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5 6 7 8 9 LO L1		OF THE STATE OF OREGON MULTNOMAH Case No COMPLAINT (Negligence Per Se ORS 166.090, Interference With Prospective Business Relationship, Specific Performance) Jury Trial Requested Claim Not Subject to Mandatory Arbitration
L3 L4 L5		Claim Amount: \$250,209.51
L6 L7 L8 L9	Plaintiff is an individual citizen of Oreg Defendant is a Corporation with retail so	2.
21	For years prior to April, 2015, Plaintiff	had a consumer credit account with Defendant.
22 23 24	Plaintiff, over the course of the existence of that close of each month.	t account, regularly paid the full balance at the
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4.

Plaintiff had a balance of 0.00 in March, 2015. In April, Plaintiff charged \$155.61 on his consumer card. Plaintiff requested his bank send payment (in full) in that amount on or about the due date for that payment, April 26, 2015.

5.

Defendant received timely payment for all monies owed -payment in full. If payment in full was received after April 26, it was delivered within hours or minutes of that date, an immaterial delay.

6.

Defendant, Home Depot, after receipt of the full amount to which it was entitled, made conflicting claims about when it received payment, claiming alternatively, that it received the payment between 0 and 48 hours after the due date. Defendant charged Plaintiff a "late fee" of \$28.20.

7.

Plaintiff objected to this late fee, informed Defendant Home Depot that it had been paid in full and requested a retraction of the "late fee" penalty. When Defendant refused to retract the fee or acknowledge it had been timely paid in full, Plaintiff requested the account be closed and attempted to sever his relationship with Defendant Home Depot.

8.

Defendant, Home Depot, refused to close Plaintiff's account and refused to retract the balance of the credit card. At this point, the balance of the consumer account was exclusively the unwarranted "late fee" of \$28.20.

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Plaintiff declined to pay the late fee because it was not supported by the parties' contract and did not reflect funds to which Defendant, Home Depot, was entitled.

10.

In response to Plaintiff's explanation of the erroneous late fee, Defendant, Home Depot, embarked upon a harassment campaign designed to bother, vex and leverage Plaintiff.

Defendant Home Depot caused dozens of electronic telephone calls to be made to Plaintiff.

These calls were difficult to stop. Plaintiff was required, on more than one occasion, to wait through long automated messages and multi-part, touch-tone responses, to get to a live human being. Plaintiff made multiple requests to stop calling Plaintiff's home and disturbing his wife and young children.

11.

Despite Plaintiff's requests to close the account, Defendant continued to make harassing phone calls, refused to acknowledge it had been paid in full and refused to close Plaintiff's account; instead, it continued to charge "late fees" on a monthly basis. These fees reflected only the original, disputed late charge —no charges for any goods or services ever went unpaid; no charges were ever paid untimely.

AS A FIRST CLAIM FOR RELIEF, Plaintiff alleges as follows:

(Negligence/Negligence Per Se ORS 166.090)

12.

Plaintiff incorporates paragraphs 1-11 herein, by this reference.

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Defendant's conduct, in repeatedly calling Plaintiff's home and harassing his wife, after being told not to do so more than once, constitutes a violation of ORS 166.090 (telephonic harassment).

Defendant's conduct –as set forth above -is also a departure from a reasonable person standard; is, therefore, negligent.

AS A SECOND CLAIM FOR RELIEF, Plaintiff alleges as follows:

(Interference With Prospective Business Relationship)

14.

Plaintiff incorporates paragraphs 1-13 herein, by this reference.

15.

Following the disputed late fee in May, 2015, Defendant continued to charge Plaintiff trumped-up late fees, themselves based on the unpaid "late fee." Defendant did so despite the disputed nature of the initial "late fee" and despite Plaintiff's request to close his account.

16.

Defendant also continued –and as of this filing, continues -to falsely report monthly "late" payments to the credit reporting bureaus. Defendant Home Depot's false statements to credit reporting bureaus were made with full knowledge of the facts set forth herein. Defendant Home Depot made the statements despite knowledge that, at all times, the credit account had been paid in full and despite that fact that only one –likely mistaken and certainly disputed –"late fee" was the sole and entire basis for Defendant's published statements to the Credit Reporting Agencies that Plaintiff had made late payments.

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17.

Defendant, Home Depot, refused to close Plaintiff's account and made representations to the Agencies that Plaintiff was late, month-after-month. Defendant, Home Depot, reported serial late payments to the Agencies, causing a precipitous drop in Plaintiff's (otherwise stellar) credit score. On information and belief, Defendant Home Depot knew this conduct was wrongful and knew its statements were inaccurate and misleading and made these statements in an attempt to leverage payment to which it was not entitled from Plaintiff.

18.

In September, 2015, Plaintiff sought to contract with a bank to refinance his home.

Defendant's knowing and improper reports to Credit Reporting Agencies interfered –and continue to interfere –with Plaintiff's ability to refinance his home. Defendant's improper and improperly motivated conduct caused Plaintiff's credit score to drop around 100 points and have precluded Plaintiff from contracting for a refinance, causing significant and ongoing damages.

AS A THIRD CLAIM FOR RELIEF, Plaintiff alleges as follows:

(Specific Performance)

19.

Plaintiff incorporates paragraphs 1-18 herein, by this reference.

20.

Plaintiff is in the process of refinancing his home. Defendant Home Depot's intentional, inaccurate, misleading and improper reports to credit reporting agencies have interfered with

1	Plaintiff's ability to get refinancing and reduced the favorability of the terms for such		
2	refinancing.		
3	21.		
4	Plaintiff offered to pay the disputed late fees. Despite the foregoing, Defendant refuses		
5	to retract or withdraw its defamatory statements to the reporting agencies. Plaintiff has no plain		
6	or adequate remedy at law. Plaintiff cannot, at this point ascertain the full extent of his damages		
7	owing to Defendant's conduct. This is because the exact terms of his home refinance are		
8	unknown and the diminution in favorability of those terms cannot be fixed at time of filing.		
9	22.		
10	Plaintiff seek a Court Order requiring Home Depot to withdraw its false and defamatory		
12	statements to credit reporting agencies.		
13	WHEREFORE, Plaintiff prays for judgment against Defendants as follows:		
14	1. On Plaintiff's First Claim for Relief, Damages in the amount of \$209.51, the amount		
15	Defendant, Home Depot, currently and fraudulently claims owing on Plaintiff's account.		
16	2. On Plaintiff's Second Claim for Relief, the amount of \$250,000, the amount of additional		
17	interest Plaintiff stands to pay as a result of Home Depot's unlawful conduct.		
18	3. On Plaintiff's Third Claim for Relief, for an Order requiring Defendant to retract its		
19	statements regarding "late payments" –and any other negative information it has falsely		
20	reported -to the credit reporting agencies.		
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1	4.	For Plaintiff's costs, disbursements and attorney fees incurred in this matter
2	5.	For any other relief the Court deems appropriate.
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4		DATED this 5th day of October, 2015.
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6		/s/ Richard W. Todd
7		RICHARD W. TODD, OSB #79421 Of Attorneys for Plaintiff
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