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CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

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FEDERAL TRADE COMMISSION

11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 FEDERAL TRADE COMMISSION,
14

15 Plaintiff,

16 v.

17 FORENSIC CASE MANAGEMENT
SERVICES, INC. d/b/a Commercial
18 Investigations, Inc., FCMS, Inc., Commercial
19 Recovery Solutions, Inc., and Rumson,
Bolling & Associates, a California
20 corporation; SPECIALIZED RECOVERY,
INC. d/b/a Joseph, Steven & Associates and
21 Specialized Debt Recovery, a California
corporation; COMMERCIAL
22 RECEIVABLES ACQUISITION, INC. d/b/a
Commercial Recovery Authority, Inc. and
23 The Forwarding Company, a California
corporation; DAVID M. HYNES II a/k/a
24 David M. Hynes, Jr.; JAMES HYNES;
KEVIN MEDLEY; HEATHER TRUE;
25 FRANK E. LINDSTROM, JR.; and
LORENA QUIROZ-HYNES a/k/a Lorena
Quiroz and Lorena Hynes,

26 Defendants.
27

LACV11-7484 RGVK(SSJ)

Case No.:

COMPLAINT FOR
PRELIMINARY AND
PERMANENT
INJUNCTION AND
OTHER EQUITABLE
RELIEF

(LODGED UNDER SEAL)

28 Plaintiff, the Federal Trade Commission ("FTC"), by its undersigned

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U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

1 attorneys, for its Complaint alleges:

2 1. The FTC brings this action under Sections 13(b) and 19 of the
3 Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and
4 Section 814 of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §
5 1692l, to obtain temporary, preliminary, and permanent injunctive relief against
6 Defendants to prevent them from engaging in unfair and deceptive acts or
7 practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and
8 from engaging in unfair, deceptive, and abusive acts or practices in violation of
9 the FDCPA, 15 U.S.C. §§ 1692-1692p, and to obtain other equitable relief,
10 including rescission of contracts, restitution, disgorgement, and other ancillary
11 equitable relief as is necessary to redress injury to consumers and the public
12 interest resulting from Defendants’ violations of the FTC Act and the FDCPA.

13 **JURISDICTION AND VENUE**

14 2. This Court has subject matter jurisdiction over this action pursuant
15 to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a), 53(b), 57b,
16 and 1692l. This action arises under 15 U.S.C. §§ 45(a) and 1692l.

17 3. Venue in the Central District of California is proper under 28
18 U.S.C. §§ 1391(b) and (c), and 15 U.S.C. § 53(b).

19 **THE PLAINTIFF**

20 4. Plaintiff FTC is an independent agency of the United States
21 Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section
22 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts
23 or practices in or affecting commerce. The FTC also enforces the FDCPA, 15
24 U.S.C. §§ 1692-1692p, which prohibits abusive, deceptive, and unfair
25 collection practices.

26 5. The FTC is authorized to initiate federal district court proceedings,
27 by its own attorneys, to enjoin violations of the FTC Act and the FDCPA, and
28 to secure such equitable relief as may be appropriate in each case, including

1 rescission or reformation of contracts, restitution, the refund of monies paid,
2 and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A),
3 56(a)(2)(B), 57b, and 1692l(a). Section 814 of the FDCPA further authorizes
4 the FTC to use all of its functions and powers under the FTC Act to enforce
5 compliance with the FDCPA, including the power to enforce the provisions of
6 the FDCPA in the same manner as if the violations were violations of an FTC
7 trade regulation rule. 15 U.S.C. § 1692l.

8 **THE DEFENDANTS**

9 6. Defendant Forensic Case Management Services, Inc., also doing
10 business as Commercial Investigations, Inc., FCMS, Inc., Commercial
11 Recovery Solutions, Inc., and Rumson, Bolling & Associates, is a California
12 corporation with its principal place of business in Van Nuys, California.
13 Forensic Case Management Services transacts, or has transacted, business in
14 this District and throughout the United States.

15 7. Defendant Specialized Recovery, Inc., also doing business as
16 Joseph, Steven & Associates, and Specialized Debt Recovery, is a California
17 corporation with its principal place of business in Ventura, California.
18 Specialized Recovery transacts, or has transacted, business in this District and
19 throughout the United States.

