

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

**Case No.: 19-2201 8-CIV-OTAZO-REYES
Consent Case**

DAVID GUZMAN,

Plaintiff,

v.

NSI HOLDINGS LIMITED,

Defendant.

**REPLY DECLARATION OF LAURA ROBYN EDISON IN SUPPORT OF MOTION TO
DISMISS FIRST AMENDED COMPLAINT**

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DAVID GUZMAN, Plaintiff, v. NSI HOLDINGS LIMITED, Defendant.
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**REPLY DECLARATION OF LAURA ROBYN EDISON IN SUPPORT OF MOTION TO
DISMISS FIRST AMENDED COMPLAINT**

I, Laura Robyn Edison, hereby declare:

1. I am Director of Defendant NSI (Holdings) Limited (“NSI Holdings”). I make this Reply Declaration in support of Defendant’s Motion to Dismiss the First Amended Complaint pursuant to Rule 12(b)(2) and (6). In preparing this Reply Declaration, I relied on business records and my personal knowledge of the facts set forth herein. I have personal knowledge of the facts set forth in this Reply Declaration, and, if called and sworn as a witness, I could and would testify competently with respect thereto.

2. As I state in my original Declaration (D.E. 20-1), NSI Holdings has investigated Plaintiff’s claims since being sued by Plaintiff. Since the filing of NSI Holdings’ Motion to Dismiss the First Amended Complaint, NSI Holdings has continued to investigate Plaintiff’s claims. Because the information relating to Plaintiff’s claims is stored across multiple old platforms that are no longer actively used by NSI Holdings to maintain its user history databases, it has been a time-consuming to access and process. In fact, a number of staff members who were familiar with the old system have left, which makes searching these databases more time-consuming and burdensome. Thus, this Reply Declaration provides additional information that NSI Holdings has discovered since the filing of the Motion to Dismiss the First Amended Complaint, and clarifies information provided in my original Declaration.

3. My original Declaration stated that technical support staff for NSI Holdings is located in Ukraine, but that key employees likely to testify resided in the United Kingdom. (D.E. 20-1, ¶ 19.) However, in conducting further investigations regarding Plaintiff’s claims, it has become clear that it is members of our Ukrainian team that have access to evidence that will be important in this lawsuit, and that members of that team will be important witnesses. Requiring the Ukrainian team to travel to Florida for this lawsuit will create an additional burden for NSI Holdings because not only will Ukrainian team members be forced to travel a substantial distance to Miami (and it does not appear that there are direct flights between Ukraine and Miami), but they will also be away from key operations for a longer period of time than if this lawsuit were to proceed in England. Additionally, Ukrainian team members have only basic English skills and will require translators. In fact, I rely on translators in my interactions with

Ukrainian team members. Further, it is my understanding that Ukrainian citizens must apply for a visa to enter the United States, which requires significant paperwork as well as an interview at the U.S. Embassy in Kiev. In contrast, there are short, inexpensive, direct flights between Ukraine and London. My understanding is that the Ukrainian team members would also need to obtain visas to travel to England, which are difficult to obtain.

4. As set forth in my original Declaration, NSI Holdings has discovered a user profile on UniformDating.com containing two photographs of Plaintiff and other identifying information belonging to Plaintiff.

5. Plaintiff argues that the ZIP code associated with that user profile is for Arizona and not Florida. (D.E. 34, pp. 5, 16). I have reviewed the ZIP code, and it appears to be for “Miami, Arizona.” When a user creates a profile on UniformDating.com, he or she can type in his or her location, i.e., city. The system then suggests several options to “auto-populate” the location and ZIP code fields. When “Miami” is typed into the location field, “Miami, Arizona,” and the associated ZIP code, appears as an “auto-populate” option. Thus, it is likely that Plaintiff, when typing in his location at the time he created the profile, inadvertently allowed the “Miami, Arizona” auto-populate to remain. This type of error occurs particularly where users sign up on their mobile devices (rather than PCs), which was the case with Plaintiff’s profile. Additionally, the system is not sophisticated enough to clearly differentiate states, particularly where cities have the same name.

