

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO, ex rel.,
HECTOR H. BALDERAS, Attorney General of
New Mexico,
Plaintiff/Petitioner,

v.

Case No.

REAL ESTATE LAW CENTER, P.C., a California professional corporation,
ERIKSON M. DAVIS, an attorney and resident of California, individually, and
dba Real Estate Law Center, P.C., a California professional corporation,
DEEPAK S. PARWATIKAR, an attorney and resident of California, individually, and
dba Balanced Legal Group, an unidentified trade name or entity,
dba www.pinnaclelawcenter.com,
CHAD T. PRATT, an attorney and resident of California, individually, and formerly
dba Real Estate Law Center, P.C.,
The BALANCED LEGAL GROUP, an unidentified trade name or entity located in
California;
PINNACLE LAW CENTER, P.C., a California professional corporation;
Defendants/Respondents.

**COMPLAINT FOR VIOLATIONS OF THE NEW MEXICO MORTGAGE
FORECLOSURE CONSULTANT FRAUD PREVENTION ACT (MFCFPA),
MORTGAGE ASSISTANCE RELIEF SERVICES (MARS) RULE,
THE NEW MEXICO UNFAIR PRACTICES ACT (UPA)
AND PETITION FOR INJUNCTIVE RELIEF**

COMES NOW The State of New Mexico, by its Attorney General Hector H.
Balderas, (“OAG” or “Plaintiff” *hereinafter*), for its Complaint against Defendants Real
Estate Law Center, Erikson Davis, Chad Pratt, Deepak Parwatikar, Balanced Legal
Group and Pinnacle Law Center, hereby states and alleges as follows:

INTRODUCTION

The foreclosure crisis of 2008 created a new category of predators calling themselves “foreclosure consultants” and “mortgage modification” companies. Many of these companies charge homeowners large upfront fees for little to no service, or, worse, frivolous and meritless legal actions. States around the country, including New Mexico, enacted laws to prohibit such companies from charging upfront fees in advance of their delivery of service. While New Mexico’s ban on upfront fees does not apply to attorneys licensed to practice law in New Mexico when the attorney is rendering services in the course of his or her legal practice, the ban **does** apply to out-of-state attorneys and law firms that are not licensed to practice law in New Mexico. Some of these out-of-state entities promote their attorney affiliations as a means of convincing desperate homeowners to pay thousands of dollars in unlawful advance fees for supposed foreclosure or mortgage modification assistance.

Defendants have intentionally misrepresented and deceived New Mexico homeowners by soliciting their participation in frivolous and meritless mass joinder actions, filed in state and federal courts located in California. Defendants take advantage of consumers’ lack of knowledge and experience in foreclosure and loss mitigation. Defendants have charged New Mexico homeowners advance fees in violation of New Mexico law, using the sham mass joinder law suits as a front for the mortgage loan modification services actually provided. Defendant attorneys are not licensed to practice law in New Mexico, and have violated the New Mexico Mortgage Foreclosure Consultant Fraud Prevention Act, NMSA 47-15-1 *et seq.* (“MFCFPA”); secondly, the

Mortgage Assistance Relief Services [“MARS”] Rule, Regulation O, 12 C.F.R. Part 1015 (2011); and the New Mexico Unfair Practices Act, NMSA 57-12-1 *et seq.* (“UPA”).

JURISDICTION AND VENUE

1. This Court has subject-matter jurisdiction over this action because it is brought under federal consumer financial law and rules promulgated under such laws, 12 U.S.C. §5565(a)(1), and presents a federal question pursuant to 28 U.S.C. §1331. The MARS Rule is a rule enforced by the CFPB and is a “federal consumer financial law” as defined by 12 U.S.C. § 5481(14)). The state law claims arise from the same acts or conduct of Defendants such that they are part of the same case or controversy and thus this Court may exercise supplemental jurisdiction of those claims pursuant to 12 U.S.C. §1367(a).
2. Venue is proper in this District under 28 U.S.C. §§1391(b) and (c), and 12 U.S.C. §5552(a)(1). Defendants conduct business in this District and a substantial part of the events giving rise to this claim took place in this District including mailings and communications directed into New Mexico and, upon information and belief, payment for services by New Mexico residents.
3. Plaintiff OAG has consulted with the Consumer Financial Protection Bureau (“CFPB”) and provided the notice required by 12 U.S.C. §5538(b)(2).

PARTIES

4. Plaintiff, Hector H. Balderas, the Attorney General of the State of New Mexico, has a statutory duty to prosecute on behalf of the State when, in his judgment, the interests of the State require action. NMSA 1978 §8-5-2(B). The Attorney General has a statutory mandate to enforce the MFCFPA and UPA for the protection of the public. NMSA §§47-15-1 *et seq* and §§57-12-1 *et seq*.

