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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
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ORIGINAL

1 WILLARD K. TOM
2 GENERAL COUNSEL

3 MARICELA SEGURA, CA Bar No. 225999
4 RAYMOND E. MCKOWN, CA Bar No. 150975
5 e-mail: msegura@ftc.gov and rmckown@ftc.gov
6 FEDERAL TRADE COMMISSION
7 10877 Wilshire Blvd., Suite 700
8 Los Angeles, CA 90024
9 Telephone: (310) 824-4343
10 Facsimile: (310) 824-4380

11 Attorneys for Plaintiff
12 FEDERAL TRADE COMMISSION

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OCT 11 2011
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION
BY DEPUTY

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15 FEDERAL TRADE COMMISSION,

Case no.

16 **ED CV 11 - 01623**

VAP

SPX

17 v.

18 RINCON MANAGEMENT
19 SERVICES, LLC, a California limited
20 liability company, also d/b/a "Rincon
21 Debt Management," "Rincon Filing
22 Services," and "Pacific Management
23 Recovery"; PRIME WEST
24 MANAGEMENT RECOVERY, LLC, a
25 Delaware limited liability company;
26 UNION MANAGEMENT SERVICES,
27 LLC, a California limited liability
28 company, also d/b/a "Union Filing
Services"; NATIONAL FILING
SERVICES, LLC, a California limited
liability company; CITY
INVESTMENT SERVICES, LLC, a
California limited liability company;
GLOBAL FILING SERVICES, LLC, a
California limited liability company;
PACIFIC MANAGEMENT
RECOVERY, LLC, a Delaware limited
liability company; JASON R.
BEGLEY, an individual; and WAYNE
W. LUNSFORD, an individual,

COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF

Defendants.

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1 WILLARD K. TOM
2 GENERAL COUNSEL

3 MARICELA SEGURA, CA Bar No. 225999
4 RAYMOND E. MCKOWN, CA Bar No. 150975
5 e-mail: msegura@ftc.gov and rmckown@ftc.gov
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7 10877 Wilshire Blvd., Suite 700
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FEDERAL TRADE COMMISSION,

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RECOVERY, LLC, a Delaware limited
liability company; JASON R.
BEGLEY, an individual; and WAYNE
W. LUNSFORD, an individual,

Defendants.

COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF

1 Plaintiff, the Federal Trade Commission (“FTC”), for its complaint alleges:

2 1. The FTC brings this action under Sections 13(b) and 19 of the Federal
3 Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and Section 814
4 of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §1692l, to obtain
5 temporary, preliminary, and permanent injunctive relief, rescission or reformation of
6 contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies,
7 the appointment of a receiver, and other equitable relief for Defendants’ violation of
8 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FDCPA, 15 U.S.C. § 1692
9 *et seq.*

10 **JURISDICTION AND VENUE**

11 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C.
12 §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a), 53(b), 57b, and 1692l.

13 3. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c), and
14 15 U.S.C. § 53(b).

15 **PLAINTIFF**

16 4. The FTC is an independent agency of the United States Government
17 created by statute. 15 U.S.C. §§ 41 *et seq.* The FTC enforces Section 5(a) of the
18 FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in
19 or affecting commerce. The FTC also enforces the FDCPA, 15 U.S.C. §§ 1692 -
20 1692p, which prohibits deceptive, abusive, and unfair collection practices.

21 5. The FTC is authorized to initiate federal district court proceedings, by
22 its own attorneys, to enjoin violations of the FTC Act and the FDCPA, and to secure
23 such equitable relief as may be appropriate in each case, including rescission or
24 reformation of contracts, restitution, the refund of monies paid, and the
25 disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A), 56(a)(2)(B),
26 57b, and 1692l(a). Section 814 of the FDCPA further authorizes the FTC to use all
27 of the functions and powers of the Commission under the FTC Act to enforce
28 compliance with the FDCPA, including the power to enforce the provisions of the

1 FDCPA in the same manner as if the violations were violations of an FTC trade
2 regulation rule. 15 U.S.C. § 1692l.

3 **DEFENDANTS**

4 6. Defendant **Rincon Management Services, LLC** (“Rincon”), also
5 doing business as “Rincon Debt Management,” “Rincon Filing Services,” and
6 “Pacific Management Recovery,” is a California limited liability company, which
7 holds itself out as doing business from the following physical addresses: 495 E.
8 Rincon Street, Suites 201 and 204, Corona, CA 92879, and 980 Montecito Drive,
9 Suite 205, Corona, CA 92879. Rincon also uses the following United Parcel
10 Service (“UPS”) private mail box addresses: 1191 Magnolia Ave., D-381 and D-
11 396, Corona, CA 92879.