6. It appears that there is some confusion regarding the IP address associated with Plaintiff’s user profile. As stated in my original Declaration, the IP address associated with this user profile is for Miami, *Florida*. (D.E. 20-1, ¶ 28.) Although the IP address field on Exhibit 1 to my original Declaration contains “0.0.0.0” in the IP address field, the IP address that registered to our system when the profile was created is 172.58.14.254. I attested to this based on my review of business records kept in the ordinary course of business. This IP address is located in Miami, Florida.

7. The 0.0.0.0 IP address that appears in Exhibit 1 is a result of a user profile being created via a mobile device browser rather than through a website on a PC. Specifically, in NSI Holdings’ prior system, where a user accessed UniformDating.com’s website from a mobile device, the IP address was populated in what we refer to as the “mobile table” as opposed to the “website table,” the latter of which contains more precise information. It appears that Plaintiff’s profile was created via a mobile device, and thus the IP address registered first to the *mobile application* table. Exhibit 1 to my original Declaration contained data from the mobile application table. To remove any confusion regarding the IP address, attached hereto as **Exhibit 3** is a true and correct copy of the website table, which shows the Miami, Florida IP address associated with Plaintiff’s user profile. Accordingly, based on the information set forth in Exhibit 3, the profile at issue (which includes Plaintiff’s photographs and his personally identifying information), was created from a mobile device associated with a Miami, Florida IP address.

8. There also appears to be confusion regarding certain redactions in Exhibit 2 to my original Declaration. As my understanding is that there is no Protective Order in place in this lawsuit, the second and fourth columns were redacted because they contain confidential, proprietary information that would be competitively harmful to NSI Holdings. NSI Holdings has no objection to disclosing that information to Plaintiff’s counsel and the Court on a confidential basis. Nevertheless, I can attest that those fields and the information contained in those fields, do not provide information concerning jurisdictional issues, but rather, (1) identify specific NSI Holdings’ personnel (column four), and (2) reveal NSI’s internal, proprietary coding system for profile display management (column two).

9. Plaintiff argues that the advertisements containing his image indicated that the individual pictured was a 33-year-old named “Jason,” whereas Plaintiff himself is only 24-years-old and is named “David.” As stated in my original Declaration, the image of Plaintiff was taken from his user profile on UniformDating.com. Users generally do not use their real names in profiles and often do not use their real age. In fact, as can be seen in Exhibit 1 to my original declaration, the user name chosen was “BurningBubble” and not all details of the profile were completed, including a name. The profile did, however, use the name “David” as part of the password used to login to UniformDating.com. Thus, although advertisements generally feature actual user images of real users (except in instances where NSI Holdings licenses stock images,

as described in paragraph 34 of my original Declaration), because the names and ages of the users are generally not known, the advertisements are given alternate names and ages.

10. Plaintiff's Declaration states that his cousin apparently sent him a screenshot of an Instagram advertisement for UniformDating.com, with Plaintiff's image, on May 13, 2019. D.E. 34-1. Notably, Plaintiff's Declaration does not state that his cousin actually *saw* this advertisement on May 13, 2019, and the screenshot of the purported advertisement contains no date. *Id.* As I testified in my original Declaration, (D.E. 20-1, ¶¶ 37-38), Plaintiff's images were removed from his UniformDating.com account by NSI Holdings personnel on April 30, 2018. This is supported by Exhibit 2 to my original Declaration. Data associated with the campaign featuring Plaintiff's image also is clear that the Instagram advertisements stopped running on April 30, 2018. Attached hereto as **Exhibit 4** is a true and correct copy of this data.

11. Further, "uniformdatingcom," the username for one of the Instagram accounts associated with UniformDating.com, has not made any posts for more than a year before Plaintiff claims his cousin sent him the screenshot of the Instagram advertisement attached to his Declaration. "Uniformdatingco," the username for the other Instagram account associated with UniformDating.com, has not posted any advertisements on Instagram since 2014.