20 8. Defendant Commercial Receivables Acquisition, Inc., also doing
21 business as Commercial Recovery Authority, Inc., and The Forwarding
22 Company, is a California corporation with its principal place of business in Van
23 Nuys, California. Commercial Receivables Acquisition transacts, or has
24 transacted, business in this District and throughout the United States.

25 9. Defendant David M. Hynes II, also known as David. M. Hynes, Jr.,
26 is or has been a manager, officer, director, or principal of all of the Defendants
27 identified in Paragraphs 6-8 above. Specifically, David Hynes is or has been, at
28 times material to this Complaint: the president of Forensic Case Management

1 Services, Commercial Investigations, Inc., Commercial Receivables
2 Acquisition, and Specialized Recovery; the owner of Specialized Recovery; a
3 director of Forensic Case Management Services, The Forwarding Company,
4 Commercial Receivables Acquisition, Inc., and Specialized Recovery; and the
5 chief executive officer, secretary, chief financial officer, and treasurer of
6 Specialized Recovery and Forensic Case Management Services. David Hynes
7 has also received a salary from Forensic Case Management Services, Inc. since
8 at least 2007. At all times material to this Complaint, acting alone or in concert
9 with others, he has formulated, directed, controlled or had authority to control,
10 or participated in the acts and practices set forth in this Complaint. David
11 Hynes resides in this District and, in connection with the matters alleged herein,
12 transacts, or has transacted, business in this District and throughout the United
13 States.

14 10. Defendant James Hynes is or has been a manager, officer, director,
15 or principal of Forensic Case Management Services and Specialized Recovery.
16 Specifically, James Hynes is or has been, at times material to this Complaint:
17 the chairman, chief financial officer, vice president, treasurer, director, and
18 secretary of Forensic Case Management Services; as well as the president of
19 Specialized Recovery. James Hynes also has received a salary from Forensic
20 Case Management Services, Inc. since at least 2008. At times material to this
21 Complaint, acting alone or in concert with others, he has formulated, directed,
22 controlled or had authority to control, or participated in the acts and practices
23 set forth in this Complaint. James Hynes resides in this District and, in
24 connection with the matters alleged herein, transacts, or has transacted, business
25 in this District and throughout the United States.

26 11. Defendant Kevin Medley is or has been a manager, officer,
27 director, or principal of Forensic Case Management Services and Specialized
28 Recovery. Specifically, Kevin Medley is or has been, at times material to this

1 Complaint: the treasurer and secretary of Specialized Recovery, as well as the
2 president, chief executive officer, or director of Forensic Case Management
3 Services. Kevin Medley has received a salary from Forensic Case Management
4 Services, Inc. since at least 2007. At times material to this Complaint, acting
5 alone or in concert with others, he has formulated, directed, controlled or had
6 authority to control, or participated in the acts and practices set forth in this
7 Complaint. Kevin Medley resides in this District and, in connection with the
8 matters alleged herein, transacts, or has transacted, business in this District and
9 throughout the United States.

10 12. Defendant Heather True is or has been a manager, officer, director,
11 or principal of Forensic Case Management Services. Specifically, Heather True
12 is or has been, at times material to this Complaint: the corporate secretary,
13 treasurer, vice president, chief financial officer of Forensic Case Management
14 Services, as well as a supervisor. True has received a salary from Forensic Case
15 Management Services, Inc. since at least 2007. At times material to this
16 Complaint, acting alone or in concert with others, she has formulated, directed,
17 controlled or had authority to control, or participated in the acts and practices
18 set forth in this Complaint. Heather True resides in this District and, in
19 connection with the matters alleged herein, transacts, or has transacted, business
20 in this District and throughout the United States.

21 13. Defendant Frank E. Lindstrom, Jr. is or has been a manager,
22 officer, director, or principal of Commercial Receivables Acquisition and
23 Forensic Case Management Services. Specifically, Frank Lindstrom is or has
24 been, at times material to this Complaint: the president or chief executive
25 officer of Commercial Receivables Acquisition. Lindstrom also has received a
26 salary from Forensic Case Management Services, Inc. since at least 2007. At
27 times material to this Complaint, acting alone or in concert with others, he has
28 formulated, directed, controlled or had authority to control, or participated in

1 the acts and practices set forth in this Complaint. Lindstrom resides in this
2 District and, in connection with the matters alleged herein, transacts, or has
3 transacted, business in this District and throughout the United States.

