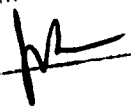


1 Robert L. Hyde, Esq. (SBN: 227183)
 bob@westcoastlitigation.com
 2 Joshua B. Swigart, Esq. (SBN: 225557)
 josh@westcoastlitigation.com
 3 David C. Leimbach, Esq. (SBN: 265409)
 dleimbach@westcoastlitigation.com
 4 **Hyde & Swigart**
 5 411 Camino Del Rio South, Suite 301
 6 San Diego, CA 92108-3551
 Telephone: (619) 233-7770
 7 Facsimile: (619) 297-1022

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8 Attorneys for the Plaintiff

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 11 **UNITED STATES DISTRICT COURT**
 12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 **NO CV 0108 BEN NLS**

14 **HYDE & SWIGART**
 15 San Diego, California

<p>14 Dara Billing, Individually and on 15 Behalf of All Others Similarly Situated</p> <p>16 Plaintiffs,</p> <p>17 v.</p> <p>18 Credit Solutions of America, Inc.,</p> <p>19 Defendant.</p>	<p>14 Case Number:</p> <p>15 <u>CLASS ACTION COMPLAINT</u> FOR:</p> <p>16 (1) Violation of California Business and Professional Code, 17200 <i>et</i> <i>seq.</i>;</p> <p>17 (2) Violation of Consumer Legal Remedies Act, Cal. Civ. Code § 1770(a)(7); 1770(a)(19);</p> <p>18 (3) Violation of the Credit Repair Organizations Act, 15 U.S.C. § 1678, <i>et seq.</i>;</p> <p>19 (4) Tort in Essence;</p> <p>20 (5) Negligence;</p> <p>21 (6) Injunctive Relief.</p> <p>22</p> <p>23 Jury Trial Demanded</p>
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ORIGINAL

INTRODUCTION

1. An emerging billion dollar industry in the United States is becoming known as the “debt settlement,” or “debt negotiation” industry. The debt settlement industry consists of companies who represent that they can negotiate the balance of outstanding unsecured consumer debt, in exchange for various initiation and maintenance fees, as well as a percentage of the amount of debt discharged through negotiation. Debt settlement firms typically require consumers to pay from 15-20 percent of the total debt enrolled in the program before any negotiations with the creditor occur.
2. In contrast to debt management plans in which consumers make monthly payments to creditors, the debt settlement business model generally requires that a consumer stop making regular payments to creditors. Instead, the consumer makes payments directly to the debt settlement company or into a separate account arranged by the settlement company. The consumer continues to pay into the account until the debt settlement company believes there are sufficient funds to attempt to negotiate and settle the consumers debts in lump sum payments. Almost all debt settlement companies charge a large portion of their fees in advance before they perform any significant services on behalf of the consumer, which typically include initiation fees, maintenance fees, service fees, as well as a percentage based on the amount of unsecured debt enrolled in the program - typically between 15-20 percent of the total enrolled debt.
3. In a letter from the National Association of Attorneys General, joined by forty - one Attorney Generals to the Federal Trade Commission on October 23, 2009 (the “NAAG Letter”), it was stated that “[t]he States enforcement actions provide ample evidence of the types of unfair and deceptive practices that financially distressed consumers encounter when they seek credit solutions via debt relief services. The primary consumer protection problem areas that have given rise to the State’s actions include: (1) unsubstantiated

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1 claims of consumer savings; (2) deceptive representations about the length of
2 time necessary to complete a debt relief program; (3) misleading or failing to
3 adequately inform consumers that they will be subject to continued collection
4 efforts, including lawsuits, and that their account balances will increase due
5 to extended nonpayment under the program; (3) deceptive disparagement of
6 consumer credit counseling; (5) deceptive disparagement of bankruptcy as an
7 alternative for debtors; (6) lack of screening and analysis to determine
8 suitability of debt relief programs for individual debtors; (7) the collection of
9 substantial up-front fees so the debt relief company gains even if it fails to
10 perform; (8) lack of transparency and information for consumers as to
11 payment of fees, status of accounts, and communications with creditors; (9)
12 significant delays in active negotiation or engagement with creditors, coupled
13 with prohibitions on direct consumer communications with creditors; and
14 (10) in the case of debt settlement companies, basing savings claims (and
15 settlement fees) not on the original account balance, but on the inflated
16 amount due (including late fees and default rates of interest) at the time of
17 settlement.”

- 18 4. The number of complaints the States have received against debt relief
19 companies, particularly debt settlement companies, have consistently been
20 rising and have more than doubled since 2007. Over the past five years, 21
21 States have brought 128 enforcement actions against 84 debt relief companies
22 for unfair and deceptive trade practices.
- 23 5. The better Business Bureau categorizes debt settlement and debt negotiation
24 companies as “Inherently Problematic Businesses.” Data provided to the
25 States by the Better Business Bureau shows that, since 2007, among other
26 businesses that have been labeled inherently problematic by the Better
27 Business Bureau, debt settlement and debt negotiation companies have
28 annually generated the most complaints received by the Better Business
Bureau.

- 1 6. Credit Solutions of America, Inc., a self-proclaimed “industry leader,
2 managing more than \$2.25 billion of debt,” is at the center of this problematic
3 industry. In fact, Credit Solutions of America, Inc., is currently under fire
4 across the country for its fraudulent practices. The Attorney Generals for the
5 States of New York, Missouri, Texas, Maine, Illinois and Florida have all filed
6 lawsuits against Credit Solutions of America, Inc.
- 7 7. Dara Billing (“Plaintiff”), individually and on behalf of all others similarly
8 situated, through her attorneys, brings this complaint to challenge the actions
9 and omissions of Credit Solutions of America, Inc. (“CSA”), with regard to
10 CSA’s violations of the California Business and Professional Code 172000 *et*
11 *seq.* (the “Unfair Competition Law,” hereinafter referred to as “UCL”), and
12 California Prorater Law under California Financial Code 12000 *et seq.*
13 (hereinafter “California Prorater Law”). CSA is further liable to Plaintiff for
14 violations of the Consumer Legal Remedies Act, Cal. Civ. Code § 1770, *et*
15 *seq.* (“CLRA”), Credit Repair Organizations Act, 15 U.S.C. § 1678 *et seq.*
16 (“CROA”), Tort in Essence and Negligence Per Se under California Evidence
17 Code § 669.
- 18 8. Any business model that requires cash strapped consumers to pay substantial
19 up-front fees raises significant consumer protection concerns. Unfortunately,
20 due to the relatively recent proliferation of these debt settlement companies,
21 the enforcement of consumer rights and regulation of these companies
22 scattered at best. One of the few states that has a comprehensive statutory
23 scheme to regulate these companies is California, and these regulations are
24 found in the California Financial Code § 12000 *et seq.*, known as the Check
25 Sellers, Bill Payers, and Prorater Law (“California Prorater Law”).
- 26 9. Everyone, consumers and creditors alike, are victims of companies such as
27 CSA. Consumers fall prey because they are deprived of thousands of dollars
28 (at times when they are most financially vulnerable), unknowingly end up
having their credit ruined, oftentimes get sued, and may even have the declare

