

**Daniel L. Balsam**

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November 10, 2003

Superior Court of California, County of Los Angeles  
1725 Main Street  
Santa Monica, CA 90401  
Attn: Clerk, Small Claims Division

**Re: Daniel L. Balsam vs. Unitek Information Systems, Inc., SM 03A02154**  
**Trial Date: November 12, 2003**

To the Clerk of the Court:

Defendant Unitek has raised an objection to venue in Los Angeles County. The objection is not based upon California Code of Civil Procedure §395.5 (which provides, by the way, that a corporation “may be sued in the county... where the obligation... arises”), but appears instead to rely upon a California Supreme Court case that is both legally and factually distinguishable from the instant matter.

*Hamidi v. Intel Corp.* (2003) 30 Cal.4th 1342 concerned trespass to chattel in the context of *non-commercial* email. The Court in that case contrasted claims relating to unsolicited *commercial* email (“UCE”), and cited with approval *Ferguson v. Friendfinders, Inc.* (2002) 16 Cal.App.4th 1255, a case involving a suit by recipients of UCE. *See id.* at 1364 (discussing “detailed regulations governing UCE”). Simply put, *Hamidi* has no resemblance to the instant case. The instant case involves UCE in violation of California Business and Professions Code §17538.4. The UCE in this case also happens to be misleading advertising in violation of California Civil Code §1770 (a)(3).

My Claim and Order alleged invasion of privacy and harassment resulting from Defendant’s violations of §17538.4, and even if Defendant sent the unlawful UCE from Alameda County, the effects were felt here in Los Angeles County. Venue is proper here. Defendant is asking this Court to allow it to continue to send unlawful email from Alameda County to Los Angeles County by arguing, in essence, that the California Supreme Court legitimized UCE. The *Hamidi* Court did no such thing. In fact, the California legislature just strengthened California’s anti-spam laws in recognition of the growing problem of UCE.

Defendant has violated California’s laws and created an obligation in Los Angeles County. Dismissing this case would not serve justice.

Respectfully Submitted,

Daniel L. Balsam

Cc: Paul Gumina  
General Counsel for Unitek Information Systems, Inc.