4 14. Defendant Lorena Quiroz-Hynes a/k/a Lorena Quiroz and Lorena
5 Hynes is or has been a manager, officer, director, principal, or employee of
6 Forensic Case Management Services. Specifically, Lorena Quiroz-Hynes is or
7 has been, at times material to this Complaint: the secretary and chief financial
8 officer of Commercial Receivables Acquisition. She has received a salary from
9 Forensic Case Management Services since at least 2008. She is also the wife of
10 David Hynes. At times material to this Complaint, acting alone or in concert
11 with others, she has formulated, directed, controlled or had authority to control,
12 or participated in the acts and practices set forth in this Complaint. Lorena
13 Quiroz-Hynes resides in this District and, in connection with the matters alleged
14 herein, transacts, or has transacted, business in this District and throughout the
15 United States.

16 **COMMON ENTERPRISE**

17 15. Defendants Forensic Case Management Services, Specialized
18 Recovery, and Commercial Receivables Acquisition (“collectively, the
19 “Corporate Defendants”) have operated as a common enterprise while engaging
20 in the unlawful acts and practices alleged below. The Corporate Defendants
21 have conducted the business practices described below through interrelated
22 companies that have had common ownership, officers, managers, business
23 functions, employees, and/or office locations, and have commingled funds.
24 Because the Corporate Defendants have operated as a common enterprise, each
25 of them is jointly and severally liable for the acts and practices alleged below.
26 Individual Defendants David Hynes, James Hynes, Kevin Medley, Heather
27 True, Frank Lindstrom, and Lorena Quiroz-Hynes have formulated, directed,
28 controlled or had authority to control, or participated in the acts and practices of

1 the Corporate Defendants that comprise the common enterprise. The common
2 enterprise transacts or has transacted business in this District and a substantial
3 part of the events or omissions giving rise to the claims asserted herein have
4 occurred in this District.

5 COMMERCE

6 16. At all times material to this Complaint, Defendants have
7 maintained a substantial course of trade in or affecting commerce, as
8 “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

9 NATURE OF ENFORCEMENT ACTION

10 17. This enforcement action is brought to remedy unlawful acts and
11 practices by Defendants in: (1) marketing and providing their third-party debt
12 collection services to creditors, mostly small businesses; and (2) collecting
13 money from alleged debtors, including individuals and small businesses.
14 Defendants have engaged in deceptive, unfair, and abusive practices in almost
15 every facet of their dealings with both their clients and the alleged debtors from
16 whom they try to collect.

17 18. Marketing themselves as third-party, contingency fee, debt
18 collectors, Defendants have promised small businesses with outstanding debts
19 owed by their customers that Defendants will collect those debts for the
20 business. Among other things, Defendants have represented that they will: (1)
21 not charge a fee unless they successfully collect on the debt, and even then will
22 only charge a single contingency fee that is a pre-determined percentage of the
23 amount collected; and (2) forward any money they collect to the creditor, minus
24 the contingency fee.

25 19. After obtaining the client’s business, however, Defendants often
26 have induced the client to pay “legal fees,” representing that they have located
27 some of the alleged debtor’s assets but must initiate legal proceedings to obtain
28

1 the assets. In many instances, however, Defendants did not locate the assets
2 and/or never undertook the promised actions.

3 20. In addition, in many instances, even if Defendants have
4 successfully collected money from the alleged debtor, Defendants have not
5 forwarded the collected money, minus the agreed-upon contingency fee, to the
6 client.

7 21. Defendants also have engaged in deceptive and abusive practices
8 in collecting, or attempting to collect, debts. In their collection efforts,
9 Defendants have frequently and unlawfully: (1) harassed and abused alleged
10 debtors with repeated phone calls and profane insults and threats; (2) disclosed
11 debts to third-parties, including co-workers and employers; and (3) falsely
12 threatened legal action, arrest, imprisonment, garnishment, or seizure. In
13 addition, even when alleged debtors have paid off or settled their debts with
14 Defendants, Defendants often have deprived them of the benefits of doing so
15 because Defendants have not forwarded the appropriate payments on to the
16 creditor.