1 bankruptcy. Creditors are prey because they either have to accept drastically
2 reduced payment on legitimate debt or they must incur legal fees to sue
3 consumers who are merely unsophisticated consumers that foolishly trust
4 companies like CSA. The only entity that does well is CSA, and well they
5 do. They are paid thousands of dollars by unsuspecting consumers.

6 10. Plaintiff makes these allegations on information and belief, with the exception
7 of those allegations that pertain to Plaintiff, or to Plaintiff's counsel, which
8 Plaintiff alleges on personal knowledge.

9 11. Unless otherwise stated, Plaintiff alleges that any violations by CSA were
10 knowing and intentional, and that CSA did not maintain procedures
11 reasonably adapted to avoid any such violation.

12 JURISDICTION AND VENUE

13 12. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 because the cause of
14 action arises under laws of the United States, specifically, 15 U.S.C. § 1697 et
15 seq.

16 13. Additionally, this court has original jurisdiction over the lawsuit because the
17 action arises under the Class Action Fairness Act of 2005 ("CAFA"), 28
18 U.S.C. § 1332. Upon information and belief, the matter in controversy
19 exceeds the sum of \$5,000,000, exclusive of interest and costs. Plaintiff seeks
20 actual, statutory and punitive damages in excess of \$5,000 which, when
21 aggregated among a proposed class number in the tens of thousands, exceeds
22 the \$5,000,000 threshold for federal court jurisdiction. Furthermore, as this
23 class action involving 100 or more potential class members in which Plaintiff,
24 a citizen of the State of California, is a citizen of a state different from
25 Defendant, a citizen of State of Texas, both elements of diversity jurisdiction
26 under the CAFA are present, and this Court has jurisdiction.

27 14. This Court has supplemental jurisdiction over the state law claims pursuant to
28 28 U.S.C. § 1367(a).

1 15. This Court has personal jurisdiction over Defendants because Defendants
2 conduct substantial business in this State, have sufficient minimum contacts
3 with this State, and otherwise purposefully avail themselves of the markets in
4 this State through the promotion, sale, and marketing of their services in this
5 State, to render the exercise of jurisdiction by this Court permissible under
6 traditional notions of fair play and substantial justice.

7 16. Venue is proper in this District under 28 U.S.C. § 1391, because a substantial
8 part of the events or omissions giving rise to the claims occurred in this
9 District, and Plaintiff resides in this District.

10 PARTIES

11 17. Plaintiff is a natural person and resident of the the State of California.
12 Plaintiff is an individual who at all times mentioned, is and was a resident of
13 San Diego County, within this judicial district, at all relevant times relating to
14 this Complaint.

15 18. Plaintiff is a consumer as that term is defined in Cal. Civ. Code § 1761(d).

16 19. Defendant CSA-Credit Solutions of America, Inc., is a Texas corporation that
17 does business throughout the United States of America. In February of 2005,
18 Douglas Van Arsdale formed Credit Solutions of America as a limited
19 partnership. In April of 2005, the limited partnership was converted to a for-
20 profit corporation, with Douglas Van Arsdale as the Chief Executive Officer.
21 CSA is located in Richardson, Texas.

22 20. CSA is a person or entity who, "for compensation, engages in whole or in part
23 in the business of receiving money or evidences thereof for the purpose of
24 distributing the money or evidences thereof among creditors in payment or
25 partial payment of the obligations of the debtor," and is therefore a "Prorater"
26 as that term is defined in Cal. Fin. Code § 12002.1.

27 21. CSA is a "credit repair organization" within the meaning of 15 U.S.C. §
28 1679(a)(3) because it expressly and/or impliedly represents that it will

1 provide services that will improve the credit records, histories, or scores of its
 2 customers in exchange for compensation. CSA also expressly and/or
 3 impliedly represents that it will advise or assist consumers in improving their
 4 credit scores or histories in exchange for compensation.

6 NATURE OF CREDIT SOLUTIONS' OPERATIONS

- 7 22. CSA operates a for-profit debt settlement company. CSA's debt settlement
 8 program ("CSA's Program") is a form of consumer debt relief, targeted to
 9 consumers with thousands of dollars of unsecured debt.
- 10 23. On its websites, in the sales scripts, and in its contacts with consumers, CSA
 11 represents to consumers that it will get the consumer out of debt within 36
 12 months by reducing the amount of unsecured debt with which the consumer
 13 enrolls in the program by 50-60 percent. CSA does not disclose that the cost
 14 of getting out of debt will most likely be far higher than the numbers it uses to
 15 sell its program. In fact, it has recently been asserted by the Attorney General
 16 for Texas that CSA's own data shows that over 80% of the debts enrolled in
 17 the program do not settle.
- 18 24. Because CSA's Program only works if consumers are not making monthly
 19 payments on their unsecured debts (since creditors will not want to settle a
 20 debt if they are receiving monthly payments), there are inherent risks
 21 involved with participating in a CSA's Program that can have catastrophic
 22 effects on the consumer. CSA fails to adequately disclose to consumers the
 23 myriad of possible negative consequences of its debt settlement program, and
 24 consumers entering a CSA's Program may experience any or all of the
 25 following:
- 26 a. Creditors will continue to assess interest, late fees, over-limit charges,
 27 and any other fees associated with the account. As a result, at the time
 28 that a settlement is reached, the consumer owes significantly more on
 their account, thus reducing the actual savings;