5. The OAG is authorized to bring an action to enforce the MARS Rule to seek rescission or reformation of contracts, the refund of moneys paid, restitution, injunctive relief, disgorgement or compensation for unjust enrichment, and civil penalties. 12 C.F.R. §1015.10. *See also* 12 U.S.C. §5538(b)(1) (allowing a state attorney general to enforce rules and regulations issued pursuant to Title XII such as the MARS Rule).
6. The OAG is authorized to enforce the N.M. UPA and MFCFPA to seek injunctive relief, costs, exemplary damages and civil penalties of \$5,000.00 per violation. NMSA 1978 §57-12-8; §47-15-7. Defendants conduct business in New Mexico and in Bernalillo County, and a substantial part of the events giving rise to this claim took place in New Mexico including communications directed into New Mexico and sale of services to New Mexico residents.
7. Defendants have been engaged in trade or commerce in Bernalillo County and in New Mexico within the meaning of NMSA 1978 § 57-12-2(C).
8. Plaintiff OAG has consulted with the Consumer Financial Protection Bureau (“CFPB”) and provided the notice required by 12 U.S.C. §5552(b).
9. Defendant Real Estate Law Center (*hereinafter* RELC) is a Professional Corporation registered in California, located at 695 S. Vermont Ave., Suite 1100, Los Angeles, CA 90005.
10. Defendant Erikson Davis (*hereinafter* Davis), a resident of and an attorney licensed in California, is the manager and, upon information and belief, owner of RELC. Davis is not licensed to practice law in New Mexico.

11. Defendant Chad Pratt (*hereinafter* Pratt), a resident of and an attorney licensed in California, is the former manager and, upon information and belief, owner of RELC.

Pratt is not licensed to practice law in New Mexico.

12. Defendant Deepak S. Parwatikar (*hereinafter* Parwatikar), is a resident of and an attorney licensed in California, engaged in a common enterprise with RELC through his business Pinnacle Law Center PC.

13. Defendant Pinnacle Law Center PC (*hereinafter* Pinnacle) is a Professional Corporation registered in California and located at 695 S. Vermont Ave., Suite 1100, Los Angeles CA 90005.

14. Defendant Balanced Legal Group (*hereinafter* Balanced) is a California law firm owned and/or managed by Parwatikar.

15. Each Defendant committed the acts, caused or directed others to commit the acts, or permitted others to commit the acts alleged in this Complaint. Additionally, some or all of the defendants acted as the agents of the other defendants.

FACTUAL BACKGROUND

16. RELC offers legal representation, mortgage foreclosure consulting and mortgage modification services to homeowners in New Mexico although RELC and its attorneys are not licensed to practice law in New Mexico.

17. RELC has made direct telephone solicitations to New Mexico consumers and has advertised its services in filing mass joinder lawsuits and mortgage modifications.

18. RELC has filed dozens of frivolous mass joinder lawsuits against a variety of banks, enticing hundreds of homeowners, including at least 23 New Mexico homeowners, to join these lawsuits as a way to obtain better loan terms.

19. Defendant Erikson Davis worked in 2010 to 2012 with Mitchell J. Stein (“Stein”) in a scheme involving a mass joinder case remarkably similar to the mass joinder cases for which Davis subsequently solicited New Mexico homeowners.

20. Davis assumed ownership of RELC in 2013, on or about the time that Pratt was disciplined by the State Bar of California for filing meritless lawsuits, failing to account for fees claimed earned and failing to refund unearned fees.

21. Upon information and belief, Pratt and Davis pay 80% of the fees received by RELC to Pinnacle, owned by Parwitakar.

22. In 2010 Parwitakar was the subject of a law suit by the Attorney General of the State of Minnesota, in which Balanced Legal Group and Parwitakar were charged with illegally charging upfront, or advance, fees for loan modification services. *State of Minnesota v. Deepak Parwitakar and The Balanced Legal Group*, Case No. 27-CV-10-27052 (Hennepin County, Fourth Judicial District Court, Minnesota).

23. Upon information and belief, Defendants created the fiction of the mass action joinder lawsuits to disguise the advance fees as legal fees.

24. Defendants knew or should have known that such schemes are unlawful.

25. Despite the sham nature of these lawsuits, Defendants continue soliciting clients and filing these actions because this business model allows Defendants to charge consumers an “up front” fee of, typically, \$5,000.00 per consumer and a monthly fee of \$29.99 to \$59.99.

26. Defendants solicit New Mexico home owners to join fraudulent mass joinder lawsuits, filed in California, virtually all of which have been dismissed by the California courts as frivolous and without merit.

