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11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **OAKLAND DIVISION**

15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

17 vs.

18 AMERICAN FINANCIAL BENEFITS CENTER,
19 a corporation, also d/b/a AFB and AF STUDENT
20 SERVICES;

21 AMERITECH FINANCIAL, a corporation;

22 FINANCIAL EDUCATION BENEFITS CENTER,
23 a corporation; and

24 BRANDON DEMOND FRERE, individually and
25 as an officer of AMERICAN FINANCIAL
26 BENEFITS CENTER, AMERITECH
27 FINANCIAL, and FINANCIAL EDUCATION
28 BENEFITS CENTER,

Defendants.

Case No. 18-cv-00806-SBA

**FEDERAL TRADE COMMISSION'S
ADMINISTRATIVE MOTION TO
SCHEDULE A CASE
MANAGEMENT CONFERENCE**

Judge: Hon. Sandra Brown
Armstrong

1 Pursuant to Civil Local Rule 7-11, the Federal Trade Commission (“FTC”) respectfully
2 requests that the Court hold a case management conference in this matter as soon as possible.
3 The FTC submits this motion following communications between counsel for all parties.

4 I. Procedural Background

5 The FTC filed the Complaint against American Financial Benefits Center (“AFBC”),
6 Ameritech Financial (“Ameritech”), Financial Education Benefits Center (“FEBC”), and
7 Brandon Frere (collectively “Defendants”) on February 7, 2018 (Dkt. No. 1). On March 2, 2018,
8 the FTC filed a motion for a preliminary injunction, which the Court took under submission
9 (Dkt. No. 22). On April 23, 2018, the Defendants filed a motion to dismiss the FTC’s complaint
10 (Dkt. No. 117). On August 8, 2018, the Court denied the Defendants’ motion to dismiss (Dkt.
11 No. 157).

12 The Court set an initial case management conference for May 10, 2018 (Dkt. No. 11).
13 On July 5, 2018, the Court vacated the case management conference due to the parties’
14 settlement discussions and pending motions (Dkt. No. 150). The parties held settlement
15 discussions facilitated by Judge Beeler in July 2018, but did not reach an agreement (Dkt. No.
16 151). The parties are not currently engaged in settlement negotiations.

17 II. Ongoing Consumer Harm Demonstrates the Need for a Scheduling Order

18 A case management conference is necessary so the Court can set a discovery schedule
19 and address other important issues in this consumer protection matter. On June 28, 2018, the
20 FTC sent letters to approximately 28,000 Ameritech/FEBC clients notifying them of this lawsuit.
21 In mid-August 2018, the parties sent a joint notice letter to approximately 16,500 AFBC clients
22 and a few Ameritech clients who did not receive the FTC’s notice letter. The response to the
23 lawsuit notifications has been overwhelming. Since July 2, 2018, the FTC has received 2,030
24 reports from consumers about Defendants’ practices. Declaration of Kelly Ortiz (“Ortiz Decl.”)
25 ¶ 5. These complaints have a common theme – consumers thought their monthly payments to
26 Defendants were going towards their student loans, not a “financial education” membership.¹ In

27
28 ¹ See, e.g., Ortiz Att. A-276, Row 1275 (“I am a disabled veteran and was contacted by
Ameritech to assist with my loan payments. They requested \$290 up front to enroll and then

1 addition, consumers report that Defendants are refusing to provide refunds and making it
2 difficult to cancel the financial education membership.²

3 Many of Defendants' clients are still confused about their payments to Defendants.
4 Defendants sow this confusion by continuing to make misleading statements to consumers. For
5 example, Defendants are falsely telling consumers that their dismissed lawsuit against the FTC is
6 still pending.³ In addition, on August 10, 2018, Defendant AFBC (a company that Defendants
7 assured the Court was no longer enrolling new clients)⁴ sent a letter to consumers about their
8
9

10 \$173 per month. I was told this money would be transferred to my loans and . . . it has not. . . .
11 As a single parent, with a low income, the money that has been taken already and not applied to
12 my loans is crippling to have to pay again.”); Ortiz Att. A-220, Row 1035 (“I pa[id] a large fee
13 up front to Ameritech Financial in March of 2016 and have been paying \$99 a month since. . . . I
14 am a single mother just off disability with a special needs child. This money did not come easy
15 to me. Also, all my payments (around \$3000) should have gone towards my student loans. They
16 did not.”).

15 ² White Att. A (Defendants' 8/9/18 email to consumers: “100% Client Satisfaction.”); Ortiz Att.
16 A-196, Row 930 (“I contact[ed] Ameritech to cancel my membership and ask for a refund, [I]
17 was told no refund.”); Ortiz Att. A-347, Row 1509 (“When I finally was able to speak to
18 customer service they told me the entire lawsuit was wrong . . . [and] they would not refund my
19 money until they were found guilty. I asked for the customer service representative to cancel my
20 membership on two different occasions and each time they wanted to argue about me doing so. I
21 am furious that I was scammed out of over \$3300 and want my money back; however,
22 Ameritech says they did not scam anyone and they are a great business.”).

20 ³ See, e.g., Ortiz Atts. B-C (showing a call where a consumer attempts to cancel her enrollment
21 with Defendants and, despite Defendants' knowing they never enrolled the client in an income-
22 based repayment program over a period of years, Defendants repeatedly attempt to convince the
23 consumer to continue her enrollment, including misrepresenting to the consumer that the FTC
24 has “refused to defend” a case filed by Defendants “[which] remains open in the northern district
25 of California”); Ortiz Att. A-320, Row 1411 (“I called [Ameritech] several times and would
26 either be hung up on or put on hold with no one ever answering. I put a stop on any withdrawals
27 through my bank so Ameritech could not take anymore payments out. When I finally got a
28 customer service rep on the line I told them that I wanted my membership cancelled and my
29 money refunded. The response I got was that Ameritech had in turn sued the FTC and no
30 refunds would be given out at this time. I paid them over \$3,000 in a two year period.”).

⁴ Declaration of Brandon Frere at 2 (Dkt. No. 79-71) (“AFBC no longer sells these services to
new consumers, and has not enrolled any new customers for over two years.”).