17 **DEFENDANTS' BUSINESS ACTIVITIES**

18 22. Defendants are third-party debt collectors that collect consumer
19 and commercial debts owed to creditors, mostly small businesses, that hire
20 Defendants for that purpose.

21 **Defendants' Unfair and Deceptive Practices in** 22 **Dealing with Their Small Business Clients**

23 23. At all times material to this Complaint, Defendants have marketed
24 their debt collection services to creditors through a variety of means and media,
25 including telephone calls to prospective clients and through a number of
26 Internet websites.

27 24. Defendants market themselves to potential clients as contingency
28 fee collectors, claiming that they will charge their clients only when they

1 successfully collect a debt, often using the slogan "no recovery, no fee."
2 Defendants also claim that they will limit their charge to a single fee that
3 generally ranges from 18% to 50% of the amount collected, depending on
4 factors including the age and amount of the debt and whether they must file a
5 collection lawsuit to collect the debt. Implicit in this claim is that any amounts
6 they collect, minus the above-referenced fee, will be forwarded to the client.
7 These representations often are repeated both orally during Defendants' "sales
8 pitch" to the potential client, and in the contract Defendants ask their clients to
9 sign.

10 25. In fact, even when Defendants have successfully collected a debt
11 owed to a client, Defendants in many cases have not forwarded to the client the
12 full amount of money due to the client, instead keeping the proceeds from the
13 collection efforts for themselves.

14 26. Moreover, in many cases, after clients have retained Defendants to
15 collect clients' past-due accounts on a contingency basis, Defendants have
16 sought and obtained additional fees from the clients.

17 27. Defendants frequently have contacted clients and claimed that
18 Defendants have located the alleged debtor's assets – in some cases a specific
19 kind of asset or amount of money – and will secure those assets through legal
20 proceedings if the client pays Defendants an additional fee (variously referred
21 to as, among other things, a "legal fee," a "filing fee," a "court fee," a
22 "processing fee," or an "attorney's fee"). The requested fee, which is in
23 addition to the contingency fee described in paragraph 24, ranges in amount
24 from several hundred to several thousand dollars. Further, Defendants often
25 have promised or guaranteed that they will recoup this fee for the client, in
26 addition to the amount of the underlying debt, through the promised legal
27 action.
28

1 28. In fact, in many cases where Defendants have claimed to have
2 identified or located assets, Defendants have not done so or have not identified
3 or located the amount of assets or money that they had claimed. Moreover, in
4 many cases, after receiving the additional fee described in Paragraph 27,
5 Defendants have failed to take legal action against the alleged debtor and thus
6 have failed to recoup this fee for the client.

7 29. In addition, after receiving additional fees from a client,
8 Defendants in many instances have gone back to the client repeatedly and
9 claimed that they need even more fees for legal action to collect on one or more
10 delinquent accounts.

11 30. In many of these cases, however, Defendants neither undertook the
12 promised legal action to collect the debt nor refunded the fees paid by the client.

13 **Defendants' Unfair, Deceptive, and Abusive Collection Practices**

14 31. Once a client engages Defendants to collect a debt, Defendants use
15 telephone calls and dunning letters to contact the individual or small business
16 that allegedly owes the debt, to try to collect payment from them.

17 32. In many instances, in collection calls or in dunning letters,
18 Defendants have threatened that, unless Defendants receive prompt payment,
19 they will have the alleged debtor arrested, or will seize, garnish, attach, or sell
20 the alleged debtor's property or wages. In fact, after Defendants have made
21 these threats, they have not sought to have the alleged debtor arrested or seized,
22 garnished, attached or sold any of the alleged debtor's property or wages, even
23 if payment was not made.

