

DISTRICT COURT, TELLER COUNTY, COLORADO Address: 101 West Bennett Ave. Cripple Creek, CO 80813	DATE FILED: May 28, 2014 11:25 AM
<b>Plaintiff:</b> FUNDAMENTAL HOLDINGS, CORP. D/B/A PEAK INTERNET  v.  <b>Defendant:</b> RUSSELL PETRICK	<b>▲ COURT USE ONLY ▲</b>
<i>Attorneys for Fundamental Holdings, Corp.          d/b/a Peak Internet</i> Ryan J. Klein, #37013 Sherman & Howard L.L.C. 90 South Cascade Avenue, Suite 1500 Colorado Springs, CO 80903 Phone: (719) 475-2440 Fax: (719) 635-4576 E-mail: <a href="mailto:rklein@shermanhoward.com">rklein@shermanhoward.com</a>	Case Number:  Div.:
<b>COMPLAINT</b>	

Plaintiff, Fundamental Holdings, Corp. d/b/a Peak Internet, by and through its attorneys, Sherman & Howard L.L.C, files its Complaint as follows:

### PARTIES AND VENUE

1. Plaintiff, Fundamental Holdings, Corp. d/b/a Peak Internet (“Peak Internet”), is a Colorado corporation with its principal place of business in Teller County, Colorado.

2. Defendant Russell Petrick (“Petrick”), upon information and belief, is a resident of Teller County, Colorado.

3. Venue is proper in this Court because Petrick is a resident of Teller County, Colorado, and the actions constituting the claims occurred in Teller County, Colorado.

## **GENERAL ALLEGATIONS**

4. Peak Internet is a provider of home and business internet, phone service, and computer repair in Teller County, Colorado.

5. Petrick had been a customer of Peak Internet in Teller County, Colorado, but discontinued his service from Peak Internet.

6. Since discontinuing his service, Petrick has made defamatory statements about Peak Internet on the Internet, including, but are not limited to, Yelp, YouTube, Superpages, and Yahoo.

7. The defamatory statements made by Petrick about Peak Internet include, but are not limited to, false statements about the speed of services provided by Peak Internet and responses to complaints about alleged issues with the speed of services provided by Peak Internet.

8. Upon information and belief, Petrick has made defamatory statements about Peak Internet to other third-parties not using the Internet.

9. Upon information and belief, the defamatory statements made by Petrick about Peak Internet to other third-parties include, but are not limited to, false statements about the speed of services provided by Peak Internet and responses to complaints about alleged issues with the speed of services provided by Peak Internet.

## **FIRST CLAIM FOR RELIEF (DEFAMATION)**

10. Peak Internet restates and incorporates by reference the allegations contained in paragraphs 1 through 9 above.

11. Petrick published or caused to be published the statements set forth above in the same or substantially similar words.

12. The statement was or statements were defamatory.

13. The statement or statements are false.

14. The statement was or statements were about Peak Internet.

15. The publication of the statement(s) caused damages, including actual and/or special damages, to Peak Internet.

**SECOND CLAIM FOR RELIEF  
(DEFAMATION *PER SE*)**

16. Peak Internet restates and incorporates by reference the allegations contained in paragraphs 1 through 15 above.

17. Petrick published or caused to be published the statements set forth above in the same or substantially similar words.

18. The statement was or statements were defamatory *per se*.

19. The statement or statements are false.

20. The statement was or statements were about Peak Internet.

21. The publication of the statement(s) caused damages, including actual and/or special damages, to Peak Internet.

WHEREFORE, Peak Internet requests the Court enter judgment as follows:

1. In favor of Peak Internet and against Petrick on the First Claim for Relief in an amount to be determined at trial, plus interest, costs, and attorneys' fees;

2. In favor of Peak Internet and against Petrick on the Second Claim for Relief in an amount to be determined at trial, plus interest, costs, and attorneys' fees; and

3. For such other and further relief as this Court deems just and proper.

DATED this 28<sup>th</sup> day of May, 2014.

SHERMAN & HOWARD L.L.C.  
*(Original signature on file at Sherman & Howard LLC)*

/s/ Ryan J. Klein, Esq.  
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