12 7. Defendant **Prime West Management Recovery, LLC** (“Prime
13 West”), is a Delaware limited liability company, which is also registered as a limited
14 liability company with the state of California. Prime West holds itself out as doing
15 business from the following physical addresses: 109 North Maple Street, Suite C,
16 Corona, CA 92880, and 980 Montecito Drive, Suite 205, Corona, CA 92879. Prime
17 West also uses, or has used, the following UPS private mail box addresses: 1191
18 Magnolia Ave., D-381 and D-396, Corona, CA 92879, and 541 North Main Street,
19 104-261, Corona, CA 92882.

20 8. Defendant **Pacific Management Recovery, LLC** (“Pacific
21 Management”), is a Delaware limited liability company, which holds itself out as
22 doing business from the following physical addresses: 355 N. Sheridan St., Corona,
23 CA 92880, and 980 Montecito Drive, Suite 205, Corona, CA 92879. Pacific
24 Management also uses, or has used, the following UPS private mail box address:
25 541 North Main Street, 104-261, Corona, CA 92882.

26 9. Defendant **National Filing Services, LLC** (“National Filing”), is a
27 California limited liability company, which holds itself out as doing business from
28 the following physical address: 980 Montecito Drive, Suite 205, Corona, CA 92879.

1 National Filing also uses the following UPS private mail box addresses: 1191
2 Magnolia Ave., D-381, Corona, CA 92879.

3 10. Defendant **City Investment Services, LLC** (“City Investment”), is a
4 California limited liability company, which holds itself out as doing business from
5 the following physical addresses: 980 Montecito Drive, Suite 205, Corona, CA
6 92879, and 268 N. Lincoln Ave., #9, Corona, CA 92882. City Investment also uses,
7 or has used, the following UPS private mail box addresses: 1191 Magnolia Ave., D-
8 381 and D-396, Corona, CA 92879, and 541 North Main Street, 104-261, Corona,
9 CA 92882.

10 11. Defendant **Global Filing Services, LLC** (“Global Filing”), is a
11 California limited liability company, which holds itself out as doing business from
12 the following physical address: 980 Montecito Drive, Suite 205, Corona, CA 92879.
13 Global Filing also uses the following UPS private mail box address: 1191 Magnolia
14 Ave, Ste. D, Corona, CA 92879.

15 12. Defendant **Union Management Services, LLC** (“Union
16 Management”), also doing business as “Union Filing Services,” is a California
17 limited liability company, which holds itself out as doing business from the
18 following physical addresses: 980 Montecito Drive, Suite 205, Corona, CA 92879,
19 and 355 N. Sheridan St., Corona, CA 92880. Union Management also uses, or has
20 used, the following UPS private mail box addresses: 1191 Magnolia Ave, Ste. D-
21 381, Corona, CA 92879, and 541 North Main Street, 104-261, Corona, CA 92882.

22 13. Defendant **Jason R. Begley** (“Begley”), is one of two principals of all
23 of the Defendants identified in Paragraphs 6-12 above (the “Entity Defendants”).
24 At all times material to this Complaint, acting alone or in concert with others, he has
25 formulated, directed, controlled, had the authority to control, or participated in the
26 acts and practices of the Entity Defendants, including the acts and practices set forth
27 in this Complaint. Begley resides in this district and, in connection with the matters
28 alleged herein, transacts or has transacted business in this district and throughout the

1 United States.

2 14. Defendant **Wayne W. Lunsford** (“Lunsford”), is one of two principals
3 of all of the Entity Defendants. At all times material to this Complaint, acting alone
4 or in concert with others, he has formulated, directed, controlled, had the authority
5 to control, or participated in the acts and practices of the Entity Defendants,
6 including the acts and practices set forth in this Complaint. Lunsford resides in this
7 district and, in connection with the matters alleged herein, transacts or has
8 transacted business in this district and throughout the United States.

