750.213 defines malicious threat to extort money provides:

Any person who shall, either orally or by a written or printed communication, maliciously threaten to accuse another of any crime or offense, or shall orally or by any written or printed communication maliciously threaten any injury to the person or property or mother, father, husband, wife or child of another with intent to extort money or any pecuniary advantage whatever, or with intent to compel the person so threatened to do or refrain from doing any act against his will, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years or by a fine of not more than \$10,000.00 dollars.

51. The case is property before this court in that the amount in controversy is in excess of \$25,000.00.

COUNT I
ABUSE OF PROCESS

52. Plaintiff incorporates paragraphs 1-49 as if set forth fully therein.
53. As more fully explained in its Complaint, ¶¶ 1-49, Defendants acting together and in concert have filed hundreds of John Doe complaints against several internet service providers in order to obtain information regarding the identity of the individual account holder.
54. Defendants along with their investigators, attorneys, agents and/or employees had actual knowledge that information obtained from the internet service provider could not substantiate whether the account holder or someone else using their internet account (i.e. teenage child, household member, or someone else using the individual's identity) utilized a computer peer-to-peer program.
55. Defendants along with their investigators, attorneys, agents and/or employees had actual or constructive knowledge that information obtained from MediaSentry could not substantiate whether any of the "suspected" data files were in fact protected sound recordings.
56. Other than matching an internet IP address to a "suspected" file, Defendants along with their investigators, attorneys, agents and/or employees failed to conduct any further investigation to verify the allegations of copyright infringement.
57. Using the accountholder information, Defendants along with their investigators, attorneys, agents and/or employees sent out letters to thousands of individuals including Plaintiff indicating that they have illegally made copyrighted sound recordings available for mass distribution over a peer-to-peer network.
58. The letters fail to offer any documentary support or verification that the named individual was involved in the underlying activity and simply state that "Your Internet Service Provider ('ISP') provided us with your identifying information, including your name and address." The letters also threaten the named individual with statutory fines of up to \$750 for each copyrighted sound recording along with legal fees incurred in order to pursue the claims.
59. Defendants concede and admit that the evidence obtained only reveals the account holders name and identity and, as such, there is no way to substantiate whether the account holder or someone else using her internet account (i.e. teenage child, household member, or someone else using the individual's identity) was engaged in the alleged activity.
60. Defendants also concede and admit that without the necessary equipment (i.e. computer equipment and peer-to-peer file sharing program) it is physically impossible to have engaged in the activity alleged (i.e. downloading and/or sharing of protected sound recordings).

61. Defendants also concede and admit that based on the evidence obtained from her Internet Service Provider they cannot substantiate whether Mrs. Chan possessed the necessary computer equipment and/or peer-to-peer file sharing program.
62. Defendants also concede and admit that based on the evidence obtained from MediaSentry they cannot substantiate the "suspected" data files were, in fact, protected sound recordings.
63. Over the past several other years, Defendants have wrongfully targeted and harassed thousands of similar individuals as part of their collection scam.
64. In July of 2004, Mrs. Chan received a letter falsely and fraudulently claiming that Defendants' representatives had obtained evidence conclusively establishing that she owed thousands of dollars for copyright infringement.
65. Immediately thereafter, Mrs. Chan notified Defendants and/or their investigators, attorneys, agents and/or employees that she (1) had no idea what he was talking about, (2) did not know how to operate a computer, (3) has never heard of a peer-to-peer file sharing program, (4) has never used the e-mail address of *spicybrwnyedgrl@fileshare*, (5) has never downloaded any music recordings.
66. In addition, Ms. Chan explained that she has several teenage children who may have used the computer and requested the Mr. Eiler provide her with additional information so that she could inquire of her children.
67. Despite Defendants' knowledge and awareness that there is no way to substantiate whether the account holder or someone else using their internet account (i.e. teenage child, household member, or someone else using the individual's identity) was engaged in the alleged activity, Mr. Eiler responded that it didn't matter what she knew or didn't know since her computer was used to "illegally steal" music and that "someone was going to have to pay," or else she could end up in jail.
68. In addition to the payment demand, Mr. Eiler instructed Ms. Chan that she had to delete data from the computer registered to her internet account – data which could have conclusively established that Mrs. Chan was not involved in any acts of copyright infringement. Mr. Eiler even instructed Ms. Chan how to alter the computer registered to her internet account so as to accomplish requested data deletion.
69. Despite Defendants' knowledge and awareness that there is no way to substantiate whether the account holder or someone else using their internet account (i.e. teenage child, household member, or someone else using the individual's identity) was engaged in the alleged, they filed suit against Mrs. Chan on September 9, 2004.
70. When the evidence established the Ms. Chan did not own a computer, did not possess the necessary peer-to-peer file sharing program Defendants maliciously threaten that unless she submit to their demands they would retaliate by filing

suit against one or more of her teenage daughters. When confronted on the illegality of such actions, Defendants' representative responded by stating "It doesn't matter because no self-respecting parent is going to hang their kid out to dry."

