

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

NATACHA GUERRA, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

LINEBARGER GOGGAN BLAIR & SAMPSON,  
LLP, a Texas limited liability partnership, and  
HARVEY RUVIN, in his capacity as Clerk of the  
Courts of Miami-Dade County, Florida,

**JURY DEMAND**

Defendants.

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**CLASS ACTION COMPLAINT**

1. Plaintiff NATACHA GUERRA alleges that Defendants LINEBARGER GOGGAN BLAIR & SAMPSON, LLP (“Linebarger”) and HARVEY RUVIN, in his capacity as the Clerk of the Courts of Miami-Dade County, Florida (Ruvin), have unjustly collected millions of dollars from persons in Florida in the form of unearned “*collection fees*.” Defendant Linebarger is a private company that was engaged by Miami-Dade County to collect on unpaid civil penalties, fines, and court cost orders. The collection fees are automatically imposed by robo-calculation immediately upon assignment to Defendant Linebarger and prior to any actual legal services or collection activity. These payments were made directly at the Miami-Dade County Clerk’s office and were not collected by Defendant Linebarger. In fact, it is Defendant Ruvin that collects from class members who rush to the Clerk of the Courts for Miami-Dade County to pay their traffic tickets and civil penalties under threat of suspension of their driver licenses. The premature addition of “*collection fees*” for the benefit of Defendants violates

Federal law, Florida State Constitution, Florida State law, and the contract between Defendant Linebarger and Miami-Dade County.

2. Fla. Stat. § 28.246(6) authorizes a collection fee not exceeding 40 percent of the amount owed on any unpaid fee, service charges, fines, court costs, and liens and directs the clerk to refer these debts to a private attorney or collection agent. However, the plain meaning of “*collection fee*” indicates an amount paid in consideration of the efforts taken to collect a sum owed, an interpretation also supported by Defendant Linebarger’s contract with Miami-Dade County.<sup>1</sup> Plaintiff contends that the fee collected by Defendants was unearned and unlawful given the lack of any collecting activity on the part of Defendant Linebarger, and as a consequence, Defendants were unjustly enriched by retaining the unearned benefit not collected in accord with the statute. Furthermore, the collection and retention of the unearned fees violates the Eighth and Fourteenth Amendments to the Constitution, the Florida State Constitution, the Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”), Fla. Sta. §501.204(1), and Fla. Stat. §57.051(1). Accordingly, on behalf of the putative class, Plaintiff seeks to recover all monies unlawfully collected by Defendants, actual damages, injunctive relief, declaratory relief, attorney fees and interest.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction pursuant 28 U.S.C. § 1331 due to federal questions raised in the Complaint. This Court also has jurisdiction pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d)(2) and (6), because (i) at least one member of the putative class is a citizen of a state different from Defendants, (ii) the amount in controversy exceeds

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<sup>1</sup> “The words ‘*Collection Fee*’ to mean the compensation to the Pool member for **collection services** provided to the Clerk in accordance with Florida Statute 28.246.” *Exhibit A*, Art. 1(d) (emphasis added).

\$5,000,000, exclusive of costs and interest, and (iii) none of the exceptions under that section apply to this action. Moreover, this Court also has supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367.

4. This Court has personal jurisdiction over the Defendant Linebarger because Defendant conducts business in this District by contracting directly with the Miami-Dade County Clerk of the Courts, and by collecting money from alleged debtors in this District.

5. This Court has personal jurisdiction over the Defendant Ruvin because Defendant is the Clerk of the Courts of Miami-Dade County situated in this District, and carries on the alleged unlawful collection activity in his capacity as the Miami-Dade County Clerk of the Courts.

6. Venue is proper in this District under 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred here, and under 18 U.S.C. § 1965(a) because Defendants transact their affairs here.

#### **PARTIES**

7. Plaintiff NATACHA GUERRA is a natural person and a citizen of the State of Florida, residing in Miami-Dade County, Florida.

8. Defendant LINEBARGER GOGGAN BLAIR & SAMPSON, LLP (“Linebarger”) is a Texas limited liability partnership and debt collector that operates from offices located at 2700 Via Fortuna Drive, Suite 400, Austin, TX 78746. All members of Linebarger are not citizens of Florida and are believed to be citizens of Texas.

9. Defendant HARVEY RUVIN (“Ruvín”) is the duly elected Clerk of the Courts for Miami-Dade County, Florida, pursuant to art. V, § 16 of the Florida Constitution and is a County

officer pursuant to art. VIII, § 1(d) of the Florida Constitution. This action is brought against Harvey Ruvin in his official capacity only and not in his personal capacity.

**STATUTORY AND CONSTITUTIONAL BACKGROUND**

10. Fla. Stat. § 28.246 sets forth the rules and procedures for how a Florida clerk of court is to handle payment of court-related fines, fees, charges, costs, and other monetary penalties. Fla. Stat. § 28.246 (2015).

11. When a court-related fine, fee, charge, cost, or other monetary penalty remains unpaid after 90 days, Fla. Stat. § 28.246(6) directs the clerk of court to refer the account to a private attorney or collection agent, who will then pursue payment of the debt. § 28.246(6).

12. The fee that is paid to such a private attorney or collection agent (the “*collection fee*”), “including any reasonable attorney’s fee, paid to any attorney or collection agent retained by the clerk may be added to the balance owed in an amount not to exceed 40 percent of the amount owed at the time the account is referred to the attorney or agent for collection.” § 28.246(6).

13. Article V, Section 16 of the Florida Constitution, provides in its entirety as follows:

Clerks of the circuit courts. There shall be in each county a clerk of the circuit court who shall be selected pursuant to the provisions of Article VIII section 1. Notwithstanding any other provision of the constitution, the duties of the clerk of the circuit court may be divided by special or general law between two officers, one serving as clerk of court and one serving as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds. There may be a clerk of the county court if authorized by general or special law.

14. In the performance of their duties as the record keepers for the courts, the Clerks are ministerial officers devoid of any discretion. *Corbin v. State ex rel. Slaughter*, 324 So. 2d 204 (Fla. 1 DCA 1975).

15. Article VIII, Section 1(d) of the Florida Constitution, provides in its entirety as follows:

COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office. When not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds.

Thus, the Clerks serve in a “unique dual capacity.” *Times Publishing Co. v. Ake*, 645 So.2d 1003, 1004 (Fla. 2 DCA 1994).

**FACTUAL ALLEGATIONS AS TO DEFENDANTS LINEBARGER AND RUVIN**

16. Defendant Linebarger is a debt collector that collects debts, in part for government entities.

17. Defendant Ruvin is the duly elected Clerk of the Courts for Miami-Dade County. The Clerks are constitutional officers deriving their authority and responsibility from both constitutional and statutory provisions. *Alachua County v. Powers*, 351 So.2d 32, 35 (Fla. 1977); *Security Finance Co. v. Gentry*, 91 Fla. 1015, 109 So. 2d 220 (1926).

18. In 2011, Linebarger executed a contract with Miami-Dade County, Florida, as authorized by Fla. Stat. § 28.246(6), pursuant to which Linebarger provides debt collection services to the county. A copy of Linebarger’s contract with Miami-Dade County is attached hereto as *Exhibit A*.

19. Under the aforementioned contract, and pursuant to Fla. Stat. § 28.246(6), Linebarger is tasked with collecting unpaid “fines, charges and costs assessed” in connection with parking violations, traffic violations, misdemeanors, and criminal cases. *See Exhibit A.*

20. As compensation for its services, per its contract, Linebarger is entitled to add an attorney fee or “collection fee” to the debts it collects, fixed at 40% of the debt. *See Exhibit A, Art. 7-8.*

21. Per its contract, Linebarger is permitted to add this amount of the underlying debt. *See Exhibit A, Art. 7-8.*

22. Where Linebarger collects a debt directly, it “may retain the additional 40% Collection Fee placed on top of the debt owed to the Clerk.” *Exhibit A, Art. 7-8.*

23. However, per the contract, “where a Client makes a payment to a referring Clerk Division at its local office, **in response to collection efforts taken by the Contractor**, the payment shall be subject to the 40% Collection Fee. The Clerk will remit the 40% Collection Fee to the Contractor when the Clerk accepts payment by a Client.”<sup>2</sup> *See Exhibit A, Art. 9* (emphasis added).

