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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

WEBTRENDS CORPORATION, an Oregon
corporation, and [REDACTED]
Plaintiffs,

v.

JULIE SWETNICK,

Defendant.

Case No. 00-11-12165
NOTICE OF DISMISSAL
Pursuant to ORCP 54A

Pursuant to ORCP 54A, plaintiffs WebTrends Corporation and [REDACTED] hereby
dismiss this action with prejudice and without costs or attorneys' fees to any party.

DATED: December 26, 2000.

PERKINS COIE LLP

By [Signature]
[REDACTED] OSB No. 96135

Attorneys for Plaintiffs

DEC 27 2000

JUDGMENT OF DISMISSAL
BY [Signature]
JUDGE JAMES W. ELLIS

PERKINS COIE LLP
W. FIFTH AVENUE, SUITE 1500
PORTLAND, OREGON 97204
(503) 727-2000

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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Notice of Dismissal on:



by causing a full, true, and correct copy thereof, addressed to the last-known office address of the attorney (except when served by fax), to be sent by the following indicated method or methods, on the date set forth below:

- by mailing in a sealed, first-class postage-prepaid envelope and deposited with the United States Postal Service at Portland, Oregon.
- by hand-delivery.
- by sending via overnight courier in a sealed prepaid envelope.
- by faxing to the attorney at the fax number shown above, which is the last-known fax number for the attorney's office.

DATED: December 26, 2000.

PERKINS COIE LLP

By  _____

 OSB No. 96135
Attorneys for Plaintiffs

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CIRCUIT COURT
FOR MULTNOMAH COUNTY

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

12165

WEBTRENDS CORPORATION, an Oregon corporation, and [REDACTED]

Plaintiffs,

v.

JULIE SWETNICK,

Defendant.

Case No. 00-11-12165

COMPLAINT
(Defamation, Fraud)

CLAIMS NOT SUBJECT TO
MANDATORY ARBITRATION

For their Complaint against Defendant Julie M. Swetnick ("Swetnick"), Plaintiffs WebTrends Corporation ("WebTrends") and [REDACTED] (collectively, "Plaintiffs") allege as follows:

INTRODUCTION AND OVERVIEW

1. This is an action for defamation and fraud brought against Swetnick by WebTrends and [REDACTED] Swetnick was hired as a Professional Services Engineer to work from an off-site

1 location in June 2000 and she worked a total of seven days at customer sites from initial hire to
2 November of 2000.

3 2. Swetnick began her fraud against WebTrends before she was hired. On her job
4 application she claimed to have graduated from Johns Hopkins University. That university has no
5 record of her attendance. She also falsely described her work experience at Host Marriott
6 Services Corp. ("Host Marriott"). Since this initial fraud and despite her brief tenure, Swetnick
7 has continued, over the last several months, to defraud, defame and harass WebTrends and its
8 employees.

9 3. Shortly after becoming employed with WebTrends, a co-worker reported to
10 WebTrends' human resources department that Swetnick had engaged in unwelcome, sexually
11 offensive conduct. Rather than accept responsibility for her actions, Swetnick made false and
12 retaliatory allegations that other co-workers had engaged in inappropriate conduct toward her.
13 Swetnick then began a leave of absence for suspicious and unsubstantiated reasons and from
14 which she has never returned. During her leave of absence, Swetnick has engaged in a campaign
15 of false and malicious allegations with the intent to harm the reputations of WebTrends and its
16 employees and in the hope that WebTrends would pay her money rather than uphold and defend
17 its reputation.

18 4. Beyond deceiving WebTrends, Swetnick applied for and began collecting
19 unemployment benefits from the Washington D.C. unemployment office based on the untrue
20 statement that she had voluntarily left WebTrends in September 2000. While she was pursuing
21 this unemployment claim, Swetnick was also seeking to claim disability insurance from
22 WebTrends' insurance carrier, UNUM, and other benefits WebTrends extends to its regular
23 employees, including health coverage.

24 5. In November 2000, Swetnick made her gambit plain: in a letter to WebTrends
25 management, she made false statements about WebTrends, [REDACTED] and other WebTrends'
26 employees, sought an "amicable separation" and threatened a lawsuit if WebTrends did not

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capitulate to her false demands. WebTrends and [REDACTED] will not tolerate such abuses, and hereby file this suit to vindicate their reputations and remedy the wrongs committed by Swetnick.

JURISDICTION AND VENUE

6. WebTrends is an Oregon corporation with its principal place of business in Multnomah County, Oregon [REDACTED] is a citizen of the State of Oregon. Swetnick is a citizen of the State of Maryland residing at [REDACTED]

7. Jurisdiction and venue is appropriate in Circuit Court in Multnomah County because the causes of action complained of herein arose in Multnomah County.

FACTS COMMON TO ALL CLAIMS

8. WebTrends is the leading provider of enterprise solutions for eBusiness Intelligence and Visitor Relationship Management. Its products and services offer sophisticated analysis and reporting solutions for web- and server- based activities. [REDACTED] is the Director of Human Resources for WebTrends.