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- b. Creditors are under no obligation to accept, or even entertain, CSA's settlement offer;
- c. Because they are no longer receiving monthly payments, creditors will likely engage in collection activities which may include repeated phone calls and other correspondence. Over time, these activities can increase, especially as the consumer's account may get transferred to a collection agency;
- d. Once a consumer stops paying on their accounts, the creditor may file a lawsuit against the consumer for breaking their contract;
- e. The consumers credit reports will reflect the late charges and non-payment of their unsecured debt. As a result, the consumer's credit score will drop while participating in the program and the consumer may experience the long term effects of a low credit score, which can include difficulty in buying a house or car, obtaining insurance, or obtaining employment;
- f. The debt forgiveness that occurs as part of the settlement is taxable as income;
- g. Even credit cards that are not enrolled in CSA's program, and are not delinquent, may be cancelled by creditors because of information sharing between these companies and various credit reporting bureaus, substantially depriving consumers of necessary financial resources;
- h. CSA dramatically overstates its ability to settle a consumers debt, while simultaneously deceiving consumers into believing that the consumer would be unable to perform similar tasks;
- i. CSA requires that consumers pay substantial up-front fees before CSA will perform any promised services, despite CSA's knowledge that any consumer enrolled in CSA's program is undergoing substantial financial problems. These fees are non-refundable, regardless of whether CSA performs any services for consumers;

- 1 j. CSA misrepresents and exaggerates the purported positive effects
2 CSA's Program will have on consumers credit once the program is
3 completed;
- 4 k. CSA fails to disclose that debt settlement will cause good and even fair
5 credit scores to drop precipitously, and that reports of late payments,
6 charge offs, lawsuits, and judgments can remain on their credit report
7 for years;
- 8 l. CSA makes deceptive representations about the length of time
9 necessary to complete PFS' Program;
- 10 m. CSA engages in deceptive disparagement of alternatives to
11 CSA's Program, including but not limited to, bankruptcy, credit
12 counseling, and self-initiated payment arrangements with creditors;
- 13 n. CSA fails to inform consumers that creditors and other third party
14 debt collectors are unlikely wait 18-36 months to collect on debts, and
15 instead file lawsuits against these consumers while they are enrolled in
16 their programs, thus, rendering any "negotiation" of such debt futile.
- 17 25. Based on CSA's current business model, there is minimal incentive to render
18 promised services because by charging up-front fees, CSA is compensated
19 regardless of whether they negotiate anything for the consumer, succeed in
20 settling any of the consumers debts for a reduced amount, or take any action
21 on behalf of the consumer. The end result is that CSA collects its up-front
22 fees and then, by virtue of either circumstance or design, shuts its doors to
23 consumers.
- 24 26. CSA's business model is fraudulently premised on two basic
25 misrepresentations: (1) that CSA possess special skills and knowledge that
26 enables them to negotiate a reduced balance to settle an outstanding debt - a
27 task the consumer is unable to perform; and (2) that the consumer will realize
28 a substantial reduction in the amount of debt they ultimately pay. Both of
29 these concepts are a blatant mischaracterization of the true nature of CSA's

1 services, and are part of a fraudulently calculated scheme to entice the most
2 desperate and unsuspecting consumers to enroll in PFS' Program.

3 27. CSA misrepresents its "unique" abilities to settle consumers' debt. Creditors,
4 especially third party debt collectors, are more than willing to settle an
5 outstanding debt for a fraction of the debt's actual balance. This is because
6 the majority of these delinquent accounts are purchased for pennies on the
7 dollar, so even a 50% settlement will yield an enormous profit. Consumers
8 can, and every single day, actively do engage this task without any assistance.
9 Creditors and debt collectors alike are more than willing to negotiate directly
10 with consumers. As the Department of Consumer Affairs put it, "[a]n apt
11 analogy would be a physician who has all of his patients visit him daily to
12 administer an aspirin tablet."

13 28. Additionally, CSA's Program is designed in a manner so CSA would rarely
14 have to deal with original creditors and instead, only deal with third party
15 debt collectors who purchase debts for around four cents on the dollar. As
16 discussed in greater detail below, CSA will not even consider negotiating with
17 creditors until its entire service fee is paid in full, and the consumer has
18 accumulated enough money to begin settling accounts. But by the time this
19 would occur, original creditors would have gone a year or more without
20 receiving any payment from the consumer (as per the instructions of CSA),
21 and thus, deemed such an account uncollectible and sent to a debt collector.
22 In essence, CSA's Program is designed to allow consumer debts to
23 "charge-off" from the original creditor, because it's much easier to settle
24 accounts with third party debt collectors.

25 29. The second premise, which, as a practical matter is the only purpose for
26 engaging CSA's services, is even more fraudulent. The reality is that
27 consumers never realize the kind of savings that CSA represents. This is
28 because when a consumer ceases to make monthly payments to creditors, the
balance of that debt grows exponentially. This is due to continuing and

1 compounding late fees, charge off fees, penalties, accruing interest over 20%,
2 and various other charges and fees associated with the account. This is
3 especially true when a consumer is not yet delinquent on a consumer debt,
4 and is seeking CSA's assistance to prevent such a liability from falling into
5 arrears. When a consumer fails to make monthly payments to creditors for
6 years, as per the instructions of CSA, the amount owed at the time of
7 settlement is significantly higher than when the consumer entered CSA's
8 Program.

- 9 30. For example, a consumer may enter into CSA's Program with a credit card
10 debt of \$500.00. Based on the CSA's representations, that consumer will
11 reasonably expect to settle this debt for around \$250.00. However, after two
12 to four years of failing to make payments to that creditor, all of the post-
13 delinquency charges assessed to that account turn that \$500 debt into a \$750 -
14 \$1,000 debt by the time the account is "ripe" for settlement. So even if CSA
15 company obtains a 50% settlement, as promised, the \$500 debt ends up being
16 settled for around \$375 - \$500, because CSA allowed the initial balance to
17 grow while securing their own service fees from unsuspecting consumers.
- 18 31. While consumers are waiting for these accounts to become "ripe" so that
19 CSA can begin to make offers, consumers' credit is destroyed. CSA
20 fraudulently omits to inform consumers that creditors and other third party
21 debt collectors are unlikely wait 18-36 months to collect on debts, and instead
22 file lawsuits against these consumers while they are enrolled in their
23 programs, thus, rendering any "negotiation" of such debt futile.
- 24 32. However, when consumers recognize this futility, CSA refers to their service
25 contract to withhold money already paid by consumers. Since the consumers
26 were already in financial distress when they enrolled in CSA's Program, they
27 can ill afford to lose thousands of dollars in CSA's fees, incur increased
28 balances, see their creditworthiness eroded, and in some cases defend
themselves in court.