24. Defendant Ruvin, as the Clerk of the Courts in Miami-Dade County, did from on or about July 1, 2004, charge and collect and continues to charge and collect a “Collection Fee” amounting to 40% of the sum owed from persons filing a paying of a fine one day late, ostensibly under the authority of Fla. Stat. § 28.246(6).

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<sup>2</sup> The Contract defines the word “Client” to mean an individual or entity that owes Miami-Dade County Clerk of the Courts monies that are past due, and “Contractor” to mean Defendant Linebarger. *Exhibit A, Art 1.*

**FACTUAL ALLEGATIONS AS TO PLAINTIFF GUERRA**

25. On November 3, 2015, Plaintiff Guerra was issued a traffic citation for speeding. This was Miami-Dade County traffic citation number A1QOF6P.

26. On December 21, 2015, Plaintiff Guerra contested the aforementioned citation at trial in Miami-Dade County Court. The Court withheld adjudication of guilt, and ordered her to pay a total civil penalty of \$392.00 by January 20, 2016.

27. Plaintiff Guerra did not timely pay this sum, and on January 20, 2016, a late fee of \$16.00 was automatically added to this sum, raising the total penalty to \$408.00. This late fee is a separate penalty added to the fine and is in addition to the collection fee that is the subject matter of this complaint.

28. On April 19, 2016, three months after the payment date, the unpaid civil penalty was eventually assigned to Defendant Linebarger. Defendant Ruvin, in its capacity of Miami-Dade County Clerk of the Courts, automatically inflated Plaintiff's civil penalty by 40% on the same day of assignment and before any legal services were performed or any collection activity was required, raising the total obligation to \$571.20.

29. On the same day, before Defendant Linebarger performed any legal or collections work, Plaintiff Guerra paid the full \$571.20 at the Miami-Dade County Clerk of the Courts office.

30. Of this, Defendant Ruvin, in his capacity of Miami-Dade County Clerk of the Courts, kept \$408.00, remitted part of \$163.20 (the additional 40% "*collection fee*") to Defendant Linebarger, and upon information and belief, Defendant Ruvin kept the remaining part of the collection fee not remitted to Defendant Linebarger for use of the Clerk's office.

31. While an appropriate fee for necessary collection efforts may be statutorily authorized and may pass constitutional muster, the automatic imposition of the 40% collection fee does not. The relative injustice of the automatic imposition of a massive 40% unlawful, unearned collection fee is evident. For comparison, Florida law defines as *usurious* the payment of interest exceeding 18 percent per annum, and interest exceeding 25 percent per annum is *criminal usury*.<sup>3</sup>

32. Plaintiff was offered no reasonable opportunity to dispute or to cure before the imposition of the unearned 40% collection fee or penalty. The “*collection fee*” is added without any message or opportunity for the debtor to dispute the imposition of the fee. None of the communications sent to Plaintiff explained that she had the right to dispute the imposition of the 40% collection fee, let alone the method, manner or time that she could dispute the imposition of the fee or the reasonableness of the attorney fee or collection fee.

33. Per Defendant Linebarger’s contract with Miami-Dade County, where a person “makes a payment to a referring Clerk Division at its local office, **in response to collection efforts taken by the Contractor**, the payment shall be subject to the 40% Collection Fee.” *Exhibit A*, Art. 9 (emphasis added).

34. Plaintiff Guerra’s payment was not made “in response to collection efforts” taken by Defendant Linebarger, as required by the contract between Linebarger and Miami-Dade County; instead, Defendants had not performed *any* collection efforts by the time of Plaintiff Guerra’s payment which was made directly at the Miami-Dade County Clerk Office.

35. Upon information and belief, the Clerk of the Courts in Miami-Dade holds back a part of the 40% fee and puts it into a fund for use of the Clerk’s office.

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<sup>3</sup> See Fla. Stat. §§ 687.02(1), 687.071(2).



36. As a general proposition of Florida law, public officers, such as the Defendant Ruvin, have no legal claim to compensation for official services rendered except when, and to the extent, that the right to compensation is provided by law.

37. When there is no provision made for such compensation, then the rendition of services by public officers is deemed to be gratuitous.

38. The right to fees that may be collected by public officers in exchange for services rendered depends on statute and fee statutes are to be strictly construed.

39. Pursuant to Fla. Stat. §57.051(1), “No fee shall be charged for any official service performed or claimed to be performed by any officer unless the fee is specifically authorized and its amount is specified by law.”

40. The legislatively authorized fees and charges that may be charged and collected by the Defendant Ruvin are set forth in Chapter 28 of Florida Statutes.

41. Plaintiff, for herself and on behalf of all persons similarly situated, is entitled to and does seek a declaration and judgment by this Court, pursuant to Fla. Stat. §86.021, that “*Collection Fees*” charged and collected by Defendant Ruvin in connection with late payments where there has been no actual collection activity and where said fees are paid to the Clerk, are unlawful and unauthorized; that Defendants have been unjustly enriched thereby; and Defendants must, under the supervision of this Court, refund and disgorge such fees and any penalties or damages for unlawful exaction into a common fund.

42. Plaintiff and all persons similarly situated also are entitled to and seek an injunction to restrain permanently Defendant Ruvin from seeking to charge or collect such filing fees where there has been no actual collection activity.

### CLASS ALLEGATIONS

43. Upon information and belief, Defendant Linebarger does not actively seek to collect any debts owed to the Miami-Dade County Clerk of the Courts.

44. In virtually all cases, when the Miami-Dade County Clerk of the Courts, Defendant Ruvlin, refers an account to Defendant Linebarger, Defendants' policy is to do nothing, and simply wait for the debtor to pay Defendant Ruvlin directly, sometimes years later, in order to reinstate his or her license or avoid other court-imposed consequences.

45. This action is brought on behalf of a class defined as follows:

#### Class

(i) all persons (ii) who owed money to the Miami-Dade County Clerk of Court (iii) in connection with a parking, traffic, criminal, or civil penalty (iv) where such obligation was referred to Linebarger Goggan Blair & Sampson, LLP for collection (v) and was inflated by 40% by the Miami-Dade County Clerk of Court (vi) and where said person paid this obligation directly to the Miami-Dade County Clerk of Court (vii) when Linebarger Goggan Blair & Sampson, LLP had performed no collections work on the account (viii) during the four year period prior to the filing of the complaint in this action through the date of certification.

46. Plaintiff reserves the right to modify or amend the definition of the class and to propose subclasses as appropriate before the Court determines whether certification is appropriate.

47. Excluded from the Class are the Defendants, their parents, subsidiaries, affiliates, officers and directors, any entity in which the Defendants have a controlling interest, all customers who make a timely election to be excluded, governmental entities, and all judges assigned to hear any aspect of this litigation as well as their immediate family members.

48. Plaintiff alleges on information and belief that the class is so numerous that joinder of all members of the class is impractical. There are more than 3 million residents of Miami-

Dade County and millions more visitors each year. According to recent studies conducted in the State of Florida, hundreds of thousands of tickets are paid late and subject to these fees and penalties.

49. There are questions of law or fact common to the class, which common issues predominate over any issues involving only individual class members. The common factual and/or legal issues common to each class member are as follows:

- a. Whether a debt owed to the Miami-Dade County Clerk of the Courts may be automatically inflated before any collecting service is performed when it is referred to Defendant Linebarger for collection.
- b. Whether Defendants may retain the 40% collection fee that has been added to the obligation owed to the Miami-Dade County Clerk of the Courts when a debtor pays the Clerk directly and no collecting activity has been performed.
- c. Whether Defendant Linebarger is entitled to be paid in cases where accounts are referred to it for collection, but no legal services or collection work has been performed.
- d. Whether the automatic imposition of a 40% collection fee and collection of same violates a citizen's rights under the United States Constitution and Section 1983.
- e. Whether Defendant's act constitutes unfair practice of commerce under Fla. Stat. § 501.204.
- f. Whether Defendant Ruvins collection of the additional fee and retention of part of it when no collection activity has been performed violated Florida Law in discordance with the role of public officer of the Clerk of the Courts;

- g. Whether the “*Collection Fees*” are unauthorized and unlawful and whether Defendant Ruvin is obligated to refund the filing fees collected by the Clerk.
- h. Whether Plaintiff and the Class Members are entitled to the restitution of the “*Collection Fee*” unlawfully charged.

50. Plaintiff’s claim is typical of those of the class members. All claims are based on the same facts and legal theories.

