

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:08-CV-403-FL

SMD SOFTWARE, INC., a North Carolina corporation; and SITELINK SOFTWARE, LLC, a North Carolina limited liability company,
 Plaintiffs,
 v.
 EMOVE, INC., a Nevada corporation; and WEB TEAM ASSOCIATES, a Nevada corporation,
 Defendants.

JURY VERDICT FORM

UNFAIR AND DECEPTIVE TRADE PRACTICES ACT CLAIM

1. Did *plaintiffs* establish by a preponderance of the evidence that one or more of the following descriptions of fact or representations of fact *about SiteLink-PC* in the 2004 Comparison Chart was false or misleading as of 2004?

Benefit	SiteLink	webselfstorage	Jury Finding Yes or No
Tech Support	\$399/yr	FREE Live chat (Plans to charge for phone support)	YES
Reservations	No	YES	NO
Integrated Credit Cards	No	YES (1.59%)	NO
Upgrades	incl. w/support	FREE (month-to-month)	NO
Online Payments	No	Yes (FREE w/Premier Customer Club)	YES

Proceed to Issue No. 2.

2. Did *plaintiffs* establish by a preponderance of the evidence that one or more of the following descriptions of fact or representations of fact *about SiteLink-PC* in the 2005 Comparison Chart was false or misleading as of January, 2005?

Benefit	SiteLink	webselfstorage	Jury Finding Yes or No
Tech Support	First 120 days Free call for service, contract, price	Free Online Support Free Live Chat	NO
Reservations	No	YES	NO
Integrated Credit Cards	No	YES (1.70%)	YES
Upgrades	included with support	FREE	NO
Cost per License	\$1,199 and up	ONLY \$44.95/month	NO
Online Payments	No	YES (FREE with Premier-CustomerClub)	YES

Proceed to Issue No. 3.

3. Did *plaintiffs* establish by a preponderance of the evidence that one or more of the following descriptions of fact or representations of fact *about SiteLink-PC or SiteLink Web Edition* in the 2008 Comparison Chart was false or misleading as of January, 2008?

Benefit	webselfstorage	SiteLink	Jury Finding Yes or No
Cost per License	<input checked="" type="checkbox"/> ONLY 44 ⁹⁵ PER MO.	<input checked="" type="checkbox"/> \$3,000 – Windows \$350/Mo. Web	YES
Tech Support	<input checked="" type="checkbox"/> FREE PLUS Live Chat	<input checked="" type="checkbox"/> For Service, Contract & Prices First 120 days Free	NO
Confirmed Reservations	<input checked="" type="checkbox"/> YES	<input type="checkbox"/>	YES
Fully Integrated Credit Cards	<input checked="" type="checkbox"/> YES @1.70%	<input type="checkbox"/>	YES
Upgrades	<input checked="" type="checkbox"/> FREE	<input checked="" type="checkbox"/> Only When Support Is Purchased	YES
Fully Integrated Tenant Insurance	<input checked="" type="checkbox"/> YES	<input type="checkbox"/>	YES
Fully Integrated Online Payments	<input checked="" type="checkbox"/> YES	<input type="checkbox"/>	YES
Fully Integrated Call Center Service	<input checked="" type="checkbox"/> YES	<input type="checkbox"/>	YES
Mobile Device Accessible	<input checked="" type="checkbox"/> YES	<input type="checkbox"/>	NO

If you answered “Yes” as to any one or more of the statements set forth in Issue Nos. 1-3, proceed to Issue No. 4.

If you answered “No” as to each and every statement set forth in Issue Nos. 1-3, do not answer any additional Issues.

4. Did *plaintiffs* establish by a preponderance of the evidence that SMD and/or SiteLink suffered injury as a result of any one or more of the description(s) of fact or representation(s) of fact in Issue Nos. 1-3 that you found false or misleading – or as a result of any group of such false or misleading statements or representations – contained within any *single* comparison chart?

Yes No

If you answered “Yes” to Issue No. 4, proceed to Issue No. 5.

If you answered “No” to Issue No. 4, do not answer any additional Issues.

5. In what amount, if any, has SMD and/or SiteLink been injured by any such false or misleading statements?

1.7 Million Dollars

Proceed to Issue No. 6.

6. Did *plaintiffs* establish by a preponderance of the evidence that Web Team participated in the creation or development of the following comparison charts with knowledge or constructive knowledge that any one or more of the description(s) of fact or representation(s) of fact in Issue Nos. 1-3 that you found false or misleading were false or misleading?

a. The 2004 Comparison Chart

Yes No

b. The 2005 Comparison Chart

Yes No

c. The 2008 Comparison Chart

Yes No

Proceed to Issue No. 7.

LANHAM ACT CLAIM

7. Did *plaintiffs* establish by a preponderance of the evidence that any one or more of the description(s) of fact or representation(s) of fact in Issue Nos. 1-3 that you found false or misleading – or any group of such false or misleading statements or representations – contained within any *single* comparison chart, was material in that it was likely to influence the purchasing decisions of self-storage facility management software consumers?

Yes No

If you answered “Yes” to Issue No. 7, proceed to Issue No. 8.

If you answered “No” to Issue No. 7, proceed to Issue No. 12.