9 **COMMON ENTERPRISE**

10 15. Entity Defendants have operated together as a common enterprise in
11 conducting the business practices described in this Complaint. The Entity
12 Defendants are interrelated companies that have common ownership, officers,
13 managers, and business functions. Individual Defendants Begley and Lunsford have
14 formulated, directed, controlled, or had authority to control, or participated in the
15 acts and practices of the Entity Defendants that comprise the common enterprise.
16 The common enterprise transacts or has transacted business in this district and a
17 substantial part of the events or omissions giving rise to the claims occurring herein
18 have occurred in this district.

19 **COMMERCE**

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

23 **NATURE OF ENFORCEMENT ACTION**

24 17. This enforcement action is brought to remedy unlawful debt collection
25 practices by Defendants. Defendants’ practices violate Section 5(a) of the FTC Act,
26 15 U.S.C. § 45(a), and various provisions of the FDCPA, 15 U.S.C. §§ 1692-1692p.

27 18. In numerous instances, Defendants rely on deceptive and misleading
28 representations to collect debt, in violation of Section 5(a) FTC Act and Section 807

1 of the FDCPA. 15 U.S.C. § 45(a), 15 U.S.C. § 1692e. Specifically, Defendants
2 falsely claim that a lawsuit has been or soon will be filed against the consumer to
3 collect the debt. They falsely claim that the consumer owes attorney fees and/or
4 court costs for the fictitious legal action. They falsely represent they are process
5 servers seeking to serve the consumer with legal papers pertaining to a lawsuit.
6 Defendants also threaten consumers with legal action or arrest, or seizure,
7 garnishment, or attachment of a consumer's property or wages if the consumer does
8 not agree to pay the alleged debt, when such action is not lawful or when
9 Defendants have no intention of taking such action.

10 19. In addition, Defendants violate other FDCPA provisions. In numerous
11 instances, in connection with the collection of debts, Defendants engage in improper
12 communications with third parties, do not meaningfully disclose their identity
13 during telephone calls with consumers, and fail to notify consumers of their right to
14 dispute and obtain verification of their debts. As detailed below, these actions
15 violate Sections 805(b), 806(6), and 809(a) of the FDCPA, respectively. 15 U.S.C.
16 §§ 1692c(b), 1692d(6), 1692g(a).

17 **DEFENDANTS' UNLAWFUL BUSINESS PRACTICES**

18 20. Defendants Rincon, Prime West, Pacific Management, National Filing,
19 City Investment, Global Filing, Union Management, Begley, and Lunsford
20 (collectively "Defendants") engage in the collection of consumer credit card and
21 other consumer debt. In many instances, the alleged debts that Defendants are
22 collecting are not owed by the consumer. Defendants employ both English- and
23 Spanish-speaking collectors who follow English and Spanish scripts in the
24 collection of consumer debt.

25 21. Defendants began operations in 2009 as Pacific Management, and,
26 throughout 2010, have expanded their collections business operations as Rincon,
27 Prime West, City Investment, Global Filing, Union Management, and National
28 Filing.

1 22. The key element of Defendants' scheme is to make the consumer
2 believe that a lawsuit has been filed, or will soon be filed against him. In calls with
3 a third party or the consumer, Defendants' collector often poses as a process server,
4 a lawyer, or an employee of a law office handling a lawsuit against the consumer.
5 Defendants represent to the consumer that he can "settle" the case by making an
6 immediate payment to Defendants. In fact, no lawsuit has been filed, nor will soon
7 be filed against the consumer. Defendants simply use these tactics in an attempt to
8 unlawfully collect money from the consumer.

9 23. Defendants' violative collection practices begin with a call from
10 Defendants' first-level collectors, usually to a consumer's employer, family
11 member, friend, or neighbor. During these calls, Defendants' collectors
12 misrepresent that they are process servers who are seeking to serve the consumer
13 with pleadings or "papers" pertaining to a lawsuit that has allegedly been filed
14 against the consumer. Defendants' collectors leave messages with these third
15 parties to be relayed to the consumer. The messages include a "case number," a
16 callback number, and, in many instances, a statement that the consumer must call
17 back that day or else the consumer will be personally served with process to appear
18 in court. In addition, in some instances, Defendants' collectors misrepresent that
19 they are from the sheriff's department and threaten that the consumer will be
20 arrested if the consumer does not promptly call back the telephone number left for
21 the consumer.