51. Plaintiff will fairly and adequately protect the interests of the class. She has retained counsel experienced in handling class actions and who have been appointed to represent certified classes in this District and by courts throughout the nation. Putative class counsel has also litigated civil rights actions and actions involving unlawful anti-consumer practices through trial. Neither Plaintiff nor her counsel has any interests that might cause them not to vigorously pursue this action or which would create any conflicts with the class.

52. Certification of a class under Rule 23(b)(2) of the Federal Rules of Civil Procedure is appropriate in that Defendants have acted on grounds generally applicable to the class thereby making appropriate relief with respect to the class as a whole. Injunctive relief is appropriate and necessary to cause the illegal surcharges to stop.

53. Certification of the class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that:

- a. The questions of law or fact common to the members of the class predominate over any questions affecting an individual member.
- b. A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

54. In the alternative, a class action as to particular issues is appropriate here.

**COUNT I**  
**Unjust Enrichment**

55. Plaintiff incorporates paragraphs 1 through 54 above as if fully restated herein.

56. Members of the putative class conferred a benefit on Defendants, to wit: payment of an unlawful and unearned 40% fee.

57. Defendants had knowledge of the benefit, in that the Defendants themselves collected the unlawful and unearned collection fee.

58. Defendants accepted and retained the benefit conferred, i.e., the unlawful and unearned collection fee.

59. The circumstances are such that it would be inequitable for the Defendants to retain the benefit of the unlawful surcharge without paying fair value for it.

WHEREFORE, Plaintiff requests that the Court enter judgment in her favor and in favor of the class, against Defendants LINEBARGER GOGGAN BLAIR & SAMPSON, LLP. and HARVEY RUVIN, for:

- (a) An order certifying this case to proceed as a class action;
- (b) Injunctive relief to stop the Defendants' conduct leading to Defendants' unjust enrichment;
- (c) An order directing Defendants to disgorge its ill-gotten monies to the putative class;
- (d) Reasonable attorney's fees and costs; and
- (e) Such further relief as this Court may deem appropriate.

**COUNT II**  
**Money Had and Received**

60. Plaintiff incorporates paragraphs 1 through 54 above as if fully restated herein.

61. Defendants have received money from the members of the putative class.

62. Defendants received money under the label of “*collection fee*” for “collection efforts” that Defendant Linebarger has not even attempted to perform, as instead required under the contract with Miami-Dade County, authorized by Fla. Stat. § 28.246(6).

63. Defendants had appreciated the benefit, in that the Defendants themselves received and retained the unlawful *collection fee*.

64. The circumstances are such that Defendants should, in all fairness, be required to return the money to the putative class members, as Defendants did not perform any collection activity and hence the collection fee was unearned.

WHEREFORE, Plaintiff requests that the Court enter judgment in her favor and in favor of the class, against Defendants LINEBARGER GOGGAN BLAIR & SAMPSON, LLP and HARVEY RUVIN, for:

- (a) An order certifying this case to proceed as a class action;
- (b) Injunctive relief to stop the Defendants’ conduct leading to Defendants’ unjust enrichment;
- (c) An order directing Defendants to disgorge its ill-gotten monies to the putative class;
- (d) Reasonable attorney’s fees and costs; and
- (e) Such further relief as this Court may deem appropriate.

**COUNT III**  
**42 U.S.C. § 1983**

**Violation of the Eighth Amendment of the United States Constitution and Violation of Article I, Section 17 of the Florida State Constitution**

65. Plaintiff incorporates paragraphs 1 through 54 above as if fully restated herein.

66. Pursuant to statute, the Defendants are operating under the authority of Miami-Dade County when they collect 40% collection fee or penalty. Defendants retain such monies.

67. The enforcement of the civil penalty assessments discussed above constitutes a violation of the United States' Constitution's Eighth Amendment's and Florida Constitution's protection against excessive fines. Plaintiff and members of the Class were assessed enormous fines and penalties that bear no relationship to the harm caused and are therefore unconstitutional.

68. The automatic imposition, collection, and retention of a 40% collection fee prior to any collection activity or service is done to maximize Defendant Linebarger's profits and to increase the special fund established by Defendant Ruvin.

69. As a direct and legal result of the acts and omissions of Defendants, acting under the authority of Miami-Dade County, Plaintiff and members of the Class have suffered damages, and/or are entitled declaratory, injunctive relief and to restitution, in an amount to be proven at trial.

WHEREFORE, pursuant to 42 U.S.C. § 1983, Plaintiff requests that the Court enter judgment in her favor and in favor of the class, against Defendants LINEBARGER GOGGAN BLAIR & SAMPSON, LLP and HARVEY RUVIN, for:

- (a) An order certifying this case to proceed as a class action;
- (b) Injunctive relief to stop the Defendants' unlawful policies, procedures, practices and/or customs described above.
- (c) Restitution of the collection fees unlawfully collected and retained to the putative class;
- (d) Recovery of actual damages;

(e) Pursuant to 42 U.S.C. § 1988, Plaintiff further seeks costs and attorneys' fees incurred as a result of this lawsuit.

**COUNT IV**  
**42 U.S.C. § 1983**  
**Violation of the Procedural Due Process of the United States Constitution and Article I,  
Section 9 of the Florida Constitution**

70. Plaintiff incorporates paragraphs 1 through 54 above as if fully restated herein.

71. Pursuant to statute, the Defendants are operating under the authority of Miami-Dade County when they collect 40% collection fee or penalty. Defendants retain such monies.

72. The enforcement of the civil penalty assessments discussed above violates the Due Process Clause of the United States' Constitution and Section 9 of the Florida Constitution for the following reasons, among others:

- (a) The automatic robo-imposition of fees and penalties for debt collection on Plaintiff and Class Members who do not know and could not reasonably know that they that Defendants are required to conduct collection services before they can impose the fee;
- (b) The automatic robo-imposition of fees and penalties for debt collection on Plaintiff and class members who do not know and could not reasonably know of any method to dispute the imposition of the fee;
- (c) Defendants do not provide adequate notice before the fees and penalties are assessed;
- (d) There is no adequate opportunity to be heard on the amount of collection fee; and
- (e) The penalties and fees are so excessive that class members do not have fair notice that they will be imposed.

73. The deprivations of the rights of Plaintiff and members of the Class as described above were a proximate result of the policies, procedures, practices, and/or customs maintained by the Defendants. As a direct and legal result of the acts and omissions of the Defendants,



Plaintiff and members of the Class have suffered damages, and/or are entitled to restitution, in an amount to be proven at trial.

WHEREFORE, pursuant to 42 U.S.C. § 1983, Plaintiff requests that the Court enter judgment in her favor and in favor of the class, against Defendants LINEBARGER GOGGAN BLAIR & SAMPSON, LLP and HARVEY RUVIN, for:

- (a) An order certifying this case to proceed as a class action;
- (b) Injunctive relief to stop the Defendants' unlawful policies, procedures, practices and/or customs described above.
- (c) Restitution of the collection fees unlawfully collected and retained to the putative class;
- (d) Recovery of actual damages;
- (e) Pursuant to 42 U.S.C. § 1988, Plaintiff further seeks costs and attorneys' fees incurred as a result of this lawsuit.

**COUNT V**  
**42 U.S.C. § 1983**  
**Violation of Substantive Due Process**

74. Plaintiff incorporates Paragraphs 1 through 54 above as if fully restated herein.

75. Under state law, Plaintiff and the class members are entitled to be free from unreasonable fees and civil penalties. The Florida statute that created the rights that permitted Miami-Dade to assign the debts for collection required that there actually be attorney or collection services in order to collect the challenged fee. Furthermore, the Florida State Constitution specifically requires Miami Dade County fines to be reasonable and "suitable."

76. Defendant Ruvin is acting under color of state law and with authority delegated by the state have acted unreasonably, arbitrarily and irrationally in collecting and retaining a portion

of this unearned and unlawful 40% *collection fee* which is unrelated to its actual collection activity or lack thereof. Defendant Linebarger is acting under color of state law and with authority delegated by the state has acted unreasonably, arbitrarily and irrationally in collecting and retaining a portion of this unearned and unlawful 40% *collection fee* which is unrelated to its actual collection activity or lack thereof.

77. The Defendants are acting under color of state law and with authority delegated by the state have acted unreasonably, arbitrarily and irrationally in seeking excessive penalties.

