



San Francisco Superior Courts
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Case Number: CGC-08-473799

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COMPLAINT

PROSPER MARKETPLACE, INC. VS. ROGER TRESKUNOFF

001C02075454

Instructions:

Please place this sheet on top of the document to be scanned.

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**
ROGER TRESKUNOFF

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTA DEMANDANDO EL DEMANDANTE):**

PROSPER MARKETPLACE, INC.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: SUPERIOR COURT OF CALIFORNIA, COUNTY OF
(El nombre y dirección de la corte es) SAN FRANCISCO

CASE NUMBER:
(Número de Caso) **028-38-473799**

400 MCALLISTER ST., RM. 103

San Francisco, CA 94102-4514

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney.
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)
HUNT & HENRIQUES, Attorneys at Law Michael S. Hunt 408-949-9005 Janalie Henriques #111589
151 Bernal Rd. Suite 8, San Jose, CA 95119 (408) 362-2270

DATE:
(Fecha) **APR - 2 2008**

LIMITED CIVIL
Gordon Park-Li (Secretary)
ELIAS BUTT, Deputy (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons, (form POS-010).)
(Para prueba de entrega de esta citacion use el formulario Proof of Service of Summons, (form POS-010).)



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):
- 3. on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
- CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
- other (specify):

4. by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):
HUNT & HENRIQUES, Attorneys at Law
 Michael S. Hunt, #99804 Janalie Henriques, #111589
 151 Bernal Rd. STE 8, San Jose, CA 95119-1306
 TELEPHONE NO: (408) 362-2270 FAX NO. (OPTIONAL): (408) 362-2299
 ATTORNEY FOR (Name): **PLAINTIFF**

FOR COURT USE ONLY

FILED

San Francisco County Superior Court

APR - 2 2008

GORDON PARK-LI, Clerk
 BY: Eric R. H.
 Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
 STREET ADDRESS: 400 MCALLISTER ST., RM. 103
 MAILING ADDRESS:
 CITY AND ZIP CODE: San Francisco, CA 94102-4514
 BRANCH NAME: LIMITED JURISDICTION

CASE NAME: **PROSPER MARKETPLACE, INC.**
vs. ROGER TRESKUNOFF

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
CGC-08-473799
 JUDGE:
 DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|---|--|---|
| <p>Auto Tort</p> <input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured Motorist (46) <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23) <p>Non-PI/PD/WD (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35) <p>Employment</p> <input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other Employment (15) | <p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06)
<input checked="" type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|---|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|---|
| <p>a. <input type="checkbox"/> Large number of separately represented parties</p> <p>b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve</p> <p>c. <input type="checkbox"/> Substantial amount of documentary evidence</p> | <p>d. <input type="checkbox"/> Large number of witnesses</p> <p>e. <input type="checkbox"/> Coordination and related actions pending in one or more courts in other counties, states or countries, or in a federal court</p> <p>f. <input type="checkbox"/> Substantial post-disposition judicial disposition</p> |
|---|---|
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): **2**
5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015)
 Date: **March 24, 2008**
HUNT & HENRIQUES- Michael S. Hunt

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet shall be used for statistical purposes only.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): HUNT & HENRIQUES, Attorneys at Law Michael S. Hunt, ESQ. #99804 Janalie Henriques, ESQ. #111589 151 Bernal Rd. STE 8, San Jose, CA 95119-1306 TELEPHONE NO: (408) 362-2270 FAX NO. (OPTIONAL): (408) 362-2299 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): PLAINTIFF	FOR COURT USE ONLY SUMMONS ISSUED FILED San Francisco County Superior Court APR - 2 2008 GORDON PARK-LI, Clerk BY: <u>[Signature]</u> Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 MCALLISTER ST., RM. 103 MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102-4514 BRANCH NAME: LIMITED JURISDICTION	CASE MANAGEMENT CONFERENCE SET AUG - 1 2008 - 10:00 AM DEPARTMENT 212
PLAINTIFF: PROSPER MARKETPLACE, INC. DEFENDANT: ROGER TRESKUNOFF [] DOES 1 TO _____	
CONTRACT [X] COMPLAINT [] AMENDED COMPLAINT (Number): [] CROSS-COMPLAINT [] AMENDED CROSS-COMPLAINT (Number):	
Jurisdiction (check all that apply): [X] ACTION IS A LIMITED CIVIL CASE 15,913.59 Amount demanded [] does not exceed \$10,000 [X] exceeds \$10,000, but does not exceed \$25,000 [] ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) [] ACTION IS RECLASSIFIED by this amended complaint or cross-complaint [] from limited to unlimited [] from unlimited to limited	CASE NUMBER: CRC-08-473799

