

§ 1-539.2A. Damages for computer trespass.

(a) Any person whose property or person is injured by reason of a violation of G.S. 14-458 may sue for and recover any damages sustained and the costs of the suit. Without limiting the general of the term, "damages" shall include loss of profits. If the injury arises from the transmission of unsolicited bulk commercial electronic mail, the injured person, other than an electronic mail service provider, may also recover attorneys' fees and may elect, in lieu of actual damages, to recover the lesser of ten dollars (\$10.00) for each and every unsolicited bulk commercial electronic mail message transmitted in violation of this section, or twenty-five thousand dollars (\$25,000) per day. The injured person shall not have a cause of action against the electronic mail service provider which merely transmits the unsolicited bulk commercial electronic mail over its computer network. If the injury arises from the transmission of unsolicited bulk commercial electronic mail, an injured electronic mail service provider may also recover attorneys' fees and costs and may elect, in lieu of actual damages, to recover the greater of ten dollars (\$10.00) for each and every unsolicited bulk commercial electronic mail message transmitted in violation of this section, or twenty-five thousand dollars (\$25,000) per day.

(b) A civil action under this section shall be commenced before expiration of the time period prescribed in G.S. 1-54. In actions alleging injury arising from the transmission of unsolicited bulk commercial electronic mail, personal jurisdiction may be exercised pursuant to G.S. 1-75.4. (1999-212, s. 4; 1999-456, s. 8.)