WHEREFORE, pursuant to 42 U.S.C. § 1983, Plaintiff requests that the Court enter judgment in her favor and in favor of the class, against Defendants LINEBARGER GOGGAN BLAIR & SAMPSON, LLP and HARVEY RUVIN, for:

- (a) An order certifying this case to proceed as a class action;
- (b) Injunctive relief to stop the Defendants' unlawful policies, procedures, practices and/or customs described above.
- (c) Restitution of the collection fees unlawfully collected and retained to the putative class;
- (d) Recovery of actual damages;
- (e) Pursuant to 42 U.S.C. § 1988, Plaintiff further seeks costs and attorneys' fees incurred as a result of this lawsuit.

**COUNT VI**  
**Violation of Fla Stat. § 501.204**  
**Florida Deceptive and Unfair Trade Practices Act**

78. Plaintiff incorporates paragraphs 1 through 54 above as if fully restated herein.

79. FDUTPA makes unlawful any “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.” Fla. Stat. § 501.204.

80. Defendants’ conduct amounts to unfair practice of commerce since it violates a contract in order to profit from consumers who cannot reasonably avoid the inflated fees.

81. FDUTPA defines consumer broadly as “an individual; child, by and through its parent or legal guardian; business; firm; association; joint venture; partnership; estate; trust; business trust; syndicate; fiduciary; corporation; any commercial entity, however denominated; or any other group or combination.” Fla. Stat. § 501.203.

82. Plaintiff is, and was at any relevant time, a consumer within the meaning of FDUTPA.

WHEREFORE, pursuant to Fla. Stat. § 501.211 Plaintiff requests that the Court enter judgment in her favor and in favor of the class, against Defendants LINEBARGER GOGGAN BLAIR & SAMPSON, LLP and HARVEY RUVIN, for:

- (a) An order certifying this case to proceed as a class action;
- (b) A declaratory judgment that Defendants’ act or practice violates the Florida Deceptive and Unfair Trade Practices Act and to enjoin Defendants from perpetuating the unlawful act or practice;
- (c) Recovery of actual damages, plus attorney’s fees and court costs as provided in Fla. Stat. § 501.2105.

**COUNT VII**  
**Declaratory Relief**

83. Plaintiff incorporates paragraphs 1 through 54 above as if fully restated herein.

84. This is an action for declaratory relief pursuant to Fla. Stat. § 86.021, and other applicable provisions of Chapter 86.

85. Plaintiff alleges that Defendant Ruvin demanded, charged and collected, or presently demand, charge and collected, unauthorized and unlawful *collection fee* on Plaintiff and all members of Plaintiff Class, in that Fla. Stat. § 28.246(6) does not authorize imposition of a collection fee where no collection activity has occurred.

86. Plaintiff alleges that Plaintiff and members of the Plaintiff class should not have paid and should not have been required to pay to Defendant Ruvin such unlawful and unauthorized fees, and that they and all members of the Plaintiff class are entitled to the refund of all such filing fees so paid.

87. Defendant Ruvin believes and asserts that such fees are lawful and authorized by Fla. Stat. § 28.246(6), and his conduct in demanding, charging, collecting and refusing to refund such fees demonstrates that belief.

88. Because the parties disagree as to whether such fees are authorized and lawful and as to whether Defendant Ruvin is obligated to refund the filing fees collected by the Clerk, Plaintiff is in doubt as to his rights and obligations, and there exists a bona fide dispute which is ripe for judicial resolution and declaration of the parties' respective rights, duties and obligations with respect thereto.

WHEREFORE, pursuant to Fla. Stat. § 86.021, Plaintiff requests that the Court enter judgment in her favor and in favor of the class, against Defendants LINEBARGER GOGGAN BLAIR & SAMPSON, LLP and HARVEY RUVIN, for:

89. An order certifying this case to proceed as a class action;

90. A declaratory judgment holding that Defendants' act or practice violates Fla. Stat. § 28.246(6) and the contract between the Miami-Dade County Clerk of Courts and Defendant Linebarger, and enjoining Defendants from perpetuating the unlawful act or practice;

**COUNT VIII**  
**Unlawful Exaction**

91. Plaintiff incorporates paragraphs 1 through 54 above as if fully restated herein.

92. This is an action to recover penalties for unlawful exactions pursuant to Fla. Stat. §57.051.

93. Pursuant to Fla. Stat. §57.051(1), "No fee shall be charged for any official service performed or claimed to be performed by any officer unless the fee is specifically authorized and its amount is specified by law.

94. Pursuant to Fla. Stat. §57.051(2), "When any officer willfully charges or levies more than he or she is entitled to, the officer shall forfeit and pay to the party injured 4 times the amount unjustly claimed . . . "

95. Defendant Ruvin is an "officer" within the meaning of Fla. Stat. §57.051. Defendant Ruvin has willfully charged or levied, and therefore unlawfully exacted from Plaintiff and Plaintiff class members, more than they are entitled to by charging and collecting *collection fee* where there has been no collection activity.

96. Plaintiff and Plaintiff class members are entitled to recover from Defendant Ruvin the penalties set forth in Fla. Stat. §57.051(2).

WHEREFORE, Plaintiff prays that the Court:

(a) Enter an order certifying this case to proceed as a class action;

- (b) Enter appropriate judgment declaring and determining that Defendant Ruvin has demanded, charged and collected, or presently demands, charges and collects, unlawful and unauthorized *collection fee* on Plaintiff and members of the Plaintiff class;
- (c) Enter appropriate judgment declaring and determining that Plaintiff and Plaintiff class members should not have paid or been required to pay *collection fee* to Defendant Ruvin;
- (d) Enter appropriate judgment declaring and determining that Defendant Ruvin has made unlawful exactions within the meaning of Fla. Stat. §57.051 and that Plaintiff and Plaintiff's Class Members are entitled to recover the penalties set forth in Fla. Stat. §57.051(2);
- (e) Adjudicate and order the payment of professional fees to the undersigned attorneys in a reasonable amount as may be established by the Court for the representation of Plaintiff class and the generation of the common fund for benefit of the Plaintiff's Class Members upon the causes of action alleged and prosecuted;
- (f) Enter an appropriate order taxing costs, including class notice costs, against Defendant Ruvin;
- (g) Enter an appropriate judgment declaring and determining that Plaintiff and the Class Members are entitled to recover prejudgment interest on any refunds and/or penalties adjudged to be due, based on the inequitable conduct of the Defendant Ruvin and on the authority of *University Presbyterian Homes, Inc. v. Smith*, 408 So.2d 1039 (Fla. 1982); *Lewis v.*

*Anderson*, 382 So.2d 1343 (Fla. 1980); *State ex rel. Four-Fifty Two-Thirty Corp.*, 322 So.2d 525 (Fla. 1975); and *Mailman v. Green*, 111 So.2d 267 (Fla. 1959);

(h) Award post judgment interest pursuant to Fla. Stat. §55.03 and *Palm Beach County v. Town of Palm Beach*, 570 So.2d 719 (Fla. 1991); and

(i) Grant such other relief, general and specific, at law or in equity, as may be just and appropriate.

**JURY DEMAND**

Plaintiff demands trial by jury.

Dated this 10<sup>th</sup> day of January, 2017.

BRET L. LUSSKIN, Esq.  
20803 Biscayne Blvd., Ste 302  
Aventura, Florida 33180  
Telephone: (954) 454-5841  
Facsimile: (954) 454-5844  
blusskin@lusskinlaw.com

By: /s/ Bret L. Lusskin, Esq.  
Bret L. Lusskin, Esq.  
Florida Bar No. 28069

JANET R. VARNELL  
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Lady Lake, FL 32158  
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3800 S. Ocean Dr., Suite 235  
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Phone: 954-589-0588  
Toll free: 844-SDO-LEGAL  
Fax: 954-337-0666  
Scott@ScottDOWens.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS

NATACHA GUERRA, individually and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff Miami-Dade County, FL (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Bret Lusskin, P.A., 20803 Biscayne Blvd., Ste 302, Aventura, FL 33180, 954-454-5841

DEFENDANTS

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP, and HARVEY RUVIN, Clerk of Miami-Dade County, Florida,

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

Unknown at this time.