1. PLAINTIFF* (names): PROSPER MARKETPLACE, INC.

alleges causes of action against DEFENDANT* (names):

ROGER TRESKUNOFF

2. This pleading, including attachments and exhibits, consists of the following number of pages: 4

3. a. Each plaintiff named above is a competent adult

- [X] except plaintiff (name): PROSPER MARKETPLACE, INC.
- [] a corporation qualified to do business in California
- [] an unincorporated entity (describe):
- [X] other (specify): A DELAWARE CORPORATION

b. [X] Plaintiff (name): PROSPER MARKETPLACE, INC.

[] has complied with the fictitious business name laws and is doing business under the fictitious name of (specify):

[X] has complied with all licensing requirements as a licensed (specify): CALIFORNIA FINANCE LENDER

c. [] Information about additional plaintiffs who are not competent adults is shown in Complaint - Attachment 3c.

4. a. Each defendant named above is a natural person

- [] except defendant (name):
- [] a business organization, form unknown
- [] a corporation
- [] an unincorporated entity (describe):
- [] a public entity (describe):
- [] other (specify):

- [] except defendant (name):
- [] a business organization, form unknown
- [] a corporation
- [] an unincorporated entity (describe):
- [] a public entity (describe):
- [] other (specify):

*If this form is used as a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

SHORT TITLE:
PROSPER MARKETPLACE, INC. V.
ROGER TRESKUNOFF

CASE NUMBER:

4. (Continued)
- b. The true names and capacities of defendants sued as Does are unknown to plaintiff.
- (1) Doe defendants (specify Doe numbers): _____ were the agents or employees of the named defendants and acted within the scope of that agency or employment.
- (2) Doe defendants (specify Doe numbers): _____ are persons whose capacities are unknown to plaintiff.
- c. Information about additional defendants who are not natural persons is contained in Complaint - Attachment 4c.
- d. Defendants who are joined pursuant to Code of Civil Procedure section 382 are (names): _____

5. Plaintiff is required to comply with a claims statute, and
- a. plaintiff has complied with applicable claims statutes, or
- b. plaintiff is excused from complying because (specify): _____

6. This action is subject to Civil Code section 1812.10 Civil Code section 2984.4.

7. This court is the proper court because
- a. a defendant entered into the contract here.
- b. a defendant lived here when the contract was entered into.
- c. a defendant lives here now.
- d. the contract was to be performed here.
- e. a defendant is a corporation or unincorporated association and its principal place of business is here.
- f. real property that is the subject of this action is located here.
- g. other (specify): _____

8. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):
- Breach of Contract
- Common Counts
- Other (specify): _____

9. Other: Prosper Marketplace, Inc. is the owner of the account sued upon herein.

10. PLAINTIFF PRAYS for judgment for costs of suit; for such relief as is fair, just, and equitable; and for
- a. damages of \$ 15,913.59
- b. interest on the damages
- (1) according to proof
- (2) at the rate of 24.00 percent per year from (date): June 7, 2007
- c. attorney fees
- (1) of \$ _____
- (2) according to proof.
- d. other (specify): _____

11. The following paragraphs of this pleading are alleged on information and belief (specify paragraph numbers): _____

Date: MAR 24 2008

MICHAEL S. HUNT #99804 OR
JANALIE HENRIQUES #111589
(TYPE OR PRINT NAME)

h
(SIGNATURE OF PLAINTIFF OR ATTORNEY)

(If you wish to verify this pleading, affix a verification.)