71. After nearly 10 months of threatening Mrs. Chan with further litigation Defendants filed a motion to dismiss their claims against Ms. Chan so that they could pursue a claim against her daughter.
72. Even after the dismissal, Defendants' representative continued to threaten litigation against Mrs. Chan's other family members unless she submitted to their financial demand.
73. On September 9, 2005, the Defendants filed suit against Mrs. Chan's then fifteen year old daughter knowing that she was a minor and therefore not a proper party to a lawsuit nor subject to the compulsory process of the court. In violation of a local administrative order, Defendants included the name of the minor in the case caption without redaction or deletion.
74. Defendants' representative later sought to assess all administrative costs for the proceeding against Mrs. Chan in retaliation for her failure to pay the so-called settlement sum. The request was eventually denied by the court on February 13, 2006.
75. Notwithstanding the court's instruction, Defendants' representative continued to threaten Mrs. Chan with administrative expenses in retaliation for her failure to pay the so-called settlement sum. When Mrs. Chan refused Defendants representative sought to assess all administrative costs in the proceeding against Mrs. Chan who was not a party to the case and who had been previously dismissed with prejudice from the prior lawsuit involving the same or similar claim. The request was eventually denied by the court on February 13, 2006.
76. On March 27, 2006, the court dismissed the action against Mrs. Chan's daughter for violation of its previous order and instructions. On March 14, 2007, the court refused to re-instate the case against Mrs. Chan's daughter and characterized their as incredulous, obtrusive, and defiant of the court's previous orders.
77. That Defendants campaign of asserting unsupported claims against Mrs. Chan and/or her daughter was part of calculated strategy to extort financial settlement.
78. Defendants' campaign against Mrs. Chan and her daughter are part of mass mailing scam that has successfully obtained several million dollars in revenue based on their unsupported allegations and threats of extortion and harassment.
79. Defendants' campaign against Mrs. Chan and her daughter are part of an overall campaign to extort financial settlements from individuals without offering any evidence or showing of "copyright infringement."
80. That the filing and maintenance of the lawsuit against Mrs. Chan despite evidence establishing that she did not own a computer, possess the necessary peer-to-peer file sharing program, was not for the sole purpose of remedying

Defendants' claim of copyright infringement, but also had the ulterior motivation of providing additional persuasive and threatening force to Defendants' letter campaign, in that recipients of the letters would be more likely to submit to Defendants' extortion demands knowing that they would eventually be sued if they refused to comply.

81. That the use of court process (i.e. filing of summons, complaints, motions and/or pleadings) for the purpose of suing or threatening suit against Mrs. Chan's family members was not for the sole purpose of remedying a legitimate claim but for the ulterior purpose of attempting to obtain and/or extort money from Mrs. Chan in violation 18 U.S.C. § 876 and/or MCL 750.213.
82. That Defendants' actions in accusing Mrs. Chan's and her family members of a crime or offense was not for the sole purpose of remedying a legitimate claim but for the ulterior purpose of attempting to obtain and/or extort money from Mrs. Chan.
83. That the use of court process (i.e. filing of summons, complaints, motions and/or pleadings) for the purpose of suing or threatening suit against Mrs. Chan's family members based on unsupported facts was not for the sole purpose of remedying a legitimate claim but for the ulterior purpose of attempting to obtain and/or extort money from Mrs. Chan in violation of 18 U.S.C. § 876 and/or MCL 750.213.
84. That the maintenance of the lawsuit against Mrs. Chan despite evidence establishing that she did not own the computer registered to the suspected internet account, possess the necessary peer-to-peer file sharing program was not for the sole purpose of remedying Defendants' claim of copyright infringement, but also had the ulterior motivation of preventing any adverse ruling or adjudication which would jeopardize its ability to extort further settlement sums, in that, other targeted individuals would regard the dismissal and admission that Defendants claims were meritless and could not be substantiated.
85. That the maintenance of the lawsuit against Mrs. Chan despite evidence establishing that she did not own the computer registered to the suspected internet account, possess the necessary peer-to-peer file sharing program, was not for the sole purpose of remedying Defendants' claim of copyright infringement, but also had the ulterior motivation of threatening and harassing Plaintiff with endless litigation in an effort to coerce her into giving up her claims and/or defenses.
86. That after the filing of its suit against Mr. Chan, Defendants continued to engage in similar acts of abuse and/or extortion as a threat to coerce Mrs. Chan into paying their financial demand.
87. That after the dismissing their suit against Mr. Chan, Defendants continued to engage in similar acts of abuse and/or extortion as a threat to coerce Mrs. Chan into paying their financial demand.
88. That in the ancillary proceeding against Mrs. Chan's daughter, Defendants representatives repeatedly threatened that they were going to make Mrs. Chan