(d) Check County Where Action Arose: [X] MIAMI-DADE [ ] MONROE [ ] BROWARD [ ] PALM BEACH [ ] MARTIN [ ] ST. LUCIE [ ] INDIAN RIVER [ ] OKEECHOBEE [ ] HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff [X] 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant [ ] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State [ ] 1 [ ] 1 PTF DEF
Citizen of Another State [ ] 2 [ ] 2 PTF DEF
Citizen or Subject of a Foreign Country [ ] 3 [ ] 3 PTF DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 4 main columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes sub-sections like PERSONAL INJURY, HABES CORPUS, and various legal codes.

V. ORIGIN

- 1 Original Proceeding [ ] 2 Removed from State Court [ ] 3 Re-filed (See VI below) [ ] 4 Reinstated or Reopened [ ] 5 Transferred from another district (specify) [ ] 6 Multidistrict Litigation [ ] 7 Appeal to District Judge from Magistrate Judgment [ ] 8 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S) (See instructions):

a) Re-filed Case [ ] YES [X] NO b) Related Cases [ ] YES [X] NO

JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. § 1983, violations of the law in imposing and collecting unlawful surcharges on civil penalties. LENGTH OF TRIAL via 3 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 [X] DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [ ] No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE January 10, 2017 SIGNATURE OF ATTORNEY OF RECORD Bret L. Lusskin, Esq.

FOR OFFICE USE ONLY

RECEIPT # aaaaaaaaaa AMOUNT aaaaaaaaaa IFF aaaaaaaaaa JUDGE aaaaaaaaaa\*\*\*\*\*MAG JUDGE aaaaaaaaaa



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

**VI. Related/Refiled Cases.** This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

**VII. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

**VIII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

NATACHA GUERRA, individually and on behalf of all others similarly situated,

Plaintiff(s)

v.

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP, a Texas limited liability partnership, and HARVEY RUVIN, in his capacity as Clerk of the Courts of Miami-Dade County, Florida,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) LINEBARGER GOGGAN BLAIR & SAMPSON, LLP 2700 Via Fortuna Drive, Suite 400 Austin, TX 78746 USA

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Bret L. Lusskin, Esq. 20803 Biscayne Blvd., Ste 302 Aventura, FL 33180 P 954.454.5841 F 954.454.5844

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Print**

**Save As...**

**Reset**

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

NATACHA GUERRA, individually and on behalf of all others similarly situated,

Plaintiff(s)

v.

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP, a Texas limited liability partnership, and HARVEY RUVIN, in his capacity as Clerk of the Courts of Miami-Dade County, Florida,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) HARVEY RUVIN, CLERK OF THE COURTS OF MIAMI-DADE COUNTY 73 W. Flagler Street Miami, Florida 33130 Map

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Bret L. Lusskin, Esq. 20803 Biscayne Blvd., Ste 302 Aventura, FL 33180 P 954.454.5841 F 954.454.5844

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Print**

**Save As...**

**Reset**

MIAMI-DADE COUNTY, FLORIDA

Contract No. RFQ723A

DEBT COLLECTION SERVICES POOL FOR CLERK OF THE COURTS

Contract No. RFQ723A

THIS AGREEMENT made and entered into as of this 16<sup>th</sup> day of February, 2011 by and between Linebarger Goggan Blair & Sampson, LLP, a limited liability partnership organized and existing under the laws of the State of Texas, having its principal office at 2700 Via Fortuna Dr, Suite 400, Austin, TX 78746 (hereinafter referred to as the "Contractor"), and Miami-Dade County Clerk of the Courts (hereinafter referred to as the "Clerk"), a political subdivision of the State of Florida, having its principal office at 73 West Flagler Street, Miami, Florida 33128.

WITNESSETH:

WHEREAS, the Contractor has offered to participate in the Debt Collection Services Pool ("Pool") for Clerk of the Courts as a Pool "member" and as such has offered to provide on a non-exclusive basis debt collection services that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Qualifications (RFQ) No. RFQ 723 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated May 17, 2010 hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the Clerk desires to procure from the Contractor such Debt Collection Services for the Clerk, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

**MIAMI-DADE COUNTY, FLORIDA**

**Contract No. RFQ723A**

**ARTICLE 1. DEFINITIONS**

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

- a) The words "Change Order" or "Extra Work" or "Additional Work" resulting in additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the Clerk.
- b) The word "Client" to mean an individual or entity that, at the time of account assignment to a Pool member, owes the Miami-Dade County Clerk of the Courts monies that are considered past due.
- c) The word "Collections" to mean all activities undertaken by the Clerk or the Pool member in an effort to collect money that is past due.
- d) The words "Collection Fee" to mean the compensation to the Pool member for collection services provided to the Clerk in accordance with Florida Statute 28.246.
- e) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), RFQ No. 723 and all associated addenda and attachments, the Contractor's Proposal, and all other attachments hereto and all amendments issued hereto.
- f) The words "Contract Date" to mean the date on which this Agreement is effective.
- g) The words "Contract Manager" to mean Miami-Dade County's Director, Department of Procurement Management, or the duly authorized representative designated to manage the Contract.
- h) The word "Contractor" to mean Linebarger Goggan Blair & Sampson, LLP and its permitted successors and assigns.
- i) The word "County" to mean Miami-Dade County, a political subdivision of the State of Florida.
- j) The word "Days" to mean Calendar Days.
- k) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the Clerk's Project Manager for review and approval pursuant to the terms of this Agreement.
- l) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the Clerk's Project Manager; and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the Clerk's Project Manager.
- m) The words "Project Manager" to mean the Clerk of the Courts or the duly authorized representative designated to manage the Project.
- n) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.

**MIAMI-DADE COUNTY, FLORIDA**

**Contract No. RFQ723A**

- o) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- p) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

**ARTICLE 2. ORDER OF PRECEDENCE**

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) the Scope of Services (Appendix A), 3) the Clerk's RFQ No. 723 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

**ARTICLE 3. RULES OF INTERPRETATION**

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

**ARTICLE 4. NATURE OF THE AGREEMENT**

- a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.
- b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the Clerk in all aspects of the Services performed hereunder.
- c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in this Agreement but



**MIAMI-DADE COUNTY, FLORIDA**

**Contract No. RFQ723A**

necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.

- d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the Clerk's Project Manager.
- e) The Contractor acknowledges that the Clerk shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the Clerk. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the Clerk with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

**ARTICLE 5. CONTRACT TERM**

The Contract shall become effective on the date set forth on the first page and shall continue through the last day of the 48<sup>th</sup> month. The Clerk, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period of two (2) additional years on a year-to-year basis. The Clerk reserves the right to exercise its option to extend this Contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the Clerk and the Contractor.

**ARTICLE 6. NOTICE REQUIREMENTS**

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

**(1) to the Clerk**

- a) to the Project Manager:

Miami-Dade Clerk of the Courts  
73 West Flagler Street, Room 242  
Miami, Florida 33130  
Attention: Clerk of the Courts  
Phone: (305) 375-3333  
Fax: (305) 375-2485

and,

- b) to the Contract Manager:

Miami-Dade County  
Department of Procurement Management  
111 N.W. 1<sup>st</sup> Street, Suite 1375  
Miami, FL 33128-1974

**MIAMI-DADE COUNTY, FLORIDA**

**Contract No. RFQ723A**

Attention: Director  
Phone: (305) 375-5548  
Fax: (305) 375-2316

**(2) To the Contractor**

Linebarger Goggan Blair & Sampson, LLP  
2700 Via Fortuna Drive, Suite 400  
Austin, TX 78746  
Attention: Michael Vallandingham  
Phone: (800) 262-7229  
Fax: (512) 634-3789  
E-mail: michaelv@publicans.com

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

**ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED**

The Contractor warrants that it has reviewed the Clerk's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to provide the Work and Services to be performed under this Contract. The compensation for all Work and Services performed under this Contract, including all costs associated with such Work and Services, shall be in the form of a 40% Collection Fee that the Contractor is allowed to add to the debt owed, as set forth in Florida Statutes 28.246 (Payment of Court-Related Fees, Charges, and Cost; Partial Payment; Distribution of Funds). The Clerk shall have no obligation to pay the Contractor any sum.

All Services undertaken by the Contractor before Clerk's approval of this Contract shall be at the Contractor's risk and expense.

**ARTICLE 8. COLLECTION FEE**

The Collection Fee of 40% that is added to the debt owed shall remain firm and fixed for the term of the Contract, including any option or extension periods, unless changed by Florida Statute. The Collection Fee shall be added to the debt, whether the payment is partial or in its entirety.