SHORT TITLE:

PROSPER MARKETPLACE, INC.
vs. ROGER TRESKUNOFF

CASE NUMBER:

FIRST

(number)

CAUSE OF ACTION--Breach of Contract

ATTACHMENT TO Complaint Cross-Complaint*(Use a separate cause of action form for each cause of action.)*BC-1. Plaintiff *(name)*: PROSPER MARKETPLACE, INC. alleges that on or about *(date)*: March 7, 2007a written oral other *(specify)*:agreement was made between *(name parties to agreement)*: PROSPER MARKETPLACE, INC. and/or its Assignor(s) AND ROGER TRESKUNOFF A copy of the agreement is attached as Exhibit A, or The essential terms of the agreement are stated in Attachment BC-1 are as follows *(specify)*:

Pursuant to the borrower registration agreement and promissory note(s), Defendant agreed to pay to Plaintiff or its assigns, the sum of 16,900.00 with interest therein at the rate of 24.00% per annum in consecutive monthly installments of 663.04 commencing April 7, 2007

BC-2. On or about *(dates)*: July 7, 2007defendant breached the agreement by the acts specified in Attachment BC-2 the following acts *(specify)*:

Failure to pay the installment payment then due and owing. Defendant(s) despite demand remain in default.

BC-3. Plaintiff has performed all obligations to defendant except those obligations plaintiff was prevented or excused from performing.

BC-4. Plaintiff suffered damages legally (proximately) caused by defendant's breach of the agreement

 as stated in Attachment BC-4 as follows *(specify)*:

Loss of use and benefit of plaintiff funds in the sum of 15,913.59 plus interest at the rate of 24.00% per annum from June 7, 2007 and other fees and charges authorized by the agreement.

BC-5. Plaintiff is entitled to attorney fees by an agreement or a statute of \$ according to proof.BC-6. Other:

SHORT TITLE: PROSPER MARKETPLACE, INC. v. ROGER TRESKUNOFF	CASE NUMBER:
--	--------------

SECOND CAUSE OF ACTION - Common Counts
(number)

ATTACHMENT TO Complaint Cross-Complaint

(Use a separate cause of action form for each cause of action.)

CC-1. Plaintiff *(name)*:

PROSPER MARKETPLACE, INC.

alleges that defendant *(name)*:

ROGER TRESKUNOFF

became indebted to plaintiff other *(name)*: and/or its Assignor(s)

a. within the last four years

(1) on an open book account for money due.

(2) because an account was stated in writing by and between plaintiff and defendant in which it was agreed that defendant was indebted to plaintiff.

b. within the last two years four years

(1) for money had and received by defendant for the use and benefit of plaintiff. for work, labor,

(2) services and materials rendered at the special instance and request of defendant and for which defendant promised to pay plaintiff

the sum of \$

the reasonable value.

(3) for goods, wares, and merchandise sold and delivered to defendant and for which defendant promised to pay plaintiff

the sum of \$

the reasonable value.

(4) for money lent by plaintiff to defendant at defendant's request.

(5) for money paid, laid out, and expended to or for defendant at defendant's special instance and request.

(6) other *(specify)*: Unjust enrichment

CC-2. \$ 15,913.59, which is the reasonable value, is due and unpaid despite plaintiff's demand, plus prejudgment interest according to proof at the rate of 24.00 percent per year from *(date)*: June 7, 2007

CC-3. Plaintiff is entitled to attorney fees by an agreement or a statute

of \$

according to proof.

CC-4. Other:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
LIMITED JURISDICTION

STATEMENT OF LOCATION/VENUE

CASE NAME: PROSPER MARKETPLACE, INC.
 V. ROGER TRESKUNOFF
CASE NUMBER:

Please check ONE of the following statements to indicate the basis for your filing of the complaint in this Judicial District and fill in the address.

 1. Cause of Action arose in this Judicial District.
Address of the cause of action is:

Street City Zip Code

 2. Property located in this judicial district. The address of this property is:

Street City Zip Code

 3. Tort occurred in this judicial district. The address of the tort is:

Street (if known) City Zip Code
(or nearest major intersection)

 4. Contract entered into or to be performed in this judicial district. The address where contract entered into or to be performed is:

Street (if known) City Zip Code

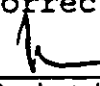
XXX 5. Defendant resides in this judicial district. The address of the defendant is:

290 Turk St, San Francisco, CA 94102

Street City Zip Code

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: March 24, 2008



Signature of Plaintiff's Attorney
HUNT & HENRIQUES