12. Additionally, Plaintiff has included five undated screenshots of Instagram posts made by UniformDating.com in his First Amended Complaint, (D.E. 14), and in various filings since (D.E. 28 and 29). I have now seen the original postings on Instagram. The second, third and fourth posts all are from 2014. The first post is from March 13, 2018 and the fifth is from July 26, 2017. Plaintiff's screenshots do not include these dates. The concurrently filed Declaration of Nina D. Boyajian includes screenshots of the Instagram posts, including the posting date, as Exhibits 2, 3, 4, 5 and 6.

13. It is common practice in the highly competitive online dating industry for anonymous commenters to leave malicious comments on social media advertisements. This practice is not limited to posts made by UniformDating.com, as can be seen in screenshots of Instagram posts by Match.com, which are Exhibits 7 and 8 to the concurrently filed Declaration of Nina D. Boyajian. Indeed, as is evident from the screenshots provided by Plaintiff, several of the comments are from the same account/username.

14. Plaintiff has cherry-picked the five Instagram posts included in his First Amended Complaint from the hundreds of Instagram posts by UniformDating.com, most of which do not contain such comments or unwarranted accusations. In fact, NSI Holdings has verified that at least one of the images included in the First Amended Complaint (Exhibit 6 to Ms. Boyajian's Declaration), is associated with a profile created by a UniformDating.com user (due to the age of the other posts, it has taken some time to determine the provenance of the images). As such, when creating this profile, this user accepted NSI Holdings' Terms of Use and thereby agreed to NSI Holdings' use of her image for commercial purposes.

I declare under penalty of perjury of the laws of the United States of America, pursuant to 28 U.S.C § 1746, that the foregoing is true and correct to the best of my knowledge. Executed on this 13th day of September, 2019.





Laura Robyn Edison

Exhibit 3

Exhibit 3

Search by id: 593160383 | [Print version](#) | [Scam history](#)Scammer

Screen name:	BurningBubble						
Registered name:							
Registered date:	23 Nov 2017 - 21:23:12						
Date of birth:	20 Aug 1994						
Age:	25						
Email address:	davidguzman2094@gmail.com						
Mobile phone:							
Last logged in:	23 Nov 2017 - 22:30:14						
Short description:							
Long description:							
Address:	Country: United States City: Miami Zip: 85539						
In use interest:							
Pictures:							
Removed pictures:	<div>  <p>[main] [approved]</p> </div> <div>  <p>[public] [approved]</p> </div>						
Card holder details:							
Logged in on:	<table border="1"> <thead> <tr> <th>Date/Time</th> <th>IP address</th> <th>Country</th> </tr> </thead> <tbody> <tr> <td>2017-11-23 21:24:06</td> <td>172.58.14.254</td> <td>United States</td> </tr> </tbody> </table>	Date/Time	IP address	Country	2017-11-23 21:24:06	172.58.14.254	United States
Date/Time	IP address	Country					
2017-11-23 21:24:06	172.58.14.254	United States					
Messages sent:							
Messages recieved:	Messages not found						
Messages deleted:	Messages not found						



 Photos approve history			
Posted date		Approved date	Staff
2017-11-23 21:24:16		2017-11-23 21:25:12	
2017-11-23 21:25:12		2017-11-28 11:30:04	




Exhibit 4

Exhibit 4

TRUE CONVECTION.
FASTER, MORE EVEN *bak*

	Ad name	Delivery	Starts
<input checked="" type="checkbox"/>	 f320 - male2 - cop	● Not delivering Campaign is off	24 Nov 2017
	2018-04-01 - 2018-04-30		
	2017-12-01 - 2017-12-31		
	2018-01-01 - 2018-01-31		
	2018-03-01 - 2018-03-31		
	2018-02-01 - 2018-02-28		
	2017-11-01 - 2017-11-30		

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