**ARTICLE 9. METHOD AND TIMES OF PAYMENT**

The Contractor shall forward all monies collected which are due to the Clerk, on a daily basis. After the Clerk receives full payment for the debt owed on a Client account, the Contractor may retain the additional collected 40% Collection Fee placed on top of the debt owed to the Clerk. The fee for any direct or indirect cost associated with the Clerk providing any Public Records to the Contractor, in accordance with Florida Statute 119, shall be submitted to the Clerk with the monies collected on the applicable Client account.

In the case where a Client makes a payment to a referring Clerk Division at its local office, in response to collection efforts taken by the Contractor, the payment shall be subject to the 40% Collection Fee. The Clerk will remit the 40% Collection Fee to the Contractor when the Clerk accepts payment by a Client.

Any payment back-up documentation and reports, as stipulated in the Appendix A, Scope of Services shall be submitted by the Contractor to the Clerk, unless otherwise specified in the Appendix A, Scope of Services as another mode of submission, as follows:

**MIAMI-DADE COUNTY, FLORIDA**

**Contract No. RFQ723A**

Miami-Dade Clerk of the Courts  
140 West Flagler Street, Room 1500  
Miami, Florida 33130

Attention: Martha Alcazar

The Clerk may at any time designate a different address and/or contact person by giving written notice to the other party.

**ARTICLE 10. INDEMNIFICATION AND INSURANCE**

The Contractor shall indemnify and hold harmless the County and Clerk and their officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or Clerk or their officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or subcontractors. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County or Clerk, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or Clerk or their officers, employees, agents and instrumentalities as herein provided.

Upon County's notification, the Contractor shall furnish to the Department of Procurement Management, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
2. Commercial General Liability Insurance in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of Miami-Dade County 111 N.W. 1st Street, Suite 1300, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.**
3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.
4. Professional Liability Insurance in an amount not less than \$1,000,000.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Contractor. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as

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to financial strength, according to the latest edition of Best's Insurance Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

**Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Contractor hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.**

**NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.**

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after County notification to Contractor to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after County notification to comply, the Contractor shall be in default of the contractual terms and conditions and award of the Contract will be rescinded, unless such time frame for submission has been extended by the County.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

**ARTICLE 11. MANNER OF PERFORMANCE**

- a) The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the Clerk in accordance with the terms and conditions of this Agreement. The Clerk shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the Clerk the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its

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employees does not require the termination or demotion of any employee by the Contractor.

- b) The Contractor agrees to defend, hold harmless and indemnify the County and Clerk and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County or Clerk, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County or Clerk. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.
- c) The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the Clerk, should the Clerk make a determination, in its sole discretion that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
- e) The Contractor shall at all times cooperate with the Clerk and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
- f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

**ARTICLE 12. EMPLOYEES ARE THE RESPONSIBILITY OF THE CONTRACTOR**

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the Clerk. The Contractor shall supply competent employees. The Clerk may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the Clerk. Each employee shall have and wear proper identification.

**ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP**

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the Clerk. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the Clerk shall be that of an independent contractor and not as employees and agents of the Clerk.

The Contractor does not have the power or authority to bind the County or Clerk in any promise,

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agreement or representation other than specifically provided for in this Agreement.

**ARTICLE 14. AUTHORITY OF THE CLERK'S PROJECT MANAGER**

- a) The Contractor hereby acknowledges that the Clerk's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
- d) In the event of such dispute, the parties to this Agreement authorize the Clerk or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the Clerk's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the Clerk within 10 days of the occurrence, event or act out of which the dispute arises.
- e) The Clerk may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the Clerk participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the Clerk for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the Clerk is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The Clerk, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

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**ARTICLE 15. MUTUAL OBLIGATIONS**

- a) This Agreement, including attachments and appendixes to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.
- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the Clerk may, at its expense, elect to participate in the defense if the Clerk should so choose. Furthermore, the Clerk may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

**ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING**

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

**ARTICLE 17. AUDITS**

The County and Clerk, or their duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County or Clerk. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to County Ordinance No. 03-2, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

**ARTICLE 18. SUBSTITUTION OF PERSONNEL**

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the Clerk in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

**ARTICLE 19. CONSENT OF THE CLERK REQUIRED FOR ASSIGNMENT**

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the Clerk.

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**ARTICLE 20. SUBCONTRACTUAL RELATIONS**

- a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.
- b) The Contractor, before making any subcontract for any portion of the services, will state in writing to the Clerk the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the Clerk may require. The Clerk will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the Clerk.
- c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.
- d) In order to qualify as a Subcontractor satisfactory to the Clerk, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the Clerk that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the Clerk that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.
- e) The Clerk shall have the right to withdraw his consent to a subcontract if it appears to the Clerk that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the Clerk's and Clerk's proprietary and confidential information. Contractor shall furnish to the Clerk copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the Clerk permitting the Clerk to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the Clerk finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the Clerk to any subcontractor hereunder as more fully described herein.

**ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS**

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the Clerk were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the Clerk makes no representations or guarantees; and the Clerk shall not be responsible for the accuracy of the assumptions presented; and the Clerk shall not be responsible for conclusions to be drawn



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therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

**ARTICLE 22. SEVERABILITY**

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

**ARTICLE 23. TERMINATION AND SUSPENSION OF WORK**

- a) The Clerk may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the Clerk through fraud, misrepresentation or material misstatement.
- b) The Clerk may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the Clerk and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
- c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the Clerk through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.

In addition to cancellation or termination as otherwise provided in this Agreement, the Clerk may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor and in such event:

- d) The Contractor shall, upon receipt of such notice, unless otherwise directed by the Clerk:
  - i. stop work on the date specified in the notice ("the Effective Termination Date");
  - ii. take, such action as may be necessary for the protection and preservation of the Clerk's materials and property;
  - iii. cancel orders;
  - iv. assign to the Clerk and deliver to any location designated by the Clerk any noncancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
  - v. take no action which will increase the amounts payable by the Clerk under this Agreement; and
- e) In the event that the Clerk exercises its right to terminate this Agreement pursuant to this Article the Contractor will be compensated as stated in the payment Articles, herein, for the:
  - i. portion of the Services completed in accordance with the Agreement up to the

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Effective Termination Date; and

- ii. noncancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement but not incorporated in the Services.
- f) All compensation pursuant to this Article are subject to audit.

**ARTICLE 24. EVENT OF DEFAULT**

- a) An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include the following:
- i. the Contractor has not delivered Deliverables on a timely basis.
  - ii. the Contractor has refused or failed, except in case for which an extension of time is provided, to supply enough properly skilled Staff Personnel;
  - iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
  - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
  - v. the Contractor has failed to obtain the approval of the Clerk where required by this Agreement;
  - vi. the Contractor has failed to provide "adequate assurances" as required under subsection "b" below;
  - vii. the Contractor has failed in the representation of any warranties stated herein.
- b) When, in the opinion of the Clerk, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the Clerk may request that the Contractor, within the timeframe set forth in the Clerk's request, provide adequate assurances to the Clerk, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the Clerk receives such assurances the Clerk may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the Clerk the requested assurances within the prescribed time frame, the Clerk may:
- i. treat such failure as a repudiation of this Agreement;
  - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.
- c) In the event the Clerk shall terminate this Agreement for default, the Clerk or his designated representatives, may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

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**ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE**

If an Event of Default occurs, in the determination of the Clerk, the Clerk may so notify the Contractor ("Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the Clerk may be terminated. Notwithstanding, the Clerk may, in its sole discretion, allow the Contractor to rectify the default to the Clerk's reasonable satisfaction within a thirty (30) day period. The Clerk may grant an additional period of such duration as the Clerk shall deem appropriate without waiver of any of the Clerk's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the Clerk prescribes. The default notice shall specify the date the Contractor shall discontinue the Services upon the Termination Date.

**ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT**

If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

- a) lost revenues;
- b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the Clerk for re-procurement of Services, including procurement and administrative costs; and,
- c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The Clerk may also bring any suit or proceeding for specific performance or for an injunction.

**ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION**

- a) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: equipment programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.
- b) The Contractor shall be liable and responsible for any and all claims made against the County or Clerk for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the Clerk's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and Clerk and defend any action brought against the County or Clerk with respect to any claim, demand, cause of action, debt, or liability.
- c) In the event any Deliverable or anything provided to the Clerk hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the Clerk's option to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s).