22 24. In most instances, Defendants instruct their first-level collectors not to
23 call the consumer directly, but to call the consumer's current employer or a family
24 member. This is designed to apply pressure and create a sense of urgency on the
25 part of the consumer so that the consumer will pay the alleged debt to resolve the
26 matter. In some instances, Defendants' collectors call the consumer directly, and,
27 during those calls, collectors also misrepresent that they are process servers who are
28 seeking to serve the consumer with court papers. During these calls, Defendants'

1 collectors also provide the consumer with a callback telephone number and an
2 alleged court case number.

3 25. In fact, Defendants do not employ or contract with process servers to
4 contact consumers or third parties. All calls made to consumers and third parties are
5 made by Defendants' collectors.

6 26. Defendants provide their collectors with written guidelines and scripts
7 to be used in the collection process. These guidelines and scripts instruct collectors
8 to employ the collection techniques described in Paragraphs 23 and 24, above. In
9 one of the documents provided to collectors called "New Hire Pointers," collectors
10 are instructed to do the following:

11 *~when first coming to an account it is always best to call the [place of*
12 *employment] first*

13 ...

14 *~contact relatives instead of the debtor on the initial phone call to*
15 *create urgency*

16

17 *~when doing a standard talk off and the person on the phone is prying*
18 *... it is best to say you are a process server and due to the federal*
19 *privacy act you are not given that information*

20 27. The scripts for the first-level collectors are referred to by Defendants as
21 "standard talk offs" ("STOs"). Defendants use STOs in both English and Spanish.
22 Defendants use different STOs for calls made to third parties, such as the
23 consumer's employer, friends, and relatives, and for calls made directly to the
24 consumer.

25 28. One STO, which apparently is to be used for calls directed to a
26 consumer's friends and relatives, where the recipient's primary language is Spanish,
27 instructs the first-level collector to state the following:

28 *Soy (Miguel Davis/ Veronica Garcia) y estoy llamando par aver si*
alguien va estar en casa para recibir documentos legales para ir a

1 *courte. [sic]*

2 *Senor/ Senora los procescoras de servicios va intentar a server estos*
3 *documentos (2) veces. [sic]*

4 *El senior/ La senora tiene que responder, o se tiene que presenter*
5 *en la courte. Si no puede tiene que hablar in-me-dia-ta-mente. [sic]*

6 *Lo que voy a ser es darle el numero de la oficiana legally el numero*
7 *[sic] de caso. Tiene papel y pluma? [sic]*

8 *El numero de telefono es 1 (???) ???-???? y el numero de caso es*
9 *(10??-?????). [sic]*

10 *Ahora voy a puntarque hable con _____ si el senior/senora no*
11 *habla voy a entragar estos documentos legales con el processor. [sic]*

12 29. The following is an English translation of the Spanish STO:

13 *I am (Miguel Davis/Veronica Garcia) and am calling to see if there*
14 *will be someone at home to receive legal documents to go to court.*

15 *Sir/Madam the service processors will try to serve these documents*
16 *twice(2x).*

17 *Sir/Madam must respond or appear in court. If unable to do so, [they]*
18 *should say so immediately.*

19 *What I will do is give you the number of the legal office and the case*
20 *number. Do you have pencil and paper?*

21 *The phone number is 1(???)???-???? and the case number is (10??-*
22 *?????).*

23 *Now I'm going to write down now that I spoke to _____ and if*
24 *Sir/Madam do not say anything I will have the processor deliver these*
25 *legal documents.*

26 30. As part of the collection process, Defendants provide their collectors
27 with "rebuttal answers" to use on calls with third parties. The rebuttal answers are
28 drafted to convince the third party that the consumer is in serious legal trouble and
that a message must be relayed to the consumer immediately. For example, the

1 “JOB REBUTTAL ANSWERS” sheet instructs, in part:

2 QUESTION: WE DON'T PASS INFORMATION TO THE
3 EMPLOYEES

4 A. LOOK I AM TRYING TO HELP YOUR COMPANY. THIS
5 MATTER IS SERIOUS AND WILL CAUSE PROBLEMS AT THE JOB.
6 GRAB A PEN AND GET THIS REDIRECTED TO THE EMPLOYEES
7 [sic] HOME.