27. Defendants continued to operate in New Mexico, continuing to provide “legal” services to New Mexico residents, knowing that such services violate state and federal law.

28. RELC offers its “Foreclosure Defense Department” to New Mexico consumers despite employing no attorneys licensed to practice law in New Mexico.

29. Defendants accept upfront fees but fail to keep those fees in client trust accounts in accordance with California law.

30. The United States District Court in California ordered Davis to personally pay a lender/defendant over \$126,000.00 in sanctions because the mass joinder suit was brought “in bad faith” and was clearly “frivolous.” *Alexander v. Wells Fargo*, 2:14-cv01303-R-CW, *Order Granting in Part and Denying in Part Wells Fargo’s Motion for Attorneys’ Fees*, at p.3 (C.D. Cal. June 11, 2014).

31. Two New Mexico homeowners, Jose C. and Arlena D., were named as Plaintiffs in *Alexander v. Wells Fargo*. That Court found that Davis filed that lawsuit in defiance of a prior Court’s order and “without any concern over whether it was legally or factually plausible.” *Id.*, at p.4. The Court noted the “blatant misjoinder” of the consumer/plaintiffs. *Id.*, at p.4.

32. On August 4, 2014, the Court in *Alexander* further ordered Davis and RELC to pay Wells Fargo Bank an additional \$101,251.00, for a total of \$227,251.00, stating that Davis and RELC could not seek funds from the Plaintiff homeowners for these sanctions.

33. Balanced offers a public website that is accessible to New Mexico consumers at www.balancedlegalgroup.com. That website offers legal services including loan

modification and bankruptcy services. The site does not indicate any jurisdictional limitation on its practice.

34. Balanced uses the address 695 S. Vermont Ave., Los Angeles CA 90010, the same address as RELC and Pinnacle. This is the same address indicated in the State of Minnesota's suit against Parwatikar and Balanced.

35. On its website, Balanced says, in close proximity to the words "**LOWER YOUR MORTGAGE PAYMENTS TODAY!!**" that "[w]e work with litigation firms that sue lenders in individual or mass tort cases. Potential results of lawsuits can include but not limited to the following: -Principal reduction -Monetary damages - Lowered interest rates -Cancellation of the loan if severe fraud was present".

36. In an attempt to circumvent restrictions on upfront payments for mortgage modification assistance, RELC requires large upfront payments for its services, by describing its mortgage modification assistance as 'free' or 'complementary' when a consumer pays to participate in the sham mass joinder lawsuits.

37. Chad Thomas Pratt ("Pratt"), was the owner and manager of RELC from approximately September 2011 to September 2013 when he allegedly sold RELC to Davis.

38. Upon information and believe, RELC has an operating agreement or partnership agreement with Parwatikar and Pinnacle.

39. In November 2013, the State Bar of California filed disciplinary charges against Pratt in connection with the operation of RELC for (among other things) allowing non-attorney staff to practice law, making false statements to entice clients to retain RELC, failing to return un-earned fees, and for bringing "meritless" lawsuits for consumers.

40. The charges against Pratt resulted in a Decision by the State Bar Court of California ordering one year suspension, three years' probation and restitution to certain consumers. *In the Matter of Chad Thomas Pratt, Member No. 149746*, Case Nos. 13-O-12312-RAH (13-O-12367; 13-O-12757).

41. In 2013, Defendant Davis assumed management of Real Estate Law Center.

42. On July 21, 2016, the California State Bar Court disciplined Davis for multiple acts of misconduct which significantly harmed a client, the public and/or the administration of justice. *See* Stipulation re: Facts, Conclusions of Law and Disposition and Order Approving Actual Suspension, *In the Matter of: ERIKSON McDONNELL DAVIS*, Case Nos. 15-O-14599, 15-O-14705, 15-O-14821, 15-O-15481 etc.

43. The Stipulation found that Davis "exploited the complainants' financial difficulties and his fiduciary position by charging and collecting pre-performance fees... and by not providing refunds." *Id.*

44. The conduct for which Davis was disciplined also included failing to supervise non-attorney staff, having the homeowners enter into fee agreements for lender litigation when the homeowners were seeking loan modifications, bringing lawsuits with the ultimate purpose of obtaining loan modifications and charging and collecting pre-performance fees for those lawsuits, thereby committing acts of moral turpitude. *Id.*

45. On December 22, 2016, the California State Bar Court filed a Notice of Disciplinary Charges against Erikson Davis for activities related to the mortgage loan modification scheme. *In re Erikson McDonnell Davis*, No. 197841, Case Nos. 16-O-13378 et al. As of January 6, 2017, Mr. Davis is listed on the State Bar of California website as "Not Eligible to Practice Law in California".