9. Swetnick applied for employment with WebTrends on May 12, 2000. In her employment application, Swetnick represents that she received an undergraduate degree in Biology and Chemistry from Johns Hopkins University in Baltimore, Maryland. Swetnick also stated in the application that she was employed by Host Marriott from March 1997 to October 1998. She signed the certification on the application which states that "this application was completed by me, and . . . all entries on it and information in it are true and complete the best of my knowledge."

10. On June 7, 2000, WebTrends hired Swetnick based on the representations made by Swetnick in her employment application. Swetnick was hired as a Professional Services Engineer to work as an "off-site" employee assisting with the installation and integration of WebTrends' software at customer sites.

11. On information and belief, Swetnick was never enrolled at Johns Hopkins University. The representation concerning her college education was significant because the

1 position for which Swetnick applied required a college education or its equivalent. On
2 information and belief, Swetnick was employed at Host Marriott from March 1998 until
3 August 1999. The representation concerning Host Marriott was particularly significant to
4 WebTrends' employment decision because it was the sole position listed on Swetnick's application
5 where she claimed employment for a period that exceeded two years.

6 12. [REDACTED] received a complaint about Swetnick from [REDACTED] a co-employee
7 of Swetnick in June 2000. At this point, Swetnick had been employed for approximately three
8 weeks and had worked only three days at customer sites. [REDACTED] stated that Swetnick had
9 engaged in unwelcome sexual innuendo and inappropriate conduct directed towards himself and
10 [REDACTED], another co-employee, during a business lunch. Swetnick's inappropriate conduct
11 occurred with customers present.

12 13. WebTrends investigated the complaints against Swetnick. [REDACTED] offered a similar
13 account of Swetnick's actions. Swetnick, however, denied the allegations, and then, in a
14 transparent effort to divert attention from her own inappropriate behavior, Swetnick claimed that
15 other employees had behaved improperly toward her. For example, Swetnick claimed that two
16 other co-employees, [REDACTED] and [REDACTED], had sexually harassed her.

17 14. WebTrends investigated Swetnick's allegations. [REDACTED] and [REDACTED] denied
18 Swetnick's allegations and Swetnick provided no other evidence to support her allegations. Based
19 on its investigations, WebTrends determined that Swetnick had engaged in inappropriate conduct,
20 but that no corroborating evidence existed to support Swetnick's allegations against her co-
21 workers. [REDACTED] informed Swetnick of the results of the investigation. Remarkably, Swetnick
22 stated that she had "no problems with [REDACTED] and [REDACTED]."

23 15. In July 2000, Swetnick took a leave of absence from employment allegedly for a
24 sinus condition. On July 21, 2000, WebTrends received a note from Dr. [REDACTED] an oncologist
25 and family friend of Swetnick, indicating that she would be off work for one week. On July 27,
26

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1 2000, WebTrends received another note from Dr. [REDACTED] indicating that Swetnick could not
2 return to work until August 7, 2000.

3 16. WebTrends sent Swetnick a copy of WebTrend's company-funded short-term
4 disability policy on August 1, 2000. WebTrends paid Swetnick during her absence for sinusitis up
5 to August 15, 2000. These payments were based upon Swetnick's representations regarding her
6 sinus condition and the doctor's notes corroborating that condition.

7 17. Pursuant to the terms of its policy, WebTrends' company-funded short-term
8 disability payments ceased on August 15, 2000. Shortly after the payments stopped, on
9 August 23, 2000, WebTrends received another note from Dr. [REDACTED] indicating for the first time
10 that Swetnick needed a temporary leave of absence from work because she had had a "nervous
11 breakdown." No further information was provided.

12 18. After receiving this note from Dr. [REDACTED], WebTrends informed Swetnick that
13 she may be entitled to receive short-term disability benefits through WebTrend's insurer.
14 WebTrends also informed Swetnick that she may be qualified for additional unpaid leave under
15 WebTrends' policies, but that WebTrends needed more detailed medical information to make that
16 determination.

17 19. Rather than comply with WebTrends' request for additional information, Swetnick
18 sent a confrontational email to the Human Resources Director, [REDACTED], arguing that she should
19 not have to provide such information and complaining that she had been given "less than two
20 weeks to get this information prepared by [Dr. [REDACTED]]." In fact, Swetnick had been given over
21 two full weeks to obtain further medical information, but she failed to do so without excuse.

22 20. WebTrends nonetheless allowed Swetnick additional time to provide the requested
23 information. During this time, WebTrends, acting in good faith, agreed to continue Swetnick's
24 health insurance coverage pending receipt of the information requested. Swetnick refused to
25 provide any further information regarding her alleged medical condition, which thwarted
26 WebTrends' effort to determine whether to grant Swetnick any additional unpaid leave.

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21. On November 6, 2000, [REDACTED] received a form from the Department of Unemployment, Government of the District of Columbia, indicating that Swetnick was seeking unemployment benefits. According to the form, the reason given by Swetnick for departure from WebTrends' employment was that she "left voluntarily" on September 24, 2000.