1 33. As a result of CSA's debt settlement program, many consumers find
2 themselves in far greater debt than when they enrolled in the program, with
3 destroyed credit and out thousands of dollars in fees to Credit Solutions of
4 America, the cause of this disastrous outcome.

5 34. The fraudulent business practices employed by the CSA have a substantial
6 likelihood of deceiving reasonable members of the public. CSA promises
7 debt salvation, and direct these representations toward members of the public
8 suffering the most significant financial hardship. CSA's promises of
9 substantially reducing outstanding debt, as well as working towards repairing
10 debtors' credit is a calculated method for attracting the most unaware and
11 desperate consumers.

12 FACTUAL ALLEGATIONS

13 35. Sometime before or during April 2008, Plaintiff contacted Defendant after
14 viewing Defendant's website, www.creditsolutions.com.

15 36. On its website, CSA represents that it:

- 16 a. will help you get out of debt in as little as 12-36 months;
- 17 b. can settle your unsecured debt for up to 50%
- 18 c. can lower your monthly bills and pay off debt faster
- 19 d. has expertly trained employees negotiate on your behalf, helping you
20 regain control of your finances
- 21 e. will do more than just settle debt. We prepare our clients on how to
22 remain debt-free moving forward by empowering them to make sound
23 financial decisions.
- 24 f. will intercede on our client behalf with their creditors

25 37. These same representations from CSA's website, were reiterated by an
26 employee of CSA to Plaintiff in Plaintiff's initial contact with CSA.

27 38. During Plaintiff's initial contact with CSA, Plaintiff informed CSA that she
28 was current on all minimum payments to her creditors, but feared that she

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would struggle to continue making these payments. As such, none of Plaintiff's accounts had incurred any late fees, charge off fees, or increased interests rates due to a failure to make regularly scheduled minimum payments.

39. CSA did not apprise Plaintiff of the fact that when a current account subsequently becomes delinquent, that account is subject to various late fees, increased interest rates, and charge-off fees when the account is deemed uncollectible and sent to a collection agency. Further, CSA failed to apprise Plaintiff of the fact that the settlement percentage CSA would achieve for Plaintiff would not be based on the amount of outstanding debt submitted into the program, as that total outstanding debt would dramatically increase as Plaintiff continually failed to make monthly payments to creditors.
40. In Plaintiff's initial contact with CSA, CSA represented to Plaintiff that by helping them reduce and eliminate their debts, their credit scores will improve after completion of CSA's Program.
41. As part of the services offered to and paid for by Plaintiff, CSA advised Plaintiff to stop paying her debts, stop speaking with her creditors, and instead save up enough funds in an account which CSA had access to, and power of attorney over, so that CSA could negotiate settlements with Plaintiff's creditors.
42. As a participant in CSA's Program, Plaintiff was required to execute an Electronic Funds Transfer Authorization which allowed CSA to access Plaintiff's bank account to debit its service fees.
43. As a participant in CSA's Program, Plaintiff was required to execute a Limited Power of Attorney, granting CSA the authority "To proactively intercede and/or intervene and/or negotiate, mediate, or arbitrate the settlement of any and all of my creditor claims, suits, liens, judgments, and/or disputes."

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44. On or about April 20, 2008, Plaintiff agreed to CSA's standard form contract of adhesion, and correlating enrollment documents to enter CSA's Program (CSA's Contract").

Credit Solutions of America, Inc.'s Contract

45. CSA's Contract is their standard contract that is used with all of CSA's "clients." Accordingly, the illegalities of CSA's Contract described herein demonstrate that CSA systematically engages in unlawful activities and continue to harm other members of the public.

46. CSA's Contract contains an "Estimated Settlement Amount" that CSA represented to Plaintiff was likely to be accepted by creditors in settlement of the Plaintiff's debt, even though CSA has not communicated with any of Plaintiff's creditors to make a reasonable inquiry as to the amount the creditor would accept in settlement.

47. CSA's Contract and or enrollment package provided that once Plaintiff had actually saved an amount equal to 60% of the largest single debt enrolled with CSA, CSA would to begin negotiating with Plaintiff's creditors to settle the enrolled debts. Notably, CSA's Contract provides that CSA will not begin negotiations with a consumers creditor until their initial Service Fee is paid in full. This invariably means that when a consumer ceases making payments to a creditor, as instructed by CSA, that consumer is not saving any money towards a potential settlement with that creditor, nor is that consumer making payments to that creditor for almost an entire year. During this time in which creditors do not receive any payments on due and just debts, consumers liabilities and obligations to creditors significantly increase, and CSA receives a windfall of thousands of dollars from each of these consumers, while having never provided any service at the time they receive these payments.

48. CSA's Contract provides that CSA will send letters Plaintiff's to Creditors "after your initial program start date (your start date is determined by the date

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of your initial payment to Credit Solutions).” Consequently, CSA does not even consider contacting a clients creditors until the initial payment is completed.

49. CSA’s Contract does not guarantee that creditors will accept the Estimated Settlement Amount. Rather, it provides that in the event that a creditor does not accept the Estimated Settlement Amount, CSA will negotiate the best settlement that it can for the consumer, provided the consumer has enough in personal savings to cover a higher settlement account. If the consumer does not have adequate personal savings, CSA will cease negotiations until the consumer has sufficient personal savings.
50. CSA’s Contract purportedly provides a “Service Guarantee,” which states that “if [CSA] is unable to settle an enrolled account, [CSA] will refund to CLIENT, an amount equal to 15% of that particular account balance at initial enrollment. CLIENT must have sufficient funds to settle the account in order to be eligible for service guarantee.” This “guarantee” is incredibly misleading and deceives consumers into believing that if CSA is unable to deliver on its promise to dramatically reduce a consumers debt, it will refund that portion of CSA’s service fee. In actuality, the language of this paragraph creates circumstances so that CSA would never have to refund any portion their service fee. Presumably, CSA will always be able to settle an account for 99% of the outstanding balance - in other words - obtain at least a 1% discount. This 1% discount would technically constitute a “settlement,” as this is nonetheless a reduced balance. However, if a consumer did not have 99% of that particular debt’s balance, CSA could simply refer to this “service guarantee” to avoid returning a consumers service fee, even though CSA would clearly not be delivering on its promise to that consumer.
51. CSA’s Contract provides that “COMPANY will notify CLIENT’S enrolled creditors within 72 hours of initial payment to COMPANY and request all

1 telephone communications from creditors be directed the COMPANY
2 corporate office.”