46. The RELC Attorney-Client Fee Agreement provides, in part: “ATTORNEY’S FEES. Client agrees to pay RELC a NON REFUNDABLE one time retainer fee of \$5,000.00. As per Rule of Professional Conduct 3-700(D)(2), T&R Foods vs Rose (1996) 47CalAp.4th Supp.17, Matthew vs State Bar (1989) 49 CAL.3D 153, 164 n.4, this retainer fee is a True retainer to ensure and engage the availability of RELC for this legal matter(s) set forth herein to ensure and guarantee RELC working and litigating such matters exclusively. Client agrees and acknowledges that this fee is fully earned upon receipt. Client understands that their case will only be reviewed and prepared by NOT FILED UNTIL THE ENTIRE RETAINER FEE IS PAID. Should Client not pay the balance of a retainer, NO REFUND OR CREDIT will be owed since the actual time and effort spent on the file and the time and effort that could have been spent towards other files would be lost. In fact the balance of the retainer will still be owed and RELC can use all legal remedies to obtain the balance it sees fit.”

47. RELC informational material provided to its clients states: “**If you are a homeowner facing imminent foreclosure (a sales date within 45 days), contact our Foreclosure Defense Department, or FDD, immediately.** FDD will utilize a number of strategies to postpone the date.” [emphasis in original]

48. RELC informational material goes on to discuss what the homeowner should do if contacted by the Legal Department of the bank. The document, “**Together, We are a Team**” advised homeowners: “These are the lawyers representing your bank. You’ll rarely have any contact with this department. If they do contact you, forward the communication immediately to our Foreclosure Defense Department. Please email the FDD at FDD@lenderlawlitigation.com.”

49. RELC correspondence to homeowners makes deceptive statements including: “Real Estate Law Center feels the preceding cases carry extreme merit that may produce the following outcomes:

-Interest Rate Reduced to at 2% and fixed for a 30 year term (as stated on the stipulated judgment)

-Principal Reduction to 95% of Loan to Value (as stated on the stipulated judgment)

-Wiping out of Mortgage Lates off of the credit report

Please review the attached sample lawsuit. Your lawsuit will resemble what is attached.

We look forward to servicing your case and providing real results.”

50. The lawsuit attached to, and referenced by, the correspondence, *Marino v. Bank of America*, BC531713 (L.A.S.C. 12/26/13), was a mass joinder lawsuit filed by Erikson Davis and RELC, listing 48 plaintiffs. *Marino* was dismissed after being consolidated with 21 similar lawsuits filed by RELC, many including New Mexico plaintiffs. The Court of Appeal of the State of California upheld the trial court’s dismissal of these 22 lawsuits, including 222 plaintiffs, when the trial court granted the defendants’ demurrers to the consolidated complaint. *Aghaji et al v. Bank of America NA et al*, B261971 (May 31, 2016).

INDIVIDUAL HOMEOWNERS

51. On or about February 16, 2016, the Office of the Attorney General (“OAG”) received a complaint from a New Mexico resident, “Mike M.”, regarding RELC and Davis.

52. Mike M. alleged that RELC charged him \$5,000.00 in legal fees and then failed to provide the services it promised. RELC agents promised Mike M. that RELC would help him obtain a loan modification.

53. The Mike M. complaint noted that Defendants filed a suit naming him as a plaintiff but it was dismissed and he obtained no other benefit from the representation by RELC. He sought a refund of the thousands of dollars of fees he paid RELC. Mike M. was facing a foreclosure lawsuit brought by his lender at the time as well and RELC staff offered Mike M. the services of RELC's "Foreclosure Defense Department" or "FDD."

54. Such an offer reasonably conveyed to Mike M. that RELC was offering to act as his attorneys to defend his foreclosure. RELC emailed a "representation" letter to local New Mexico counsel for Wells Fargo advising that any communication with Mr. M. be through RELC.

55. On January 14, 2013, in the lawsuit *Attygala v. Wells Fargo*, Cause No. 2:12-cv-10075-MMM-PLA in the United States District Court for the Central District of California (Western Division), Pratt signed a first amended complaint (Doc. 5) which identified Mike M. as a resident of New Mexico and Pratt specifically listed Mike M's home address as being in Albuquerque, New Mexico. On September 10, 2013, Pratt voluntarily dismissed this action after the Court ordered dismissal of 83 of the 84 named plaintiffs due to obvious mis-joinder of non-California plaintiffs, and held that many of the claims RELC brought were "fatally defective" and "abandoned".

56. Mike M. sought a refund from RELC. Davis initially refused to issue a refund stating that the consumer "was confused" about the services but eventually issued a refund in response to the OAG's intervention.