8 B. STILL NO – (STRONGLY ASK) WHAT IS YOUR NAME AND
9 YOUR POSITION IN THE COMPANY? WE WILL DOCUMENT FOR
10 THE RECORD THAT YOU MADE THE DECISION FOR THE
11 [DEBTOR] TO BE SERVED AT HIS PLACE OF EMPLOYMENT.

12 ...

13 QUESTION: JUST GO AHEAD AND SERVE THE DOCUMENTS.
14 WE WILL BRING UP [sic] THE [DEBTOR] THEN

15 A. LOOK I SEE HERE THAT THERE IS AN OPPORTUNITY FOR
16 SERVICE AT THE HOME RESIDENCE. MY SUGGESTION WOULD
17 BE TO GRAB A PEN TAKE DOWN THE CASE NUMBER AND THE
18 PH # TO THE ISSUING AGENT HANDLING THE CASE AND HAVE
19 THE SERVICE REDIRECTED. THIS WILL HELP REDUCE ANY
20 PROBLEMS AT THE WORK PLACE AND SAVE ANY POSSIBLE
21 EMBARRASSMENT.

22 ...

23 QUESTION: WE DON'T VERIFY EMPLOYMENT OR GIVE OUT
24 PERSONAL INFORMATION.

25 A. I AM NOT ASKING YOU TO VERIFY EMPLOYMENT. I AM
26 TELLING YOU I HAVE A COURT ORDER HERE AGAINST ONE OF
27 YOUR EMPLOYEES.

28 B. I AM NOT ASKING FOR ANY INFORMATION. I AM TELLING
YOU WE HAVE A COURT ORDER. I AM TRYING TO SET UP
SERVICE. GRAB A PEN GET [DEBTOR] TO REROUTE THIS CASE
TO HIS HOME. HELP YOURSELF AND YOUR EMPLOYEE.

31. In addition, another of Defendants’ written guidelines instructs
collectors to say the following to a consumer’s employer:

Say—I need to send the summons today, if you do not want your business
to be interrupted what I need you to do is give the number I am going to
provide to your employee to call the legal department to have the sheriff
deliver the summons to their home address. I can only put a 3 hour hold

1 *on the summons the employee must call prior to re-direct the summons*
2 *to their home.*

3 *Here is the number and case number[.]*

4 32. Similarly, the guideline titled “STO REBUTTAL ANSWERS,” which
5 is to be used by collectors for non-employer third-party calls, instructs collectors to
6 say, in part:

7 *QUESTION: I HAVE NO CONTACT WITH [DEBTOR]*
8 *A. WHY IS HE USING YOUR ADDRESS? HOW LONG SINCE YOU*
9 *HAVE HAD CONTACT? WOW THEY ARE COMING TO YOUR*
10 *HOUSE AFTER 2 ATTEMPTS THIS COURT PROCEEDING WILL*
11 *GO ON WITHOUT THEM THEY WILL GET A FAILURE TO*
12 *APPEAR. GRAB A PIN. [sic]*

13 *QUESTION: WHO ARE YOU AND WHAT COUNTY ARE YOU*
14 *CALLING FROM?*
15 *A. I AM WITH THE PROCESS SERVICE DIVISION CALL [sic]*
16 *FROM -----COUNTY.*

17 ...

18 *QUESTION: I AM DRIVING RIGHT NOW.*
19 *A. I SUGGEST YOU PULL OVER. THIS IS TIME SENSITIVE AND*
20 *SINCE YOU ARE NOT AT THE SERVICE LOCATION IT WILL BE*
21 *NOTED AS A FAILURE TO SERVE.*

22 33. In numerous instances, when consumers call back the telephone
23 number provided by the first-level collector, second-level collectors will answer the
24 phone and represent to consumers that they are with a law office or business office
25 that is handling a lawsuit against the consumer. In many instances, Defendants’
26 collectors represent to consumers that they are attorneys. On these calls,
27 Defendants’ collectors state that the case involves a debt that the consumer owes.
28 Defendants’ collectors make additional representations to imply that legal action
has been taken or will be taken shortly against the consumer because of non-
payment of a debt. Defendants’ collectors advise consumers that they can “settle”

1 the action for an immediate payment of the entire debt, or the collectors offer
2 consumers a payment plan. Defendants' collectors instruct the consumer that
3 payment should be made over the telephone via his or her credit card or bank
4 account.