pay thousands of dollars in administrative costs and/or fees even though she was not a party to the case.

89. That in the ancillary proceeding against Mrs. Chan's daughter, Defendants representatives repeatedly threatened that they were going to make Mrs. Chan pay thousands of dollars in administrative costs and/or fees even though they had previously dismissed all of their claims against her with prejudice.
90. That the use of court process (i.e. filing of summons, complaints, motions and/or pleadings) for the purpose of suing or threatening suit against Mrs. Chan's family members was part of Defendants strategy to extort financial payment from Mrs. Chan.
91. That the use of court process (i.e. filing of summons, complaints, motions and/or pleadings) for the purpose of suing or threatening suit against Mrs. Chan's family members was (i) to extort, harass, annoy or embarrass Plaintiffs into giving up her claims and/or defenses; (ii) to force Plaintiff to incur the costs of defending litigation in other proceedings in retaliation for failing to pay the extortion amount; (iii) to gain leverage for the purpose of settlement to which it was otherwise not entitled; and (iv) to pursue an improper purpose, namely, the furtherance of an extortion racket against Mrs. Chan regardless of the facts and/or circumstances of the underlying case(s).
92. That Defendants' have improperly utilized the process of this court in an attempt to extort financial settlement sums from Mrs. Chan.

WHEREFORE, Plaintiff respectfully requests that this Court grant judgment against Defendants PRIORITY RECORDS L.L.C., a California Limited Liability Company; SOBLE ROWE KRICHBAUM LLP, a Michigan Limited Liability Partnership jointly and/or severally in whatever amount Plaintiff is found to be entitled, plus interest, costs, attorney fees, and such other relief as the Court deems appropriate for their wrongful use of civil proceedings against her.

COUNT III
VIOLATION AND/OR CONSPIRACY TO VIOLATE THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS (RICO) ACT

93. Plaintiff incorporates paragraphs 1-92 as if set forth fully therein.
94. According to the Racketeer Influenced and Corrupt Organizations ("RICO") Act embodied in 18 U.S.C. 1962(c), Defendants are "an entity capable of holding a legal or beneficial interest in property," and therefore a "person" as defined under the act.
95. As a "persons" under the act, Defendants directly or indirectly invested in, maintained an interest in, participated, or conspired to participate in an "enterprise" that affects interstate commerce.

96. That enterprise consisted of Defendants acting together along with members of The Settlement Support Center LLC and/or the Law Firm of Mitchell Silberberg & Knapp, LLP functioning as a continuing unit.
97. The common and/or shared purpose of Defendants, The Settlement Support Center LLC, and/or the Law Firm of Mitchell Silberberg & Knapp, LLP was to obtain lucrative settlement sums, legal fees, and other fees to which they were not entitled using the following prohibited acts:
 - a. Mail fraud according to 18 U.S.C. 1341;
 - b. Wire fraud according to 18 U.S.C. 1343; and/or
 - c. Extortion according 18 U.S.C. 876 and or MCL 750.213.²
98. Defendants acting with the Law Firm of Mitchell Silberberg & Knapp, LLP engaged in the predicate acts of mail fraud by sending letters to Plaintiff falsely accusing her of illegally making sound recordings owned Defendants available for mass distribution over a peer-to-peer network.
99. The letter falsely alleged that a representative of the record company had already secured evidence conclusively establishing that Mrs. Chan was liable for copyright infringement using the username and/or e-mail address of *spicybrwneyedgrl@fileshare*.
100. Acting in reliance on the false statements contained in the extortion letters, Plaintiff placed a long distance telephone call to contact members of The Settlement Support Center LLC in order to explain the fact that she had not engaged in any illegal activity, did not own a computer, did not possess a peer-to-peer file sharing program, and had never used the username *spicybrwneyedgrl@fileshare*.
101. While communicating with members of the Settlement Support Center LLC over a telephone wire transmission, Defendants through their authorized agents engaged in further predicate acts of wire fraud and/or extortion in falsely explaining to Plaintiffs that:
 - a. Mrs. Chan owed his client several hundred thousand dollars regardless of the facts and/or circumstances;
 - b. Mrs Chan's lack of involvement was irrelevant since the internet account was in her name and therefore she was going to have to pay;