57. On February 26, 2016, Davis assured the OAG in writing that RELC had “only” had one client in New Mexico since 2013 and in this e-mail, Davis issued the following statement: “I hereby certify and assure you that we will not be representing New Mexico consumers in the future and will not be soliciting any clients from your state.”

58. Despite Davis’ assurances that RELC only had one New Mexico client, RELC has dealt with or taken payments from at least twenty-three (23) New Mexico consumers since 2013.

59. Davis has continued to represent and communicate with New Mexico residents even after he “certified” in his e-mail on February 26, 2016 that he would not do so.

60. For example, on March 26, 2016, RELC contacted New Mexico consumer Brian W. regarding its mass joinder action, *Jackson v. Specialized Loan Servicing*, 14-cv-05981(U.S.D.Ct. C.Dist of Calif.), which was dismissed after removal to federal court. RELC then re-filed an action, *Arce v. SLS*, Case No. 37-2015-00013692, which was dismissed with prejudice in January 2016. Davis solicited Brian W. to continue paying RELC to pursue an appeal of the *Arce* decision.

61. Davis knew or should have known that Brian W. is a New Mexico resident because he identifies the residence and address of each client in the mass joinder suits filed on behalf of the client. Further, the client database used by RELC includes the address of the client.

62. Further, Davis could not have reasonably believed that Mike M. was RELC’s only New Mexico client because prior to 2016 Davis had personally signed and filed pleadings submitted to courts on behalf of several New Mexico residents as forth more fully below.

63. After Davis assured the OAG that RELC would no longer operate in New Mexico, on April 20, 2016, an RELC staff member, Sam Branco sent an e-mail to a New Mexico consumer, Mark H.

64. In this e-mail, Branco reports to Mark H. that RELC and its “FDD” (Foreclosure Defense Department) manager had obtained a loan modification from Mark H.’s bank. Branco instructs Mark H. to sign and return the modification offer to RELC.

65. Mark H. was named as Plaintiff in the mass joinder case *Brown v. Citibank*, 2:14-cv-07695 removed by Defendant Citibank to the U.S. District Court for the Central District of California and remanded on November 7, 2014, to the Los Angeles County Superior Court. This was the third of three lawsuits filed by Plaintiffs against Citibank, all three having some plaintiffs in common. Mark H. was a Plaintiff in *Brown III* (Calif.Sup.Ct., Los Angeles County, Central District, Case No. BC550916) which included 71 plaintiffs. *Brown II* (Calif.Sup.Ct., Los Angeles County, Central District, Case No.) was filed March 5, 2014 and voluntarily dismissed on June 17, 2014. *Brown I* (Calif.Sup.Ct., Los Angeles County, Central District, Case No. BC526842) was filed on November 5, 2013 and voluntarily dismissed on February 5, 2014.

66. On June 19, 2013 in the lawsuit *Acevedo v. JP Morgan Chase*, filed in the Superior Court of California, Los Angeles County, Case No. BC512588, which defendants removed to federal court to become Cause No. 2:13-cv-05278-RJC in the U.S. District Court for the Central District of California, the former owner of RELC, Chad Pratt, signed a complaint which identified his client Larry M. as a resident of New Mexico. Two months later, on August 22, 2013, Pratt voluntarily dismissed this case as

RELC does with the vast majority of its cases. As the current owner of RELC, Davis knows or should know that he represents Larry M.

67. On January 17, 2014, in *Alexander v. Wells Fargo*, Davis signed a complaint (Cal.Sup.Ct., L.A.Cty Case No BC533525) which identified two clients, Jose C. and Arlena D., as residents of New Mexico. In the complaint, Davis gave the home address of these two consumers as being in Rio Rancho, New Mexico and Albuquerque, New Mexico, respectively. Thus, Davis clearly knew or should have known he had two clients who were New Mexico residents.

68. *Alexander* was later removed to the U.S. District Court for the Central District of California, Case No. 2:14- cv-01303. On June 11, 2014, the Honorable Manuel L. Real imposed sanctions of \$126,400.00 on Davis and RELC because the suit was brought in bad faith and was frivolous on its face. The Court noted that “These allegations [in the mass joinder complaint] are indicative of bad faith because they indicate that the Complaint was filed without any concern over whether it was legally or factually plausible.” Case 2:14-cv-01303, Order, 6/11/14.