5 34. Defendants' collectors demand from consumers the amount of the
6 purported debt, plus an additional amount of money. Defendants' collectors
7 represent that the additional amount is for "court costs" and "legal fees." These
8 amounts are fictitious because no lawsuit has been filed. Defendants induce their
9 collectors to seek these additional fees by paying them large commissions on the
10 additional fees collected.

11 35. Defendants' collectors threaten that if the consumer does not pay,
12 Defendants will proceed with legal action against the consumer. In addition, in
13 numerous instances, Defendants' collectors threaten that Defendants will have the
14 consumer arrested, will garnish the consumer's wages, and/or seize the consumer's
15 property, unless Defendants receive prompt payment from the consumer.

16 36. In fact, the telephone numbers provided to consumers and third parties
17 by the "process server" do not belong to a law office or a business office that is
18 handling the "lawsuit" against the consumer, but connect to Defendants' collections
19 offices. In instances when Defendants' collectors threaten consumers with legal
20 action, no legal action has been taken, nor do Defendants intend to take legal action
21 against the consumer. In numerous instances, Defendants cannot bring a legal
22 action to collect consumer's debts because the debt is not owed by the consumer. In
23 addition, because Defendants have not filed an action, obtained a judgment, and
24 received an award of costs, Defendants cannot collect court costs and attorneys'
25 fees from the consumer.

26 **VIOLATIONS OF SECTION 5 OF THE FTC ACT**

27 37. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or
28 deceptive acts or practices in or affecting commerce." Misrepresentations or

1 deceptive omissions of material fact constitute deceptive acts or practices prohibited
2 by Section 5(a) of the FTC Act.

3 **COUNT ONE**

4 38. In numerous instances, in connection with the collection of debts,
5 Defendants have represented to third parties and/or the consumer, expressly or by
6 implication, that:

- 7 a. Defendants' collector is a process server seeking to serve the consumer
8 with pleadings or legal papers pertaining to a lawsuit filed against the
9 consumer;
- 10 b. Defendants' collector is an attorney, or Defendants' communication is
11 from an attorney;
- 12 c. nonpayment of the debt will result in the consumer's arrest, or in the
13 seizure, garnishment, or attachment of the consumer's property or
14 wages; and
- 15 d. Defendants have filed or intend to file a lawsuit against the consumer.

16 39. In truth and in fact, in numerous instances:

- 17 a. Defendants' collector is not a process server seeking to serve the
18 consumer with pleadings or legal papers pertaining to a lawsuit filed
19 against the consumer;
- 20 b. Defendants' collector is not an attorney, and Defendants'
21 communication is not from an attorney;
- 22 c. nonpayment of the debt will not result in the consumer's arrest, or in
23 the seizure, garnishment, or attachment of the consumer's property or
24 wages; and
- 25 d. Defendants have not filed and do not intend to file a lawsuit against the
26 consumer.

27 40. Therefore, Defendants' representations as set forth in Paragraph 38 are
28 false or misleading and constitute deceptive acts or practices in violation of Section

1 5(a) of the FTC Act, 15 U.S.C. § 45(a).

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

3 41. In 1977, Congress passed the FDCPA, 15 U.S.C. §§ 1692-1692o,
4 which became effective on March 20, 1978, and has been in force ever since that
5 date. Section 814 of the FDCPA, 15 U.S.C. § 16921, provides that a violation of
6 the FDCPA shall be deemed an unfair or deceptive act or practice in violation of the
7 FTC Act.

8 42. Defendants are “debt collectors” as defined by Section 803(6) of the
9 FDCPA, 15 U.S.C. § 1692a(6).

10 43. A “consumer,” as defined in Section 803(3) of the FDCPA, 15 U.S.C.
11 § 1692a(3), “means any natural person obligated or allegedly obligated to pay any
12 debt.”

13 44. A “consumer debt,” as defined in Section 803(3) of the FDCPA, 15
14 U.S.C. § 1692a(5), “means any obligation or alleged obligation of a consumer to
15 pay money arising out of a transaction in which the money, property, insurance or
16 services which are the subject of the transaction are primarily for personal, family,
17 or household purposes, whether or not such obligation has been reduced to
18 judgment.”