3 52. Pursuant to CSA's Contract, Plaintiff's Estimated Settlement Plan Cost
4 calculated by Defendant showed:

5	• Total Unsecured Debt	\$17,572.06
6	• Estimated Settlement Account:	\$7,028.80
7	• Credit Solutions Service Fee:	\$2,635.80
8	• Total Debt Elimination Cost:	\$9,664.60
9	• Estimated Monthly Budget Payments:	\$268.46

10 53. CSA's Contract provides that "Credit Solutions charges a 15% service fee for
11 all services provided." Plaintiff's Service Fee Payment Schedule calculated
12 by Defendant showed:

13	• Credit Solutions Total Service Fee	\$2,635.80
14	• 3 Initial Payments [3 months] of:	\$268.46
15	• Credit Solutions Initial Payment Total:	\$805.38
16	• Remaining Service Fee Balance:	\$1830.42
17	• 14 Monthly Service Fee Payments of:	\$130.74
18	• Total Months to Payoff Service Fee:	17

19 54. CSA's Contract contains a section entitled "Estimated Personal Savings Plan
20 For Payments to Creditors," which was calculated as follows:

21	• Estimated Settlement Amount	\$7,028.80
22	• Savings Budget During Initial Payments	Optional
23	• Minimum Savings During Remaining Service Fee Payments	\$137.72
24	• Minimum Personal Savings Payments after Credit Solutions Fee is Paid	\$268.46
25	• Total Payments towards savings after all payments	19
26	• Estimated Debt Free Time Frame	36 months

1 55. On or about August 21, 2009, Legal Recovery Offices, on behalf of Capital
 2 One Bank (USA) N.A., filed a complaint against Plaintiff seeking to collect
 3 on an account Plaintiff had enrolled in Defendant's program. When Plaintiff
 4 enrolled the account with Defendant, the balance was \$5,099.93. At the time
 5 Capital One Bank filed suit against Plaintiff, the balance of the alleged debt
 6 was \$6,476.71. This represents a 27% increase in the outstanding balance on
 7 this account.

8 CREDIT SOLUTIONS VIOLATIONS OF CALIFORNIA PRORATER LAW

- 9
- 10 56. As discussed above, CSA is a person or entity who, "for compensation,
 11 engages in whole or in part in the business of receiving money or evidences
 12 thereof for the purpose of distributing the money or evidences thereof among
 13 creditors in payment or partial payment of the obligations of the debtor," and
 14 is therefore a "Prorater" as that term is defined in Cal. Fin. Code § 12002.1.
- 15 57. Cal. Fin. Code § 12200 provides that "[n]o person shall engage in the
 16 business, for compensation, of . . . receiving money as an agent of an obligor
 17 for the purpose of paying bills, invoices, or accounts of such obligor, or acting
 18 as a prorater . . . without first obtaining a license from the commissioner [of
 19 the California Department of Corporations]." CSA has not obtained a license
 20 to act as a Prorater from the Commissioner of the Department of
 21 Corporations. Accordingly, CSA's prorating activities are unlawful under Cal.
 22 Fin. Code § 12200.
- 23 58. Cal. Fin. Code § 12314 provides regulation for the maximum charges that
 24 may be assessed by a prorater. This statute provides, in pertinent part, that
 25 "[t]he total charges received by a prorater. . . may not exceed in the aggregate
 26 twelve percent (12%) for the first three thousand dollars (\$3,000), eleven
 27 percent (11%) for the next two thousand dollars (\$2,000), and ten percent
 28 (10%) for any of the remaining payments distributed by a prorater to the
 creditors of a debtor. . . ." CSA charges a service fee equal to 15% of the total

1 debt submitted into CSA's Program. In and of itself, this total fee clearly
2 violates California Prorater Law. Not only does CSA's total service fee
3 violate California Prorater Law, but because CSA requires payment of their
4 service fees before disbursements of payments to Plaintiff's creditors, this too
5 violates California Prorater Law. Accordingly, CSA has violated Cal. Fin.
6 Code § 12314.

7 59. Cal. Fin. Code § 12314(a) provides that "an origination fee of a sum not to
8 exceed fifty dollars (\$50) may be charged." Plaintiff was required to pay
9 CSA \$805.38 over the first 90 days of CSA's Program. This "initial
10 payment(s)" or "origination fee" assessed by CSA clearly exceeds what is
11 legally permissible, thus, CSA has violated Cal. Fin. Code § 12314(a).

12 60. Cal. Fin. Code § 12315 provides that "[a] prorater shall not receive any fee
13 unless he has the consent of at least 51% of the total amount of indebtedness
14 and of the number of creditors listed in the prorater's contract with the debtor,
15 or such like number of creditors have accepted a distribution of payment."
16 CSA charged origination, and service fees prior to ever contacting Plaintiff's
17 creditors, thus, CSA has violated Cal. Fin. Code § 12315. CSA charged and
18 received money for the performance of this service which CSA has agreed to
19 perform for the Plaintiff before such service was fully performed. This
20 money was to be paid, and was in fact paid, by Plaintiffs prior to any service
21 by CSA.

22 61. Cal. Fin. Code 12314 provides that "[a]t least once each month the prorater
23 shall pay not less than 70 percent of all funds received from the debtor to the
24 creditors of the debtor." CSA has an established policy of only considering
25 contacting Plaintiff's creditors after Plaintiff had paid the initiation fee of
26 \$805.38. Even after these initiation fees, as clearly seen on Plaintiff's
27 Payment schedules above, only 51% of the money Plaintiff contributed to
28 CSA's program would be applied towards setting accounts with Plaintiff's
creditors, while the remainder would be applied to CSA's continuing service

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fees for 16 months after CSA's initiation fee. Therefore, CSA violated Cal. Fin. Code § 12314.

62. CSA's Contract provides that "COMPANY will notify CLIENT'S enrolled creditors within 72 hours of initial payment to COMPANY and request all telephone communications from creditors be directed the COMPANY corporate office." CSA failed to notify, in writing, all creditors listed in Plaintiff's contract of Plaintiff's desire to engage a prorater's services within five days of the effective date of the contract, in violation of Financial Code § 12315.1. This is clearly ascertainable based on CSA's policy of non-action until its initiation fee (which is paid over the first three months of CSA's program) is paid.
63. Cal. Fin. Code § 12311 provides that "no licensee shall advertise. . . or cause to permit to be advertised. . . in any manner whatsoever, any statement or representation which is false, misleading, or deceptive, or which omits to state material information. . . ." CSA, through their website and in-person contacts with Plaintiff, made the following material misrepresentations and material omissions of fact:
- a. CSA has not obtained a license to act as a prorater from the State of California.
 - b. Creditors will continue to assess interest, late fees, over-limit charges, and any other fees associated with the account. As a result, at the time that a settlement is reached, the consumer owes significantly more on their account, thus reducing the actual savings.
 - c. Because they are no longer receiving monthly payments, creditors will likely engage in collection activities which may include repeated phone calls and other correspondence. Over time, these activities can increase, especially as the consumer's account may get transferred to a collection agency.