69. Over 2014 and 2015, Davis has represented Brian W., a resident of Santa Fe, New Mexico in at least two lawsuits filed in California. Cf. Brian W. paid RELC approximately \$6,400.00 and on May 1, 2016 he submitted a complaint to the OAG seeking a refund because he felt that RELC provided no services to earn those fees. Actions filed by Davis on behalf of Brian W. include *Jackson v. Specialized Loan Servicing* (Cal.Sup.Ct., L.A. Cty. Case No. BC541287; removed to the U.S. Dist. Ct., Central Dist. of Calif., Case No. 2:14-cv-05981) and *Arce v. Specialized Loan Servicing* (Cal.Sup.Ct., San Diego Cty. Case No. 37-2015-00013692). The federal court dismissed

the *Jackson* case with prejudice. (Cause No. 2:14-cv-05981 Order Granting Motion to Dismiss, August 5, 2014).

70. On April 27, 2015, Davis sent an e-mail to Brian W. stating that California Superior Court Judge Hogue banned RELC from filing mass joinder cases in that court, and so Davis decided to re-file the case in the San Diego County Superior Court, with the caption *Arce v. Specialized Loan Servicing LLC*, Case No. 37-2015-00013692. This case was dismissed with prejudice, although without prejudice as to the individual plaintiffs, on February 5, 2016.

71. Lloyd T., a resident of New Mexico, paid RELC \$6,000 in February 2013, and was named as a Plaintiff in the mass joinder lawsuit *Simons et al v. Bank of America et al*, BC531836. *Simons* and 21 other mass joinder cases, were consolidated into *Aghaji et al v. Bank of America et al*, dismissal of which was upheld by the Court of Appeals of the State of California. 247 Cal.App.4th 1110 (May 31, 2016).

72. June V. and Jose V., daughter and father, residents of New Mexico, were charged \$7,500.00 for mass joinder lawsuits and loss mitigation services. June V. was a plaintiff in *Audrey Anderson et al v. Nationstar* (Cal.Sup.Ct. L.A.Cty. Case No. BC539499). A judgment entered in favor of the Defendant Nationstar Mortgage on February 23, 2015. Jose V. was a plaintiff in *Amador et al v. Nationstar* (Cal.Sup.Ct., L.A.Cty. Case No. BC534708). Judgment entered in *Amador* in favor of Defendant Nationstar on February 27, 2015.

73. Julian M., a resident of New Mexico, was a plaintiff in *Amanda Ball et al v. JP Morgan Chase & Co. et al* (Cal.Sup.Ct., L.A.Cty. Case No. BC540510) filed on March 25, 2014, and dismissed on May 27, 2015. Julian M. was also a plaintiff, as was Caroline

D., in *Conrad et al v. JP Morgan Chase et al* (Cal.Sup.Ct., San Joaquin Cty. Case No. STK-CV-UF-20150006295) filed on July 14, 2015.

74. The Superior Court of California, Santa Clara County, ordered that four mass joinder cases against JP Morgan Chase be consolidated into Judicial Council Coordination Proceeding No. 4846. The consolidated cases included *Chambers et al v. JP Morgan Chase*, No. RG15777722, *Olson et al v. JP Morgan Chase*, No. 34201500181790, *Barlow et al v. JP Morgan Chase*, No. 1-15-CV0283005 and *Conrad*. On September 27, 2016, a dismissal of the four cases was filed at the request of Davis. Julian M. and Caroline D. remaining 'clients' of Davis at least until and through September 27, 2016.

75. Valerie T. became a client of RELC in early 2013, paying \$5,000.00 in up-front fees. RELC told Valerie T. that her pending foreclosure lawsuit would be stopped, her mortgage loan would be restructured and past due amounts would be forgiven. Valerie T. was one of 60 plaintiffs in *Murphy v. Wells Fargo*, Case No. BC534397, filed in Los Angeles County Superior Court. *Murphy* was removed to the U.S. District Court, Central District of California, on February 26, 2014, by Defendant Wells Fargo. Cause No. 2:14-cv-01444. *Murphy* was voluntarily dismissed by RELC and Davis on April 4, 2014. In May 2014, RELC and Davis filed the mass joinder lawsuit *Mills et al v. Wells Fargo*, 37-2014-00015941, in San Diego County Superior Court, naming Valerie T as one of the plaintiffs. *Mills* was voluntarily dismissed by RELC and Davis on or about June 30, 2014.

76. While RELC and Davis were filing and dismissing various mass joinder lawsuits, supposedly on behalf of Valerie T., on April 8, 2014, a default judgment was entered

against Valerie T. in the New Mexico state court foreclosure action. With a foreclosure sale scheduled on June 14, 2014, RELC then offered Valerie T. the assistance of its Foreclosure Defense Department “to assist in delaying your foreclosure sale date”.