19 **COUNT TWO**

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

26 **COUNT THREE**

27 46. In numerous instances, in connection with the collection of debts,
28 Defendants have engaged in conduct the natural consequence of which is to harass,

1 oppress, or abuse a person by placing telephone calls without meaningful disclosure
2 of the caller's identity in violation of Section 806(6) of the FDCPA, 15 U.S.C.
3 §1692d(6). As set forth in Paragraph 24, Defendants' collectors do not identify
4 themselves to the consumer as a debt collector, provide the consumer with the name
5 of the company they are working for, or identify the purpose of the call as a
6 collection call.

7 **COUNT FOUR**

8 47. In numerous instances, in connection with the collection of debts,
9 Defendants have used false, deceptive, or misleading representations or means, in
10 violation of Section 807 of the FDCPA, 15 U.S.C. § 1692e, including, but not
11 limited to:

- 12 a. Falsely representing the character, amount, or legal status of a debt, in
13 violation of Section 807(2)(A) of the FDCPA, 15 U.S.C. §1692e(2)(A);
- 14 b. Falsely representing or implying that an individual is an attorney or that
15 a communication is from an attorney, in violation of Section 807(3) of
16 the FDCPA, 15 U.S.C. § 1692e(3);
- 17 c. Falsely representing that nonpayment of a debt will result in
18 imprisonment of a person or seizure, garnishment, or attachment of a
19 person's property or wages, when such action is not lawful or when
20 Defendants have no intention of taking such action, in violation of
21 Section 807(4) of the FDCPA, 15 U.S.C. § 1692e(4);
- 22 d. Threatening to take action that Defendants do not intend to take, such as
23 filing a lawsuit, in violation of Section 807(5) of the FDCPA, 15 U.S.C.
24 § 1692e(5); and
- 25 e. Using false representations or deceptive means to collect or attempt to
26 collect a debt or to obtain information concerning a consumer, in
27 violation of Section 807(10) of the FDCPA, 15 U.S.C. § 1692e(10).

28

1 **COUNT FIVE**

2 48. In numerous instances, in connection with the collection of debts,
3 Defendants have failed to notify consumers of their right to dispute and obtain
4 verification of their debts, either in the initial communication with consumers by
5 Defendants, or within five days thereafter, in violation of Section 809(a) of the
6 FDCPA, 15 U.S.C. § 1692g(a).

7 **THIS COURT'S POWER TO GRANT RELIEF**

8 49. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court
9 to grant injunctive and such other relief as the Court may deem appropriate to halt
10 and redress violations of any provision of law enforced by the FTC.

11 **PRAYER FOR RELIEF**

12 50. Wherefore, Plaintiff Federal Trade Commission, pursuant to Sections
13 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and Section 814(a) of the
14 FDCPA, 15 U.S.C. § 1692l(a), and the Court's own equitable powers, requests that
15 the Court:

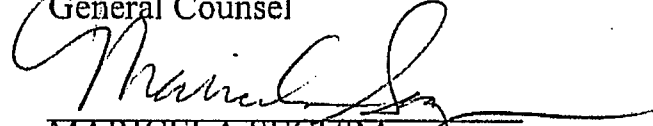
- 16 a. Award Plaintiff such preliminary injunctive and ancillary relief as may
17 be necessary to avert the likelihood of consumer injury during the
18 pendency of this action and to preserve the possibility of effective final
19 relief, including but not limited to a temporary restraining order, a
20 preliminary injunction, an order freezing assets, immediate access to
21 business premises, and appointment of a receiver;
- 22 b. Enter a permanent injunction to prevent future violations of the FTC
23 Act and the FDCPA by Defendants;
- 24 c. Award such relief as the Court finds necessary to redress injury to
25 consumers resulting from Defendants' violations of the FTC Act and
26 the FDCPA, including, but not limited to, rescission or reformation of
27 contracts, the refund of monies paid, restitution, and the disgorgement
28 of ill-gotten gains by Defendants; and

1 d. Award Plaintiff the costs of bringing this action, as well as such other
2 and additional equitable relief as the Court may determine to be just and
3 proper.
4

5 Dated: October 10, 2011

Respectfully submitted,

6 WILLARD K. TOM
7 General Counsel



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9 MARICELA SEGURA
10 RAYMOND E. MCKOWN
11 Attorneys for Plaintiff
12 Federal Trade Commission
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