

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION AT MEMPHIS

THE SERVICEMASTER COMPANY, THE	)	
TERMINIX INTERNATIONAL COMPANY,	)	
L.P., TRUGREEN LIMITED PARTNERSHIP,	)	
AMERICAN HOME SHIELD CORPORATION,	)	
AND AMERISPEC, INC.,	)	
	)	
Plaintiffs,	)	Civil Action No. 99-2866-TUV
	)	
v.	)	
	)	
CARLA VIRGA,	)	
	)	
Defendant.	)	

**SECOND AFFIDAVIT OF CARLA VIRGA**

1. My name is Carla Virga. I am the defendant in this case. This affidavit is made in further opposition to plaintiffs' claims against me.

2. Plaintiffs claim that I misled the Court in stating that I do not carry advertisements on my web site or otherwise obtain any revenue from my web site, in light of the fact that the guest book operator places advertisements above and below the messages that visitors to the guestbook leave on those pages. In fact, my own web site is maintained on the computers of the Sutter-Yuba Internet Exchange ("SYIX") here in Yuba City. The guest book is an entirely different operation, run by Guest World, which provides server space and software permitting relatively unsophisticated web site owners like myself to give their visitors the opportunity to leave comments about what they have seen. The URL for the guest book is <http://www.lpage.com/wgb/wgbview.dbm?owner=Alert>.

3. The format of the guest book, including the way in which comments are left, and the ability of visitors to leave their e-mail addresses, web site addresses (if any) and comments, is one that is established by Guest World. I assume that, in theory, there may be a way for me to change

this format, using the “utility” section that Guest World makes available for its customers, but I have never figured out how to do that.

4. I do know that I have no control over the placement of advertisements on the guest book. The user agreement provides that any advertising will be controlled by Guest World. I do not receive any revenue from such advertisements. I attach as Exhibit W a copy of the relevant part of the user agreement, which is on the Guest World web site at <http://www.lpage.com/register/disclosure.cfm>.

5. Plaintiffs have stated that there are a variety of ways for people who operate web sites to gain revenue from their web sites, such as by obtaining visitors and being compensated based on the number of times visitors come to your page. I have not obtained any such revenues, I have not sought such revenues, and I do not intend to obtain such revenues. I maintain my web site strictly for the purpose of expressing the views contained in it.

6. I described in my first affidavit why I placed meta tags on my web site – to try to describe the content of the pages, in response to what I understood to be the desire of search engine operators that web page owners provide data to help the engines work in the desired manner. I categorically reject the repeated suggestion in plaintiffs’ papers that the reason for my meta tags is to try to trick web users into believing that, if they follow a search result link to my site, they will find material offered to them by Terminix (or any of the other plaintiffs).

7. The **only** place where my site refers viewers to the guest book, and provides a hyperlink to enable them to reach it, is at the very bottom of the home page of my web site. I have noticed the statement of Simon Rakoff, in his affidavit, that most web users who are searching for a particular site do not bother to scroll down web pages at all, especially if they are mainly textual, which is certainly a fair description of my home page. I should think it is fair to infer that people who have scrolled all the way down to the bottom of my page, where they might see the reference to my guest

book, are people who came to my page because they knew it was a critical one. I don't think there is anything about my meta tags that is misleading, but if there were, it would certainly not succeed in steering viewers who want to find Terminix to my guest book.

8. As I mentioned in my first affidavit, when I created the ServiceMaster page in June 1998, it was my plan to add information about ServiceMaster and each of its other subsidiaries as that information became available. Just as I have done on a regular basis since the page was first added to my site, in December 1999 I added additional links -- this time to complaints about American Home Shield and ChemLawn that came to my attention after plaintiffs sued me. I attach the newly revised ServiceMaster page as Exhibit X. I hope to keep adding information to my site about these and other corporate siblings of Terminix to make my page a good resource for members of the public who are looking for information about these companies.

9. Plaintiffs have claimed in their reply brief that I "suppressed" a complaint about Orkin, one of their rivals. This is not true. I explained in my first affidavit why I chose not to add complaints about Orkin to my web site. However, I have left the guest book comments about Orkin (and about another competitor of Terminix) on the web site where viewers posted them.

10. Plaintiffs have stated in their reply brief that, when I lost the case that my husband and I filed against Terminix, not only costs, but also attorney fees were awarded against me. It is true that Terminix sought an award of attorney fees and costs, but the judge only awarded them their costs. A copy of the judge's order is attached as Exhibit Y. The only award of attorney fees that has been made so far in a case between us is when the court awarded me my attorney fees against Terminix in the course of rejecting its SLAPP suit against me.

Pursuant to 28 U.S.C. § 1746, I hereby certify under penalty of perjury that the foregoing is true and correct. Executed on February 15, 2000

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Carla Virga