COUNT I

MARS Rule (Regulation O) Violations for Advance Payments

77. All preceding paragraphs are hereby incorporated as though fully set forth herein.

78. The MARS Rule, 12 C.F.R. Part 1015, is also called “Regulation O.” Regulation O defines “mortgage assistance relief service” as “any service, plan, or program, offered or provided to the consumer in exchange for consideration, that is represented, expressly or by implication, to assist or attempt to assist the consumer with . . . [n]egotiating, obtaining, or arranging a modification of any term of a dwelling loan, including a reduction in the amount of interest, principal balance, monthly payments, or fees” 12 C.F.R. §1015.2 (2011).

79. Regulation O defines “mortgage assistance relief service provider” as “any person that provides, offers to provide, or arranges for others to provide, any mortgage assistance relief service,” other than the dwelling loan holder, the servicer of a dwelling loan, or any agent or contractor of such individual or entity. 12 C.F.R. §1015.2 (2011).

80. Defendants offer mortgage relief services as defined by Regulation O by offering to assist homeowners in applying for loan modifications. This is confirmed by the content of Defendants’ emails and correspondence which state or imply that Defendants can assist homeowners in obtaining a reduced payment and favorable loan modification.

81. Defendants were providing, offering to provide and “arranging for others” to provide mortgage relief services to New Mexico residents. Upon information and belief,

Defendants Parwitikar and Pinnacle provided substantial assistance or support to Defendants RELC, Pratt and Davis. 12 C.F.R. §1015.6.

82. Defendants are “mortgage assistance relief service provider[s]” engaged in the provision of “mortgage assistance relief services” as those terms are defined in Regulation O. 12 C.F.R. §1015.2.

83. Regulation O provides an exemption for the collection of advance payments for attorneys licensed in the state in which the consumer resides or in which the consumer’s dwelling is located, and who comply with certain other requirements. 12 CFR §1015.7.

84. Defendant Real Estate Law Center solicited and accepted advance fees from at least twenty-three New Mexico residents and are not subject to the exemption as Defendants are not licensed to practice in New Mexico, nor do Defendants comply with other requirements. 12 CFR §1015.5. The advance fees prohibition makes it a violation of the MARS Rule to request or receive payment of any fee until a mortgage modification agreement has been finalized between the consumer and the lender or servicer of the loan. 12 C.F.R. §1015.5(a).

85. Each solicited advance payment which was obtained from a New Mexico resident constitutes a violation of the MARS Rule and thus Defendants are liable for civil penalties for at least 23 known violations, for any violations discovered in the litigation of this lawsuit, restitution and refunds to consumers, and injunctive relief prohibiting the collection of such advance fees in the future.

COUNT II

Violations of the N.M. Mortgage Foreclosure Consultant Fraud Prevention Act

86. All preceding paragraphs are hereby incorporated as though fully set forth herein.

87. By offering and performing their services to “stop or postpone a foreclosure sale”, “avoid or ameliorate the impairment of an owner’s credit” and “otherwise save” consumers’ homes from foreclosure, Defendants were acting as Foreclosure Consultants within the meaning of the MFCFPA, Section 47-15-2.B(1)(a), (g), and (h), and none of the Defendants fall within any of the MFCFPA’s narrow exceptions.

88. The MFCFPA has an exemption for attorneys licensed to practice in New Mexico when the person renders service in the course of the person’s practice as an attorney. *See* NMSA 1978 § 47-15-2 (B)(2)(a)

89. Defendants do not fit within this exemption as none of the attorneys named as Defendants are licensed to practice law in New Mexico.

90. Defendants committed such violations for at least 23 New Mexico consumers. The OAG reserves the right to bring additional claims as justified.

91. The written agreements used by Defendants with the above consumers did not contain any of the warnings, notices, and disclosures required by NMSA 1978, § 47-15-3, nor were they provided to the homeowner for review at least twenty-four hours before being signed, as required by section A(1) of that part.

92. Defendants required payment in full for their services prior to the completion of all work in violation of NMSA 1978, § 47-15-5(A). *Id.*

93. Defendants acted willfully and in bad faith in violating the MFCFPA because they were put on notice of their violations of the MFCFPA by Plaintiff and, instead of stopping their conduct, they falsely claimed that they would cease representing New Mexico homeowners.

94. The OAG brings this action to stop Defendants from continuing to cause serious harm to New Mexico consumers and to seek all relief allowed by law against Defendants, including disgorgement of unlawful fees, restitution to consumers, civil penalties, and a permanent injunction barring Defendants from doing business in New Mexico.

95. Parwatikar has engaged in mortgage relief and debt relief since 2010. In 2010, the Minnesota Attorney General sued Parwatikar and his firm The Balanced Legal Group (“BLG” *hereinafter*) for consumer protection violations in connection with the offering of unlawful mortgage relief and debt relief services. Parwatikar stipulated to a judgment against himself personally and BLG for over \$20,000.00.