8. Was any one or more of the description(s) of fact or representation(s) of fact you found false or misleading in Issue Nos. 1-3 and material in Issue No. 7:

a. Literally false?

Yes No

b. Made by defendant(s) with intent to deceive?

Yes No

If you answered “Yes” for either Issue Nos. 8a or 8b proceed to Issue No. 9.

If you answered “No” to both Issue Nos. 8a and 8b, proceed to Issue No. 10.

9. Did *defendants* establish by a preponderance of the evidence that any such false or misleading and material statement(s) did *not* actually deceive a substantial segment of self-storage facility management software consumers?

Yes No

If you answered “Yes” to Issue No. 9, proceed to Issue No. 12.

If you answered “No” to Issue No. 9, proceed to Issue No. 11.

10. Did *plaintiffs* establish by a preponderance of the evidence that any such false or misleading and material statement(s) actually deceived a substantial segment of self-storage facility management software consumers?

Yes _____ No

If you answered "Yes" to Issue No. 10, proceed to Issue No. 11.

If you answered "No" to Issue No. 10, proceed to Issue No. 12.

11. In what amount, if any, has eMove gained as a result of any such material, deceptive, and false or misleading statements?

Proceed to Issue No. 12.

TORTIOUS PRODUCT DISPARAGEMENT CLAIM

12. Did *plaintiffs* establish by a preponderance of the evidence that the 2004 Comparison Chart was distributed after July 14, 2005?

Yes _____ No

If you answered "Yes" to Issue No. 12, proceed to Issue No. 13.

If you answered "No" to Issue No. 12, proceed to Issue No. 17.

13. Did *plaintiffs* establish by a preponderance of the evidence that eMove and/or Web Team made any one or more of the description(s) of fact or representation(s) of fact you found false or misleading in Issue Nos. 1-3 with malice?

eMove: Yes _____ No _____

Web Team: Yes _____ No _____

If you answered "Yes" as to one or both defendants in Issue No. 13, proceed to Issue No. 14.

If you answered "No" as to both defendants in Issue No. 13, do not answer any additional Issues.

14. Did *plaintiffs* establish by *clear and convincing evidence* that:

- a. eMove made any one or more of the description(s) of fact or representation(s) of fact that you found to be false or misleading in Issue Nos. 1-3 with malice?

Yes _____ No _____

- b. Web Team made any one or more of the description(s) of fact or representation(s) of fact that you found to be false or misleading in Issue No. 3 only with malice?

Yes _____ No _____

Proceed to Issue No. 15.

15. Did *plaintiffs* establish by *clear and convincing evidence* that:

- a. eMove willfully or wantonly made any one or more of the description(s) of fact or representation(s) of fact that you found to be false or misleading in Issue Nos. 1-3 and, by a preponderance of the evidence, to be made with malice in Issue No. 13?

Yes _____ No _____

- b. Web Team willfully or wantonly made any one or more of the description(s) of fact or representation(s) of fact that you found to be false or misleading in Issue No. 3 only and, by a preponderance of the evidence, to be made with malice in Issue No. 13?

Yes _____ No _____

Proceed to Issue No. 16.

16. If you answered “Yes” as to a defendant in Issue Nos. 14 and/or 15 what amount of punitive damages, if any, does the jury award in its discretion against the defendant(s) for whom you answered “Yes” in response to Issue Nos. 14 and/or 15?

eMove: _____

Web Team: _____

Do not answer any additional Issues.

17. Did *plaintiffs* establish by a preponderance of the evidence that eMove and/or Web Team made any one or more of the description(s) of fact or representation(s) of fact you found false or misleading in Issue Nos. 2-3 with malice?

eMove: Yes _____ No

Web Team: Yes _____ No

If you answered "Yes" as to one or both defendants in Issue No. 17, proceed to Issue No. 18.

If you answered "No" as to both defendants in Issue No. 17, do not answer any additional Issues.

18. Did *plaintiffs* establish by *clear and convincing evidence* that:

a. eMove made any one or more of the description(s) of fact or representation(s) of fact that you found to be false or misleading in Issue Nos. 2-3 with malice?

Yes _____ No _____

b. Web Team made any one or more of the description(s) of fact or representation(s) of fact that you found to be false or misleading in Issue No. 3 only with malice?

Yes _____ No _____

Proceed to Issue No. 19.

19. Did *plaintiffs* establish by *clear and convincing evidence* that:

- a. eMove willfully or wantonly made any one or more of the description(s) of fact or representation(s) of fact that you found to be false or misleading in Issue Nos. 2-3 and, by a preponderance of the evidence, to be made with malice in Issue No. 17?

Yes _____ No _____

- b. Web Team willfully or wantonly made any one or more of the description(s) of fact or representation(s) of fact that you found to be false or misleading in Issue No. 3 only and, by a preponderance of the evidence, to be made with malice in Issue No. 17?

Yes _____ No _____

Proceed to Issue No. 20.

- 20. If you answered “Yes” as to a defendant in Issue Nos. 18 and/or 19 what amount of punitive damages, if any, does the jury award in its discretion against the defendant(s) for whom you answered “Yes” in response to Issue Nos. 18 and/or 19?

eMove: _____

Web Team: _____