- 1 d. Once a consumer stops paying on their accounts, the creditor may file
2 a lawsuit against the consumer for breaking their contract.
- 3 e. Creditors are under no obligation to accept, or even entertain,
4 CSA's settlement offer.
- 5 f. The consumers credit reports will reflect the late charges and
6 non-payment of their unsecured debt. As a result, the consumer's
7 credit score will drop while participating in the program and the
8 consumer may experience the long term effects of a low credit score,
9 which can include difficulty in buying a house or car, obtaining
10 insurance, or obtaining employment.
- 11 g. Even credit cards that are not enrolled in CSA's program, and are not
12 delinquent, may be cancelled by creditors because of information
13 sharing between these companies and various credit reporting bureaus,
14 substantially depriving consumers of necessary financial resources.
- 15 h. CSA dramatically overstates its ability to settle a consumers
16 debt, while simultaneously deceiving consumers into believing
17 that the consumer would be unable to perform similar tasks.
- 18 i. CSA misrepresents and exaggerates the purported positive effects
19 CSA's Program will have on consumers credit once the program is
20 completed.
- 21 j. CSA fails to disclose that debt settlement will cause good and even fair
22 credit scores to drop precipitously, and that reports of late payments,
23 charge offs, lawsuits, and judgments can remain on their credit report
24 for years.

25 These misleading and deceptive business practices of Defendant, as well as
26 the foregoing material omissions of CSA, violate Cal. Fin. Code § 12311.

27 64. Cal. Fin. Code § 12316 provides that "[i]f a prater contracts for, receives or
28 makes any charge in excess of the maximum permitted by this division,
except as the result of an accidental and bona fide error, the praters contract

1 with the debtor shall be void and the prorater shall return to the debtor all
 2 charges received from the debtor. Accordingly, based on the foregoing
 3 multiple violations of California law, Plaintiff's contract with CSA, as well as
 4 all California consumers who entered into similar agreements with CSA,
 5 should be deemed rescinded, and all money paid Plaintiff and California
 6 residents for CSA's' service fees should be returned.

7 CLASS ACTION ALLEGATIONS

- 8
- 9 65. Plaintiff brings this Class action against CSA for her claims under the Unfair
 10 Competition Law. Plaintiff also alleges violations of CLRA, CROA and
 11 further brings this action under theories of Tort in Essence and Negligence Per
 12 Se, both of which are predicated on CSA's violations of California Prorater
 13 Law. Plaintiff, individually, and on behalf of those similarly situated, seeks
 14 declaratory relief, injunctive relief, restitution, actual damages, statutory
 15 damages, and punitive damages against CSA.

16 *The Class*

- 17 66. "The Class" consists of all persons in California who in the four years
 18 preceding the filing of this Complaint (1) have engaged the Debt Settlement
 19 or Prorating services of CSA, (2) wherein CSA was unlawfully operating as a
 20 Prorater in the State of California as evidenced by the fact that CSA is not
 21 licensed to operate as a Prorater in the State of California, and further
 22 evidenced by the standard contract attached to this Complaint as exhibit "A"
 23 utilized by CSA in securing the business of said persons, (3) who paid CSA's
 24 service fee, or any portion thereof, or compensation of any kind to CSA in
 25 exchange for CSA's Debt Settlement or Prorating services.
- 26 67. The Class excludes CSA, their employees and agents.
- 27 68. Plaintiff is unable to state the precise number of proposed Class members in
 28 The Class because that information is in CSA's possession, however, because
 said class would include each and every California consumer who has

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procured CSA's services through agreement to CSA's Contract, the numbers are sufficient to satisfy any numerosity requirement for Class actions in California.

69. Plaintiff believes that joinder of all Class members would be impracticable.

70. The identities of Class members can be ascertained through CSA's records.

71. Questions of law and fact of common and general interest to The Class exist as to all members of The Class and predominate over any questions affecting only individual members of the Class because of the fact that this Class Action is based on the standard service contract utilized by CSA, CSA's general service fee practices, and the only legal and factual questions to be decided are whether:

- a. CSA is a prorater under California Prorater Law, and thus, was required to be licensed by the Commissioner of the California Department of Corporations;
- b. CSA's Contract violates various provisions of California Prorater Law;
- c. California Consumers paid money to CSA for CSA's debt settlement and/or prorating services, pursuant to the terms of CSA's Contract;
- d. CSA is a "credit repair organization" within the meaning of 15 U.S.C. § 1679(a)(3);

72. Because Plaintiff engaged the services of CSA, and Plaintiff paid money to CSA pursuant to CSA's Contract, her claims are typical of the claims of The Class, and she will fairly and adequately represent the interests of The Class.

73. Plaintiff will fairly and adequately represent the interests of The Class in that she has no interests antagonistic to The Class. Plaintiff has retained counsel competent and experienced in the prosecution of class action litigation, consumer rights litigation, and litigation based on California Prorater Law.

74. Plaintiff and members of The Class were harmed by the acts of Defendant in at least the following ways:

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a. Because CSA is unlawfully acting as a Prorater, as well as a Credit Repair Organization, and because CSA's contract violates numerous provisions of California Prorater Law, as well as CSA's numerous material misrepresentations and omissions of material fact, CSA unlawfully acquired money from Class Members who agreed to the Terms of CSA's Contract, and paid CSA's service fee pursuant to said contract, or any portion thereof.

75. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because the restitution owed to each individual member is relatively small compared to the expense and burden of prosecuting individual cases.

76. If individual Class members were required to bring separate actions, courts throughout California would be confronted by a multiplicity of lawsuits burdening the court system while also creating the risk of inconsistent rulings and contradictory judgments. In contrast to proceeding on a case by case basis, in which inconsistent rulings will magnify the delay and expense to all parties and the court system, this Class action presents far fewer management difficulties while providing unitary adjudication, economies of scale and comprehensive supervision by a single court.