96. Parwatikar knows or should know that offering mortgage relief or debt relief often violates state or federal consumer protection laws. His continuing operation of RELC/Pinnacle is willful and in bad faith.

97. Consistent with the findings against Pratt in the State Bar case, Defendants and their agents tell consumers that RELC can assist consumers in obtaining a loan modification or other loan workout with the consumers’ home loan lender or servicer. RELC then files a meritless “mass joinder” lawsuit which includes the consumer as one of fifty or more plaintiffs in an action in California.

98. For this “service” consumers generally pay a flat fee of \$5,000.00 as a non-refundable fee and then pay a monthly maintenance fee. Defendants claim that this fee is earned “up front” and is owed by the consumer regardless of any actual work performed for the consumer or whether the consumer receives any benefit from Defendants.

99. Defendants fail to provide any accounting for the retainer and other fees paid by consumers.

100. Offering to obtain a loan modification for a consumer or save a home from foreclosure constitutes offering “mortgage relief” services under federal law as defined by the MARS Rule, Regulation O, 12 CFR §1015.2.

101. Offering to “otherwise save” a home from foreclosure, or to stop or postpone a foreclosure sale, constitute the offering of “mortgage foreclosure consultant” services in New Mexico pursuant to state law. NMSA 1978 47-15-2(B).

COUNT III

Violations of the N.M. Unfair Practices Act

102. All preceding paragraphs are hereby incorporated as though fully set forth herein.

103. The lawsuits that RELC files on behalf of consumers have no merit and are dismissed by the courts for improper joinder because the consumers have no connection to the forum or with each other, or voluntarily dismissed by the Defendants.

104. Defendants tell consumers that “your case is in excellent hands” and calls itself a “powerhouse law firm”. Defendants claim to be negotiating directly with bank attorneys when they are in fact simply submitting routine loan modification applications.

105. The Defendants scammed the consumers in three ways: first, the consumers pay a large up-front fee to Defendants plus monthly maintenance fees to participate in a sham mass joinder lawsuit; secondly, consumers assume RELC is actually performing valuable or helpful legal services when RELC is in fact doing little or nothing for the consumers – the sham suits provide no value to the consumers; finally, these consumers believe that RELC will assist the consumer in defending a foreclosure lawsuit because RELC employees offer a “Foreclosure Defense Department” option to consumers.

106. Because of RELC's pattern of bringing vexatious and frivolous cases, Pratt and Davis have been sanctioned by California courts in which the mass joinder cases are filed.

107. These sham cases are brought by Defendants for the sole purpose of extracting legal fees from these consumers. For the reasons that follow, Defendants are jointly and personally liable for their unlawful conduct and should be enjoined from further deceptive and unfair practices used to deceive consumers into paying many thousands of dollars.

108. Based upon the Minnesota AG lawsuit brought in 2011, and the 2013 California Bar disciplinary action against Pratt, Defendants knew or should have known by late 2013 that they were engaged in a pattern and practice of unlawful conduct.

COUNT IV

Injunctive Relief

109. All preceding paragraphs are hereby incorporated as though fully set forth herein.

110. Pursuant to Rule 1-066 NMRA, NMSA 1978 §36-2-28.2(A), and NMSA 1978 §57-12-8(A), the Attorney General seeks preliminary and permanent injunctions against Defendants to prevent continued violations of consumer protection laws by Defendants. The AGO may seek to enjoin violations of the MARS Rule pursuant to 12 USC §5538(b)(1)(a).

111. The AGO hereby seeks all injunctive relief that bars all Defendants from engaging in unfair and deceptive practices, violations of the MARS Rule and violation of the NM Mortgage Foreclosure Consultant Fraud Prevention Act.

PRAYER FOR RELIEF

WHEREFORE, the Attorney General seeks a judgment and order against Defendants:

- A. For restitution for each violation in amounts to be determined at trial;
- B. For disgorgement of any and all unlawful earnings or revenues;
- C. For restitution, public notification and civil penalties ranging from \$5,526.00 to \$1,105,241.00 per day for violations of the MARS Rule under the Consumer Financial Protection Act. 12 U.S.C. §5565;
- D. For a civil penalty of \$5,000.00 per violation of the UPA pursuant to NMSA 1978 §57-12-11;
- E. Exemplary damages of three times the compensation charged for each violation of the MFCFPA pursuant to NMSA 1978 §47-15-7(D);
- F. For costs pursuant to 12 U.S.C. §5565(b);
- G. For a temporary injunction, preliminary injunction and permanent injunction barring Defendants from engaging in the unlawful acts described above; and,
- H. For such other relief as the Court deems just and proper.

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