- or (ii) procure for the Clerk, at the Contractor's expense, the rights provided under this Agreement to use the item(s).
- d) The Contractor shall be solely responsible for determining and informing the Clerk whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The Clerk may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the Clerk's judgment, use thereof would delay the Work or be unlawful.
- e) The Contractor shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

**ARTICLE 28. CONFIDENTIALITY**

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the Clerk in connection with the Services performed under this Agreement, made or developed by the Contractor or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the Clerk holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the Clerk, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the Clerk, unless required by law. In addition to the foregoing, all Clerk employee information and Clerk financial information shall be considered confidential information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the Clerk. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County and Clerk, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.
- b) The Contractor shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the Clerk in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.
- c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the Clerk shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the Clerk, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the Clerk all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors or suppliers without the prior written consent of the Clerk. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

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**ARTICLE 29. PROPRIETARY INFORMATION**

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law.

The Contractor acknowledges that all computer software in the Clerk's possession may constitute or contain information or materials which the Clerk has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the Clerk has developed at its own expense, the disclosure of which could harm the Clerk's proprietary interest therein.

During the term of the contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the Clerk's property, any computer programs, data compilations, or other software which the Clerk has developed, has used or is using, is holding for use, or which are otherwise in the possession of the Clerk (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the Clerk and, if the Computer Software has been leased or purchased by the Clerk, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software.

The Contractor will report to the Clerk any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the Clerk's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure or removal.

**ARTICLE 30. PROPRIETARY RIGHTS**

- a) The Contractor hereby acknowledges and agrees that the Clerk retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the Clerk to the Contractor hereunder or furnished by the Contractor to the Clerk and/or created by the Contractor for delivery to the Clerk, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection of the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the Clerk, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the Clerk's copyrights or other proprietary rights.
- b) All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the Clerk, hereinafter referred to as "Developed Works" shall become the property of the Clerk.
- c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or

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any employee, agent, subcontractor or supplier thereof, without the prior written consent of the Clerk, except as required for the Contractor's performance hereunder.

- d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the Clerk so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the Clerk or entities controlling, controlled by, under common control with, or affiliated with the Clerk, or organizations which may hereafter be formed by or become affiliated with the Clerk. Such license specifically includes, but is not limited to, the right of the Clerk to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the Clerk for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the Clerk or entities controlling, controlled by, under common control with, or affiliated with the Clerk, or organizations which may hereafter be formed by or become affiliated with the Clerk. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

**ARTICLE 31. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST****a) Vendor Registration**

The Contractor shall be a registered vendor with the County – Department of Procurement Management, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Contractor confirms its knowledge of and commitment to comply with the following:

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. <i>Miami-Dade County Ownership Disclosure Affidavit</i><br/>(Section 2-8.1 of the County Code)</li> <li>2. <i>Miami-Dade County Employment Disclosure Affidavit</i><br/>(Section 2-8-1(d)(2) of the County Code)</li> <li>3. <i>Miami-Dade Employment Drug-free Workplace Certification</i><br/>(Section 2-8.1.2(b) of the County Code)</li> <li>4. <i>Miami-Dade Disability and Nondiscrimination Affidavit</i><br/>(Section 2-8.1.5 of the County Code)</li> <li>5. <i>Miami-Dade County Debarment Disclosure Affidavit</i><br/>(Section 10.38 of the County Code)</li> <li>6. <i>Miami-Dade County Vendor Obligation to County Affidavit</i><br/>(Section 2-8.1 of the County Code)</li> <li>7. <i>Miami-Dade County Code of Business Ethics Affidavit</i><br/>(Section 2-8.1(f) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)</li> <li>8. <i>Miami-Dade County Family Leave Affidavit</i><br/>(Article V of Chapter 11 of the County Code)</li> <li>9. <i>Miami-Dade County Living Wage Affidavit</i></li> </ol> | <ol style="list-style-type: none"> <li>10. <i>Miami-Dade County Domestic Leave and Reporting Affidavit</i><br/>(Article 8, Section 11A-60 11A-67 of the County Code)</li> <li>11. <i>Subcontracting Practices</i><br/>(Ordinance 97-35)</li> <li>12. <i>Subcontractor /Supplier Listing</i><br/>(Section 2-8.8 of the County Code)</li> <li>13. <i>Environmentally Acceptable Packaging</i><br/>(Resolution R-738-92)</li> <li>14. <i>W-9 and 8109 Forms</i><br/>(as required by the Internal Revenue Service)</li> <li>15. <i>FEIN Number or Social Security Number</i><br/>In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:</li> </ol> |
|---|---|

**MIAMI-DADE COUNTY, FLORIDA**

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- Identification of individual account records
- To make payments to individual/Contractor for goods and services provided to Miami-Dade County
- Tax reporting purposes
- To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

**16. Office of the Inspector General**  
(Section 2-1076 of the County Code)

**17. Small Business Enterprises**

The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

**18. Antitrust Laws**

By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

**b) Conflict of Interest**

Section 2-11.1(d) of Miami-Dade County Code as amended by Ordinance 00-1, requires any county employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County from competing or applying for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

**ARTICLE 32. INSPECTOR GENERAL REVIEWS**  
**Independent Private Sector Inspector General Reviews**

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Contractor, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

**Miami-Dade County Inspector General Review**

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all contract renewals and extensions.

**Exception:** The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c)

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contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

**ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS**

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including but not limited to:

- a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- b) Miami-Dade County Florida, Department of Small Business Development Participation Provisions, as applicable to this Contract.
- c) Environmental Protection Agency (EPA), as applicable to this Contract.



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- d) Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment because of race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.
- e) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.
- f) Miami-Dade County Code Section 10-38 "Debarment".
- g) Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.
- h) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

**ARTICLE 34. NONDISCRIMINATION**

During the performance of this Contract, Contractor agrees to not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

**ARTICLE 35. CONFLICT OF INTEREST**

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or Clerk or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether

**MIAMI-DADE COUNTY, FLORIDA**

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tangible or intangible, in connection with the grant of this Agreement.

- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County or Clerk, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
  - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
  - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County or Clerk, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County or Clerk with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the Clerk's Project Manager. Contractor shall thereafter cooperate with the County's or Clerk's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

**ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION**

Under no circumstances shall the Contractor without the express written consent of the Clerk:

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the Clerk, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the Clerk. Such approval may be withheld if for any reason the Clerk believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the Clerk; and
- c) Except as may be required by law, the Contractor and its employees, agents,

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subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

**ARTICLE 37. BANKRUPTCY**

The Clerk reserves the right to terminate this contract, if, during the term of any contract the Contractor has with the Clerk, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

**ARTICLE 38. GOVERNING LAW**

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be Miami-Dade County.

**ARTICLE 39. SURVIVAL**

The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Contractor and the Clerk under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

**MIAMI-DADE COUNTY, FLORIDA**

**Contract No. RFQ723A**

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

Contractor

By: [Signature]

Name: Michael T. Vallandingham

Title: Partner

Date: July 22, 2010

Attest: [Signature]  
Corporate Secretary/Notary Public

Miami-Dade Clerk of Courts

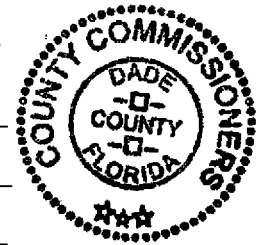
By: [Signature]

Name: Harvey Rubin

Title: Clerk

Date: 2-16-11

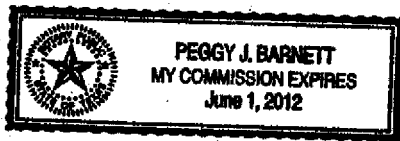
Attest: [Signature]  
Clerk of the Board



Corporate Seal/Notary Seal

Approved as to form and legal sufficiency

Assistant County Attorney



Miami-Dade County, FloridaContract No. RF0723AAppendix A**SCOPE OF SERVICES****1. Background**

The Clerk of Courts' (Clerk) office is organized into four Divisions: parking, traffic, civil (misdemeanor) and criminal. For the purpose of this Contract, the Divisions have been consolidated into two categories; a) parking, and b) traffic/misdemeanor/criminal. The Clerk is responsible for the collection of fines, charges and costs assessed, from an individual or entity (Client) that owes the Clerk monies that are considered past due. Delinquent Client accounts necessitate collection actions, when Client accounts remain unpaid for 90 days or more.