24 33. In many cases, Defendants have told alleged debtors that legal
25 action against them has been taken or will be taken shortly. For example, one
26 of Defendants' form dunning letters states that "[t]he only choice you leave us
27 is to transfer this account to our legal department so that it may send this
28 account to our attorney who will enforce our rights through the courts," and

1 “[i]f we have not received the payment within 7 calendar days of the date of this
2 letter, our legal department will proceed by sending this account to counsel for
3 filing suit.”

4 34. Another of Defendants’ form dunning letters used on numerous
5 occasions threatens that Defendants “are therefore recommending to our client
6 that they immediately institute legal action to secure the payment of this
7 outstanding account.”

8 35. A third form letter used by Defendants warns, “UNLESS YOU
9 IMMEDIATELY REMIT THE AMOUNT OWED, BE PREPARED TO BE
10 SERVED WITH LEGAL PROCESS AND A COMPLAINT FOR A COURT
11 APPEARANCE AS DEFENDANT IN THIS ACTION AGAINST YOU.”

12 36. In many instances, Defendants’ letters also state that alleged
13 debtors whom Defendants or their clients sue will be responsible for paying the
14 cost of legal fees and other expenses incurred by Defendants or their client. For
15 example, one of Defendants’ form dunning letters states that, “[i]n the event
16 that litigation is begun prior to receiving payment, you will be responsible for
17 all expenses associated herewith.”

18 37. In fact, after Defendants have threatened legal action, Defendants
19 in many cases have not filed any such action to collect the debt. In addition,
20 because they have not filed an action, obtained a judgment, and received an
21 award of costs, Defendants cannot hold alleged debtors liable for any expenses
22 or legal fees that they or their clients incur.

23 38. On numerous occasions, Defendants have called alleged debtors
24 repeatedly or continuously with the intent to annoy, harass, or abuse. For
25 example, Defendants have: (a) continued to call alleged debtors even after being
26 told, either orally or in writing, to stop; (b) continued to call alleged debtors
27 even after being told that the person with whom they are speaking is not the
28 alleged debtor whom Defendants are attempting to contact; (c) immediately

1 called back alleged debtors right after the alleged debtor has terminated the
2 previous call; and (d) called alleged debtors multiple times per day or multiple
3 times over an extended period of time.

4 39. In many instances, Defendants have used obscene or profane
5 language or language the natural consequence of which is to abuse the hearer or
6 reader. For example, Defendants have screamed at alleged debtors, and used
7 abusive and profane language against them. For example, Defendants have
8 called alleged debtors "deadbeat," "sheepf**ker," "goatf**ker," "white trash,"
9 "piece of crap," "crackerhead," "scumbag," "lowlife," and "a**hole."

10 40. In many cases, Defendants also have threatened to use violence or
11 other criminal means to harm the physical person, reputation, or property of
12 alleged debtors. For example, Defendants' have threatened to "f**k [an alleged
13 debtor's] mother in her bed," to kill a consumer's dog, and to physically harm
14 an alleged debtor. And on at least two occasions, while attempting to collect
15 debts owed to funeral homes, Defendants have threatened to desecrate the
16 bodies of alleged debtors' deceased children if the debt was not paid.

17 41. For example, Defendants, using the trade name Rumson, Bolling &
18 Associates, attempted to collect from a consumer who was unable to pay the
19 balance due for her daughter's funeral. During the calls, Rumson, Bolling &
20 Associates told her they were going to dig her daughter up and hang her from a
21 tree, if she did not pay the debt. They also threatened to have her "dog arrested
22 shoot him up and . . . eat him," and to send the sheriff to her home to arrest
23 her. And they called her vulgar names, including "deadbeat piece of crap
24 crackerhead" and "white trash." They also threatened to kill her: "are you
25 going to pay this bill right now . . . or am I going to have to kill you?"

26 42. Defendants, using the trade name Rumson, Bolling & Associates,
27 also attempted to collect a debt owed by another alleged debtor to a funeral
28 home. This individual fell behind on her debt to a funeral home after both of

1 her sons died within a week of each other. Defendants called her a “deadbeat,”
2 and asked how she would feel if her son’s body was dug up and dropped
3 outside her door.

4 43. Defendants also have on many occasions disclosed debts to alleged
5 debtors’ coworkers, employers, neighbors, and other third parties, revealing the
6 existence of the debt, its amount, and/or its nature.