22. On information and belief, Swetnick has been receiving unemployment benefits from the Department of Unemployment, Government of the District of Columbia, since sometime in late October 2000, even though she has applied for disability insurance benefits through WebTrends' insurer and never notified WebTrends that she had "voluntarily" left her employment at WebTrends. In short, Swetnick continued to claim the benefits of a full-time employee of WebTrends, sought disability payments from WebTrends' insurance carrier and falsely claimed unemployment insurance payments from the District of Columbia.

23. On November 15, 2000, WebTrends' management telephoned Swetnick to discuss the factual discrepancies in her resume and the basis for her application for unemployment benefits. Immediately upon identifying themselves, Swetnick hung up the telephone. WebTrends called back immediately, but Swetnick refused to answer the telephone. Accordingly, a voice message was left for Swetnick asking that she return the telephone call.

24. Rather than return a voice mail message left for her, Swetnick sent a letter to [REDACTED] (WebTrends' Vice President of Services), [REDACTED] (WebTrends' CEO) and [REDACTED] (WebTrends' President) on November 19, 2000, in which she made various allegations, including:

a. that she had been subjected to sexual harassment by co-employees [REDACTED] and [REDACTED]

b. that [REDACTED] was "illegally tired for months to get privileged medical information from me, my doctor, my insurance company" and that "[h]arassing WebTrends employees for copies of their private medical information and threatening them with dismissal if they do not comply is definitely unlawful."

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c. that "some of the heads of the Corporate Infrastructure Group [at WebTrends], including [redacted] and [redacted] [sic], give the whole company a bad name."

Swetnick stated that she wanted to discuss her "continued employment" at WebTrends (even though she was collecting unemployment payments at the time). The letter concluded by threatening legal action against WebTrends.

25. On November 21, 2000, Swetnick sent another email to [redacted] and [redacted] stating that she had worked in "physically and emotionally threatening and hostile conditions" at WebTrends.

**FIRST CLAIM FOR RELIEF
(Defamation)**

COUNT I

26. Plaintiffs reallege and incorporate by reference the allegations made in paragraphs 1 to 25 above.

27. The statements identified in paragraph 24 and 25 above are false, defamatory and unprivileged publications made to third persons about WebTrends and about [redacted] (the "defamatory statements").

28. The defamatory statements defame WebTrends' and [redacted] business, trade, and profession. They are, therefore, slanderous or libelous *per se*.

29. Swetnick injured WebTrends' and [redacted] reputation by publishing the defamatory statements, resulting in nominal, general and special damages in an amount that will be proven at trial.

30. Swetnick's defamatory statements have also caused [redacted] non-economic damages in the form of emotional distress and mental anguish.

31. Swetnick negligently disregarded the falsity of the defamatory statements when publishing them to third parties.

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COUNT II

32. Plaintiffs reallege and incorporate by reference the allegations made in paragraphs 1 to 31 above.

33. Swetnick intentionally or recklessly disregarded the falsity of the defamatory statements when publishing them to third parties.

**SECOND CLAIM FOR RELIEF
(Fraud)**

34. Plaintiffs reallege and incorporate by reference the allegations made in paragraphs 1 through 33 above.

35. The representations made by Swetnick in her employment application relating to her graduation from Johns Hopkins University and her employment at Host Marriott were materially false when made, and WebTrends relied on those false representations to its detriment in hiring Swetnick.

36. As a result of Swetnick's fraudulent representations, WebTrends has suffered damages in an amount to be proven at trial.

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

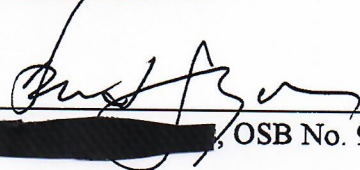
1. On Plaintiffs' first claim for relief for defamation:
 - a. Nominal, general and special damages for each Plaintiff in an amount to be proven at trial;
 - b. Emotional distress damages for [REDACTED] in the amount of at least \$150,000, the exact amount to be proven at trial;
 - c. The costs and expenses Plaintiffs incur in prosecuting this action as permitted by law; and
 - d. Such other relief as the Court deems proper.
2. On WebTrends' second claim for relief for fraud:
 - a. Nominal and general damages for WebTrends in an amount to be proven at trial;

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- b. The costs and expenses Plaintiffs incur in prosecuting this action as permitted by law; and
- c. Such other relief as the Court deems proper.

DATED: November 27, 2000.

PERKINS COIE LLP

By  _____
[REDACTED], OSB No. 96135

Attorneys for Plaintiffs

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR MULTNOMAH COUNTY
MULTNOMAH COUNTY COURTHOUSE
1021 SW FOURTH PORTLAND Oregon 97204

am

January 1, 2001

JULIE SWETNICK

Webtrends Corporation/Swetnick Julie
Case#: 001112165 C Civil Defamation

NOTICE OF ENTRY OF JUDGMENT
NOT DOCKETED

A Judgment was entered in the register of the Court in the above-noted case on December 28, 2000.

Judgment Dismissal
was NOT docketed in the circuit Court judgment docket.

This notice is sent in accordance with ORCP 70B.

Note: Docketing a judgment in the circuit court judgment docket is necessary for purposes of creating a lien on real property when there is a judgment for the payment of money.

CC:

