

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In re:	§	MDL 4:08-md-1994
VISTAPRINT CORP MARKETING	§	
AND SALES PRACTICES LITIGATION	§	<u>CONSOLIDATED</u>
	§	<u>CLASS ACTION COMPLAINT</u>
This Document Applies To:	§	
ALL ACTIONS	§	Jury Trial Demanded

Plaintiffs, Deloris Gordon, Kevin Woolley, Renee West, and Laurel Hudson, by their attorneys, for their consolidated class action complaint, allege as follows:<sup>1</sup>

**Nature of this Case**

1. This action seeks to redress a deceptive and otherwise improper business practice that Defendants Adaptive Marketing, LLC (“Adaptive Marketing”) and its parent company Vertrue, Inc. (“Vertrue”), along with VistaPrint USA, Inc. (“VistaPrint USA”) and its parent company VistaPrint Limited (“VistaPrint Ltd.” or collectively “VistaPrint”) (collectively “Defendants”), are perpetrating; specifically, the practice of imposing unauthorized charges upon unsuspecting consumers who order services or merchandise from VistaPrint and whose personal and confidential credit card and bank account information is then accessed by Adaptive Marketing and Vertrue without Plaintiffs’ or the Class’ prior permission.

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<sup>1</sup> Certain Plaintiffs in the actions consolidated herein are not set forth as named plaintiffs in this consolidated complaint. Those plaintiffs are not waiving or dismissing any rights. The Plaintiffs named herein are adequate to represent the Class and to assert the claims contained herein.

2. Defendants' business models are based on gaining access to confidential credit card and bank account information in order to charge consumers fees for worthless "memberships" and "services" that Plaintiffs and other Class members never desired or authorized. By doing so, Defendants have established one of the largest unauthorized consumer billing operations in the United States through the placement of internet advertising on various legitimate (and illegitimate) websites. VistaPrint's advertisements purport to sell graphic design and customized printed products, while Vertrue and Adaptive Marketing purport to sell membership programs that provide discounts on various consumer goods and services. Because there is no legitimate demand for Adaptive Marketing's membership programs, VistaPrint's internet websites and advertisements serve as a pretext for gaining access to consumers' confidential financial information in order to charge unauthorized fees.

3. In fact, consumers almost never legitimately join any of Vertrue and Adaptive Marketing's various membership programs, nor do they authorize Defendants Vertrue and Adaptive Marketing to charge their credit cards or debit from their bank accounts any monies. When consumers contact any of the Defendants to request that they remove and refund the unauthorized fees charged to their credit cards, they are given the "runaround", and are unable to obtain refunds of the unauthorized charges.

4. Thus, as a result of Defendants' deceptive and improper actions,

consumers, such as Plaintiffs, have been charged unauthorized fees, resulting in Defendants' improper and unlawful monetary gain and benefit.

5. This suit is brought pursuant to the Electronic Funds Transfer Act ("EFTA"), 15 U.S.C. §§ 1693 *et seq.*, the Electronic Communications Privacy Act ("ECPA"), 18 U.S.C. §§ 2510 *et seq.*, the consumer fraud statutes of the Commonwealth of Massachusetts, and common law, on behalf of a nationwide class of all persons who were deceptively charged fees or interest by Defendants, or any one of their subsidiaries, without first obtaining Plaintiffs' and the Class' prior authorization or consent, during the period from January 1, 2004, to the present. It seeks, inter alia, compensatory damages, including, but not limited to, a refund of all unauthorized fees charged to consumers; reimbursement of expenses, interest and fees incurred by Class members as a result of Defendants' scheme; attorneys' fees; and the costs of this suit.

#### **Jurisdiction and Venue**

6. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1693m. This is an action for violation of 15 U.S.C. §§ 1693 *et seq.* and 18 U.S.C. § 2510.

7. Jurisdiction in this civil action is also authorized pursuant to 28 U.S.C. § 1332(d), as minimal diversity exists, there are more than 100 class members, and the amount in controversy is in excess of \$5 million.

8. This Court has supplemental jurisdiction over Plaintiffs' state statutory