7 44. In numerous instances, Defendants have represented to alleged
8 debtors that payments made by them to Defendants would be applied in full or
9 partial satisfaction of their debt, when, in fact, Defendants did not forward the
10 appropriate payment to the client or otherwise credit the payment against the
11 original debt. These practices have exposed alleged debtors to possible efforts
12 by the creditor or its agents to continue collecting the debt, including through
13 lawsuits, and to the posting of inaccurate negative information on the alleged
14 debtor’s credit reports.

15 **VIOLATION OF SECTION 5 OF THE FTC ACT**

16 45. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or
17 deceptive acts or practices in or affecting commerce.”

18 46. Misrepresentations or deceptive omissions of material fact
19 constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.
20 Acts or practices are unfair under Section 5 of the FTC Act if they cause
21 substantial injury to consumers (small businesses or individuals) that consumers
22 cannot reasonably avoid themselves and that is not outweighed by
23 countervailing benefits to consumers or competition. 15 U.S.C. § 45(n).

24 **COUNT ONE**

25 47. In numerous instances, in connection with soliciting debt
26 collection business from potential clients, Defendants have represented,
27 expressly or by implication, that, if Defendants collect from alleged debtors any
28

1 amounts owed, Defendants will forward the collected amount, minus a specified
2 contingency fee for debt collection services, to the client.

3 48. In truth and in fact, in numerous instances, when Defendants have
4 collected money from alleged debtors, Defendants have not forwarded to their
5 client the full amount of money to which their client was entitled, *i.e.*, the
6 collected amount minus the specified contingency fee.

7 49. Therefore, Defendants' representations as set forth in Paragraph 47
8 are false or misleading and constitute deceptive acts or practices in violation of
9 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

10 COUNT TWO

11 50. In numerous instances, after a client has given past due accounts to
12 Defendants for collection, Defendants have contacted the client and
13 represented, expressly or by implication, that:

- 14 (a) Defendants have identified or located at least some of the
15 alleged debtor's assets, which can be used toward the
16 satisfaction of the alleged debt;
- 17 (b) Defendants will undertake certain legal actions, such as the
18 filing of a collection lawsuit, the garnishment of wages, or
19 seizure of assets, if the client pays Defendants a fee to
20 initiate those actions; or
- 21 (c) Collection of at least some of the money owed on the
22 alleged debt is guaranteed if the client pays Defendants a fee
23 to initiate the specified legal action(s).

24 51. In truth and in fact, in numerous instances in which Defendants
25 have made the representations set forth in Paragraph 50:

- 26 (a) Defendants have not identified or located the assets that they
27 represented that they had identified or located;

- 1 (b) Defendants have not undertaken the represented legal
2 action(s) after receiving the requested fee from the client; or
3 (c) Even though Defendants guaranteed that they would collect
4 at least some of the money owed on the alleged debt if the
5 client paid the requested fee, and received the requested fee
6 from the client, the client never has received any money
7 toward the satisfaction of the alleged debt.

8 52. Therefore, Defendants' representations as set forth in Paragraph 50
9 are false or misleading and constitute deceptive acts or practices in violation of
10 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

11 **COUNT THREE**

12 53. In numerous instances, in connection with the collection of debts,
13 Defendants have represented to alleged debtors, including individuals and small
14 businesses, expressly or by implication, that:

- 15 (a) They will be sued unless they promptly pay Defendants;
16 (b) Nonpayment of a debt will result in the arrest or
17 imprisonment of the alleged debtor, or seizure, garnishment,
18 attachment, or sale of the alleged debtor's property or
19 wages;
20 (c) They will be liable for paying the Defendants' or the
21 creditor's legal fees and costs if Defendants file a lawsuit to
22 collect the debt; or
23 (d) Any payments they make to Defendants will be applied in
24 whole or partial satisfaction of their debt.