77. In addition, because very few attorneys in California are experienced or knowledgeable about California Prorater Law or its requirements, it is extremely unlikely that persons harmed by CSA's Contracts would ever recover anything unless this case proceeds as a Class action.

78. CSA knowingly and intentionally misrepresented to Plaintiff and the Class the nature of its debt management services, its legal legitimacy thereof, and the true costs of its services.

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CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

**VIOLATIONS OF THE CALIFORNIA BUSINESS AND PROFESSIONAL CODE SECTION
17200 ET SEQ. (UCL)**

- 79. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
- 80. Plaintiff has standing to sue under the UCL pursuant to Cal. Bus. & Prof. Code § 17204, which provides in pertinent part, “[a]ctions for relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by. . . a person who has suffered injury in fact and has lost money or property as a result of the unfair competition.” *See Californians For Disability Rights v. Mervyn's, LLC* (2006) 39 Cal. 4th 223, 227. As discussed above, Plaintiff has suffered various injuries directly and proximately resulting from CSA’s unlawful, unfair, and fraudulent business practices. Specifically, Plaintiff suffered an injury in fact in the form of lost monies unlawfully acquired by CSA as a result of CSA’s unlawful business practices.
- 81. The practices prohibited by the UCL are “any practices forbidden by law, be it civil or criminal, federal, state, or municipal, statutory, regulatory, or court-made [and] [i]t is not necessary that the predicate law provide for private civil enforcement.” *Wang v. Massey Chevrolet*, (2002) 97 Cal. App. 4th 856, 871. As stated by our Supreme Court, the UCL ‘borrows’ violations of other laws and treats them as unlawful practices independently actionable under the UCL. *Farmers Ins. Exchange v. Superior Court* (1992) 2 Cal. 4th 377, 383; *South Bay Chevrolet v. General Motors Acceptance Corp.*, (1999) 72 Cal.App.4th 861, 880, *Wang v. Massey Chevrolet* (2002) 97 Cal. App. 4th 856, 871.
- 82. Each and every violation of California Prorater Law discussed above, constitutes multiple violations of the Unfair Competition Law. Additionally,

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1 CSA's acts and practices as alleged in this Complaint constitute unlawful,
2 unfair, and/or fraudulent business practices in violation of the UCL.

3 83. PFS engaged in unlawful business practices by, among other things:

4 a. engaging in conduct, as alleged herein, that violated California
5 Prorater Law, the Consumer Legal Remedies Act, and the Credit
6 Repair Organizations Act.

7 84. PFS engaged in unfair business practices by, among other things:

8 a. engaging in conduct, as alleged in this Complaint, where the utility of
9 that conduct is outweighed by the gravity of the consequences to
10 Plaintiff and the Class members;

11 b. engaging in conduct, as alleged in this Complaint, that is immoral,
12 unethical, oppressive, unscrupulous or substantially injurious to
13 consumers;

14 c. engaging in conduct that undermines or violates the stated policies
15 underlying the California Prorater Law, the Consumer Legal Remedies
16 Act, and the Credit Repair Organizations Act.

17 85. CSA engaged in fraudulent business practices by engaging in conduct that
18 was and is likely to deceive consumers acting reasonably under the
19 circumstances. CSA's fraudulent business practices include but are not
20 limited to:

21 a. CSA has not obtained a license to act as a prorater from the
22 State of California;

23 b. Creditors will continue to assess interest, late fees, over-limit charges,
24 and any other fees associated with the account. As a result, at the time
25 that a settlement is reached, the consumer owes significantly more on
26 their account, thus reducing the actual savings;

27 c. Because they are no longer receiving monthly payments, creditors will
28 likely engage in collection activities which may include repeated
phone calls and other correspondence. Over time, these activities can

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- increase, especially as the consumer's account may get transferred to a collection agency;
- d. Once a consumer stops paying on their accounts, the creditor may file a lawsuit against the consumer for breaking their contract;
 - e. Creditors are under no obligation to accept, or even entertain, CSA's settlement offer;
 - f. The consumers credit reports will reflect the late charges and non-payment of their unsecured debt. As a result, the consumer's credit score will drop while participating in the program and the consumer may experience the long term effects of a low credit score, which can include difficulty in buying a house or car, obtaining insurance, or obtaining employment;
 - g. Even credit cards that are not enrolled in CSA's program, and are not delinquent, may be cancelled by creditors because of information sharing between these companies and various credit reporting bureaus, substantially depriving consumers of necessary financial resources;
 - h. CSA dramatically overstates its ability to settle a consumers debt, while simultaneously deceiving consumers into believing that the consumer would be unable to perform similar tasks;
 - i. CSA's requirement that consumers pay substantial up-front fees before CSA will perform any promised services, despite CSA's knowledge that any consumer enrolled in CSA's program is undergoing substantial financial problems;
 - j. CSA misrepresents and exaggerates the purported positive effects CSA's Program will have on consumers credit once the program is completed.
 - k. CSA fails to disclose that debt settlement will cause good and even fair credit scores to drop precipitously, and that reports of late payments,

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charge offs, lawsuits, and judgments can remain on their credit report for years.

- 86. As a result of these violations, Plaintiff is entitled to restitution of all monies paid to CSA pursuant to Cal. Bus. & Prof. Code § 17203.
- 87. Plaintiff is entitled to an injunction to stop CSA's unlawful activities and the irreparable harm CSA has caused to Plaintiff and to other members of the public pursuant to Cal. Bus. & Prof. Code § 17203.
- 88. As an injunction in this matter would result in a substantial benefit to the public, Plaintiff is entitled to attorneys fees under Cal. Code of Civ. Pro. § 1021.5.

SECOND CLAIM FOR RELIEF

VIOLATIONS OF CONSUMERS LEGAL REMEDIES ACT

- 89. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
- 90. In concealing the material fact that the CSA is not licensed to do business as a Prorater in the State of California, CSA violated Cal. Civ. Code § 1770(a)(2) by misrepresenting the source, sponsorship, approval, or certification of goods or services.
- 91. In concealing the material fact that the CSA was not licensed to do business as a prorater in the State of California, CSA violated Cal. Civ. Code § 1770(a)(3) by misrepresenting certification by the State of California.
- 92. In concealing the material fact that CSA is not licensed to do business as a prorater in the State of California, as well as the numerous misrepresentations and omissions of material fact discussed above, CSA violated Cal. Civ Code § 1770(a)(7) by representing that services are of a particular standard, quality, or grade, when they are of another.
- 93. CSA's Contract calls for limitations of Plaintiff's remedies that are in violation of Cal. Civ. Code § 1770(a)(19) by inserting an unconscionable provision into the contract.