²MCL 750.213 defines governing malicious threat to extort money provides:

Any person who shall, either orally or by a written or printed communication, maliciously threaten to accuse another of any crime or offense, or shall orally or by any written or printed communication maliciously threaten any injury to the person or property or mother, father, husband, wife or child of another with intent to extort money or any pecuniary advantage whatever, or with intent to compel the person so threatened to do or refrain from doing any act against his will, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years or by a fine of not more than \$10,000.00 dollars.

- c. If she fought the claim she would end up owing Defendants' attorneys thousands of dollars more than the settlement amount;
 - d. If she fought the claim they would take away everything that she owed including her home.
 - e. If she fought the claim she would be found guilty of a crime and go to jail.
 - f. Informing Mrs. Chan that she had to immediately delete, destroy, and/or alter the computer registered to the internet account knowing that such destruction would be construed as spoliation of evidence and result in an adverse inference as to liability and statutory damages in the event of future litigation.
102. Acting in reliance on the false statements, Plaintiff retained the service of an attorney to advise her as to the nature of Defendants claims and appropriate legal remedies available.
103. Acting in reliance on the false statements, Plaintiff took instruction from Defendants representative on how to remove data information from her computer.
104. After being served with a copy of the complaint, Defendants through their authorized agents of Mitchell Silberberg & Knapp, LLP over a telephone wire transmission engaged in further predicate acts of wire fraud and/or extortion in falsely explaining to Plaintiff that:
- a. Her lack of involvement was irrelevant and that she was be liable for hundreds of thousands of dollars whether or not she was engaged in the file sharing of music recordings;
 - b. Whether she was responsible or not didn't matter and that someone was going to have to pay or else she would end up in jail;
105. In addition to the false statements, Defendants through their authorized agents of Mitchell Silberberg & Knapp, LLP maliciously threatened to extort Plaintiff in the following ways:
- a. Threatening that unless Ms. Chan paid \$4,000.00 immediately, his client authorized him to conduct extensive discovery which would only increase the amount that she would eventually owe and end up costing her more in attorney fees than the amount of the settlement regardless of whether she had engaged in copyright infringement as alleged.
 - b. Threatening that unless she submit to their demands they would retaliate by filing suit against other family members in order to gain pecuniary advantage against Mrs. Chan.
 - c. Threatening that unless she submit to their demands they would retaliate by forcing her to pay for legal fees and/or administrative expenses in

other ancillary proceedings in which she was not a party in order to gain pecuniary advantage against Mrs. Chan.

- d. Threatening that unless she submit to their demands they would retaliate by forcing her to pay for legal fees and/or administrative expenses in other ancillary proceedings even though they had previously their claims against Mrs. Chan for the same or similar conduct had been previously dismissed with prejudice.
 - e. Threatening that her daughter's lack of involvement was irrelevant since "no self-respecting parent is going to hang their kid out to dry," in order to gain pecuniary advantage against Mrs. Chan.
106. Defendants, along with The Settlement Support Center LLC, and Law Firm of Mitchell Silberberg & Knapp, LLP through a pattern of racketeering activity attempted to collect a financial sum from Plaintiff.
107. Defendants along with The Settlement Support Center LLC, and the Law Firm Mitchell Silberberg & Knapp, LLP have attempted to collect personal property and money by way of mail fraud, wire fraud, and extortion

WHEREFORE, Plaintiff respectfully requests that this Court grant judgment against Defendants PRIORITY RECORDS L.L.C., a California Limited Liability Company; SETTLEMENT SUPPORT CENTER, LLC, a Washington Limited Liability Company, SOBLE ROWE KRICHBAUM LLP, a Michigan Limited Liability Partnership jointly and/or severally in whatever amount Plaintiff is found to be entitled, plus interest, costs, attorney fees, exemplary, punitive, and/or treble damages or other relief as the Court deems appropriate for Defendants pattern of illegal racketeering in violation of 18 U.S.C. 1962, et al.

JURY DEMAND

PLEASE TAKE NOTICE that Plaintiff CANDY CHAN hereby demands a jury trial in connection with their claims in the above captioned case.

Dated: September 7, 2007

JOHN T. HERMANN (P-52858)
Attorney for Plaintiff
2684 West Eleven Mile
Berkley, MI 48072
(248) 591-9291