25 54. In truth and in fact, in numerous instances:

- 26 (a) Defendants have not sued or caused to be sued the alleged
27 debtors whom they threatened to sue;
28

- 1 (b) Nonpayment of a debt has not resulted in the arrest or
2 imprisonment of the alleged debtor, or seizure, garnishment,
3 attachment or sale of the alleged debtor's property or wages;
4 (c) The alleged debtors have not been held liable for
5 Defendants' or the creditor's legal fees and costs; and
6 (d) Payments alleged debtors made to Defendants have not been
7 applied in whole or partial satisfaction of their debt, because
8 Defendants have not remitted those payments to the creditor.

9 55. Therefore, Defendants' representations as set forth in Paragraph 53
10 are false or misleading and constitute deceptive acts or practices in violation of
11 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

12 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

13 56. In 1977, Congress passed the FDCPA, 15 U.S.C. §§ 1692-1692o,
14 which became effective on March 20, 1978, and has been in force ever since
15 that date. Section 814 of the FDCPA, 15 U.S.C. § 1692l, provides that a
16 violation of the FDCPA shall be deemed an unfair or deceptive act or practice
17 in violation of the FTC Act.

18 57. Defendants are "debt collectors" as defined in Section 803(6) of
19 the FDCPA, 15 U.S.C. § 1692a(6).

20 58. A "consumer," as defined in Section 803(3) of the FDCPA, 15
21 U.S.C. § 1692a(3), "means any natural person obligated or allegedly obligated
22 to pay any debt."

23 59. A "consumer debt," as defined in Section 803(5) of the FDCPA,
24 15 U.S.C. § 1692a(5), "means any obligation or alleged obligation of a
25 consumer to pay money arising out of a transaction in which the money,
26 property, insurance or services which are the subject of the transaction are
27 primarily for personal, family, or household purposes, whether or not such
28 obligation has been reduced to judgment."

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COUNT FOUR

60. In numerous instances, in connection with the collection of consumer debts, Defendants have communicated with third parties for purposes other than acquiring location information about a consumer, without having obtained directly the prior consent of the consumer or the express permission of a court of competent jurisdiction, and when not reasonably necessary to effectuate a post judgment judicial remedy, in violation of Section 805(b) of the FDCPA, 15 U.S.C. § 1692c(b).

61. Pursuant to Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), the acts and practices alleged in Paragraph 60 also constitute unfair acts or practices in violation of the FTC Act.

COUNT FIVE

62. In numerous instances, in connection with the collection of consumer debts, Defendants have engaged in conduct the natural consequence of which is to harass, oppress, or abuse a person, in violation of Section 806 of the FDCPA, 15 U.S.C. § 1692d, including, but not limited to:

- 17 (a) Using or threatening to use violence or other criminal means
18 to harm the physical person, reputation, or property of any
19 person, in violation of Section 806(1) of the FDCPA, 15
20 U.S.C. § 1692d(1);
- 21 (b) Using obscene or profane language or language the natural
22 consequence of which is to abuse the hearer, in violation of
23 Section 806(2) of the FDCPA, 15 U.S.C. § 1692d(2); and
- 24 (c) Causing a telephone to ring or engaging a person in
25 telephone conversation repeatedly or continuously with the
26 intent to annoy, abuse, or harass a person at the number
27 called, in violation of Section 806(5) of the FDCPA, 15
28 U.S.C. § 1692d(5).

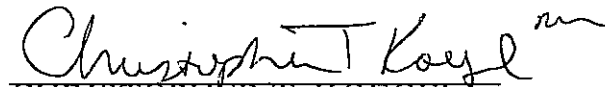
- 1 restraining order, preliminary injunction, and other ancillary relief;
- 2 2. Enter a permanent injunction to prevent future violations of the
- 3 FTC Act by Defendants;
- 4 3. Enter a permanent injunction to prevent future violations of the
- 5 FDCPA by Defendants;
- 6 4. Award such relief as the Court finds necessary to redress injury
- 7 resulting from Defendants' violations of the FTC Act and the
- 8 FDCPA, including but not limited to, rescission or reformation of
- 9 contracts, the refund of monies paid, restitution, and the
- 10 disgorgement of ill-gotten gains by Defendants; and
- 11 5. Award plaintiff the costs of bringing this action, as well as such
- 12 other and additional relief as the Court may determine to be just and
- 13 proper.

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15 Dated: September 12, 2011

Respectfully submitted,

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