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94. Pursuant to Cal. Civ. Code § 1780, Plaintiff is entitled to restitution, injunctive relief, punitive damages as the court may allow, and reasonable attorneys fees.

THIRD CLAIM FOR RELIEF
VIOLATIONS OF THE CREDIT REPAIR ORGANIZATIONS ACT
15 U.S.C. § 1678, et seq.

95. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

96. CSA is a "credit repair organization" within the meaning of 15 U.S.C. § 1679(a)(3) because it expressly *and/or impliedly* represents that it will provide services that will improve the credit records, histories, or scores of its customers in exchange for compensation. CSA also expressly and/or impliedly represents that it will advise or assist consumers in improving their credit scores, histories, or scores in exchange for compensation.

97. CSA charged and/or received fees from Plaintiff and the class for services that CSA agreed to perform before those services were fully performed in violation of 15 U.S.C. § 1579b(b).

98. CSA failed to provide to the Plaintiff and the class the notice required pursuant to 15 U.S.C. § 1679c to inform consumers of their rights under federal and state law before entering into contracts or agreements.

99. CSA failed to provide to the Plaintiff and the class a full and detailed description of the services it would perform, and estimate of the date those services would be performed, and an estimate of the length of time necessary to complete those services as required by 15 U.S.C. § 1679d(b)(2).

100. Plaintiff and the class are entitled to compensatory damages of no less than the fees they paid to CSA, attorneys' fees and costs, and punitive damages pursuant to 15 U.S.C. § 1679g.

FOURTH CLAIM FOR RELIEF

TORT IN ESSENCE

101. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

102. A tort in essence is the breach of a nonconsensual duty owed another. *Laczko v. Jules Meyers, Inc.*, (1969) 276 Cal. App. 2d 293, 295. Violation of a statutory duty to another may therefore be a tort. *Id.* A violation of a statute embodying a public policy is generally actionable even though no specific civil remedy is provided in the statute itself. *Id.* Any injured member of the public for whose benefit the statute was enacted may bring the action. *Id.*

103. Plaintiff, a consumer of Prorater services, was entitled to a duty of care by CSA, a provider of Prorating services who provided prorating services to Plaintiff. The duty owed by CSA to Plaintiff is provided by the California Legislature in California Prorater Law.

104. CSA breached said non-consensual duties in that CSA violated the aforesaid California Prorater Law.

105. CSA's conduct was malicious, willful, fraudulent and oppressive, done with a conscious disregard for Plaintiff's rights and with the intent to injure Plaintiff thereby justifying the awarding of punitive damages.

106. As a direct and proximate result of the foregoing, Plaintiff has suffered injuries including but not limited to, financial loss, diminished credit capacity, mental and emotional distress and is entitled to damages against CSA, including but not limited to general and punitive damages in an amount according to proof.

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FIFTH CLAIM FOR RELIEF

NEGLIGENCE PER SE

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107. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

108. Cal. Evidence Code § 669(a) states that the failure of a person to exercise due care is *presumed* if he (1) violated a statute, ordinance, or regulation of a public entity; (2) The violation proximately caused injury to person or property; (3) The injury resulted from an occurrence of the nature of which the statute, ordinance, or regulation was designed to prevent; and (4) The person suffering the injury to his person or property was one of the class of persons for whose protection the statute, ordinance, or regulation was adopted.

109. Plaintiff, a consumer of Prorater services, was entitled to a duty of care by CSA, a provider of Prorating services who provided prorating services to Plaintiff. The duty owed by CSA to Plaintiff is provided by the California Legislature in California Prorater Law. CSA systematically violated the California Prorater Law, statutes and/or regulations promulgated under the California Financial Code, overseen and enforced by the Commissioner of the California Department of Corporations.

110. Plaintiff suffered an injury in fact, in the form of money unlawfully acquired by CSA. Plaintiff's injury was proximately caused by CSA's use of contracts that systematically violated California Prorater Law. In other words, but for the CSA's use of unlawful contracts, CSA would not have unlawfully acquired money from Plaintiff, and Plaintiff would not have been injured by CSA's unlawful conduct.

111. The regulations promulgated under California Prorater Law were designed to prevent overreaching Proraters and other entities engaged in the business of Prorating from demanding excessive sums of money in exchange for

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prorating services. Plaintiff's injury clearly resulted from an occurrence of the nature of which California Prorater Law was designed to prevent.

112. California Prorater Law was adopted to protect California Consumers from the oppressive and overreaching practices of those entities engaged in the business of prorating. Plaintiff, a California Consumer who in fact engaged the services of a Prorater, clearly was within the contemplated class of individuals sought to be protected by California Prortater Law.

113. CSA breached said duties in that CSA violated the aforesaid California Prorater Law.

114. The negligence of CSA was the proximate and legal causes of the damages sustained by Plaintiff. Plaintiff has incurred damages in an amount according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against CSA, and Plaintiff be awarded damages from CSA, as follows:

FOR ALL CAUSES OF ACTION:

1. Certification of this action as a class action pursuant to Fed, R. Civ. P. 23
2. That the Contract be adjudged rescinded and canceled;
3. A permanent injunction prohibiting CSA from engaging in any debt resolution, debt negotiation, debt settlement or any other consumer oriented financial services until CSA satisfies the Court that they have implemented procedures to insure that all required licenses are filed, disclosures are made, and all mandatory procedures and regulations promulgated under California Prorater Law are complied with and enforced;
4. Restitution of all consideration paid by Plaintiff;
5. Actual damages in an amount according to proof;
6. For punitive/exemplary damages in an amount according to proof;
7. For costs of suit incurred herein;

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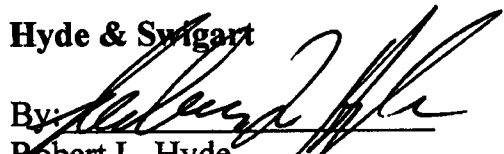
- 8. Reasonable attorney's fees according to proof;
- 9. For such other relief as the Court deems proper

TRIAL BY JURY

- 10. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Date: 1/14/10

Hyde & Swigart

By: 
 Robert L. Hyde
 Attorneys for the Plaintiff

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