The Board of County Commissioners passed Resolution No. 1204-98 authorizing the Clerk to identify and select contractors to pursue the collection on these delinquent accounts. Legislation actively sought by the Clerk (Florida Statute 938.30, 938.35) will aid in the collection of the full face value of these delinquent accounts (see table below), through the use of collection services paid by means of a collection fee to be added to the debt owed. Refer to Article 7, of the Contract, regarding payment for services.

Currently, the four Clerk Divisions are serviced by a pool of five collection agencies. The following table provides an estimated number and value of the delinquent accounts based on 2009 historical data for the Clerk Divisions that could be assigned to the Pool.

CLERK DIVISION	AVERAGE NUMBER OF ACCOUNTS (MONTHLY)	AVERAGE ACCOUNT TOTALS (ANNUAL)	AVERAGE VALUE (MONTHLY)	AVERAGE TOTAL VALUE (ANNUAL)
PARKING	13,452	161,424	\$660,877	\$7,930,524
TRAFFIC/MISDEMEANOR/CRIMINAL	28,880	346,560	\$6,937,655	\$83,251,860
AGGREGATE ANNUAL AVERAGES	42,332	507,984	\$7,598,532	\$91,182,384

**2. Minimum Qualification Requirements**

- A. The Contractor shall be registered as a Collection Agency and in good standing in the State of Florida pursuant to Chapter 559, Florida Statute, unless exempted by Chapter 559 of the Florida Statute.

**3. Preferred Qualification Requirements**

The County has relied on the Contractor's Proposal to determine that Contractor has met the Preferred Qualifications. The Contractor shall maintain such qualifications to the satisfaction of the County as follows:

- A. Contractor should have a minimum of three (3) years experience in providing debt collection services on multiple past due accounts;
- B. Contractor should possess the capability to effect collections in all 50 States, U.S. Territories or Commonwealths, as well as Caribbean nations, Canada and other countries, if applicable, and meet all interstate collection requirements; and

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- C. Contractor should be actively collecting on at least 250 individual accounts with a total value of at least \$500,000.

**4. Pool Structure**

The Clerk will select up to six (6) firms to participate in the Pool. The number of collection accounts assigned to each Contractor will be determined by the Clerk. Additionally, there is no minimum or maximum number of Clerk Division accounts or value of accounts that may be assigned to any one Contractor.

At the Clerk's discretion, members may be dropped from the Pool for unsatisfactory performance. Should the number of participants in the Pool drop below six during the Pool's term, the Clerk may replenish the Pool.

**5. Work Order Process**

As collection services are needed the Clerk will issue a Work Order, which will define the number and provide the list of accounts being transferred to the Contractor for collection services.

Contractor will receive accounts, on a non-exclusive basis, as determined by the Clerk. During the first six months of the Contract, the Clerk will distribute delinquent accounts from each Clerk Division to the Pool members as equitably as possible, at his discretion. Thereafter, the Clerk will determine the most effective and equitable method of assigning Clerk Division accounts to the Contractor. However, based upon, among other factors, the Contractor's performance, the Clerk reserves the right to adjust account assignments to attain the most advantageous results for the Clerk.

**6. Requirements and Services to be Provided**

The Contractor shall adhere to the Code of Ethics prescribed by the American Collection Association, the Florida Collection Association, and any other applicable billing/collection Associations and shall abide at all times by the Fair Debt Collections Practices Act and all other applicable Federal, State or local regulations, laws or codes.

**A. Services to be Provided**

The Contractor shall, at a minimum:

1. Provide qualified and experienced personnel to perform the requested services in a manner consistent with all Federal, State and Local laws.
2. Use any and all legal means, procedures or techniques available to locate and engage Clients to pay the entire amount of their outstanding accounts owed to the Clerk. Collections activities shall minimally include direct contact with Clients through telephone calls, sending collection letters to the most current and last known address, locating Clients whose addresses may be unknown and providing skip tracing using a variety of informational databases on all return mail, including addresses located in foreign countries. When appropriate, Contractor shall undertake steps necessary to obtain payment from third party payers.
3. Report Clients that do not satisfy their accounts in a timely manner to the three national credit bureaus, only as requested in writing by the Clerk. The selection of accounts for reporting, and the method and timing of reporting shall be as determined by the Clerk.
4. Provide notice of any planned or recommended referral for legal action and obtain prior approval from the Clerk.
5. Pay for all fees associated with Client checks returned by any bank as "Non-Sufficient Funds" (NSF).

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6. Not settle any account for less than the full amount owed, unless otherwise directed in writing by the Clerk. The Contractor shall obtain specific written consent from the Clerk prior to negotiating a final settlement or before otherwise compromising any account. All settlements shall be in compliance with applicable Clerk policies and procedures and Section 2-15 of the Miami-Dade County Code of Ethics.
7. Stop all collection activity immediately when notified by the Clerk Division. The Contractor shall return accounts to the Clerk upon recall. The Clerk reserves the right to re-evaluate, adjust, cancel or recall any account assigned to a Contractor for collection including but not limited to the following reasons:
  - a. outstanding balance has been paid in full by the Client;
  - b. Client has filed bankruptcy;
  - c. debt on the account has been incorrectly calculated;
  - d. account was referred to the Contractor in error;
  - e. statute of limitation related to the account has expired;
  - f. fraud is suspected of any person associated with the account or
  - g. Client disputes the amount owed.

The Clerk will specify how long the Contractor may retain an account. This period can typically range from a minimum of twelve (12) months to a maximum of forty-eight (48) months. All accounts that have been assigned to a Contractor for more than 18 months may be reviewed to determine if the accounts should be closed, recalled, re-assigned or left in collection status with the Contractor.

8. Transfer all accounts back to the Clerk when in the opinion of the Contractor, collection efforts have ended, or within thirty (30) calendar days after termination of this Contract. The Clerk will be diligent in his review of any accounts transferred back to the Clerk Division, to determine if the account was truly uncollectible, or if the account was transferred back to the Clerk Division without sufficient collection effort on the part of the Contractor.
9. Designate a contract coordinator responsible for all matters relating to the Services being provided. The Contractor shall advise the Clerk in writing and request written approval, ten (10) days prior to any changes as it pertains to the contract coordinator.
10. Provide all necessary developing, copying, faxing, postal costs and all other such related services necessary to perform the collection services at the Contractor's expense.
11. Bear all costs associated with making all related records available to assist the Clerk in the event the Clerk wishes to audit any of the Contractor's activities pertaining to the services being provided.
12. Pursue an estate residual, if applicable, in the instance the Client is deceased. If recovery is not feasible, transfer the account back to the Clerk. Provide appropriate documentation, upon request from the Clerk, that a claim was filed with the decedent's estate and/or that the Contractor petitioned to have the estate liquidated to recover the debt.
13. Maintain and retain all books, records, data, and other related and relevant documentation for a minimum of three (3) years after the expiration of any Contract awarded to a Contractor as a result of this Contract.
14. Receive all monies collected from Clients, and forward payment to the Clerk in the manner determined by the Clerk, on a daily basis, along with supporting documentation, in an electronic format to be determined by the Clerk.
15. Pickup and deliver any items related to the services to be provided at no cost to the Clerk.
16. Attempt to collect all balances due, assess Client's ability to repay the debt, and as necessary, extend time payments subject to the guidelines established by the Clerk.
17. Contact the sender of monies, when there is insufficient information to identify the account/case/citation to which the payment relates.

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18. Accept electronic account referrals from the Clerk and referrals that require manual input into the Contractor's collection system. Accounts sent electronically shall be in the form dictated by the Clerk, which may change from time to time. The Contractor's collection system for processing accounts shall be compatible with the Clerk's method of accounting and account referral.
19. Use litigation when the cost is economically feasible and Clients are not bankrupt, destitute or in some similarly uncollectable circumstance, as a part of Contractor's collection action. Clerk approval is required prior to initiating litigation in order to collect a debt. It is the intent of the Clerk that full payment or judgments be obtained with respect to all litigation filed on behalf of the Clerk.
20. Immediately institute legal proceedings on behalf of the Clerk, when required, for the purpose of collecting on accounts with balances of \$5,000 and greater. The Clerk may also require a Contractor to use legal proceedings on his behalf in collecting debts of less than \$5,000.
21. Provide the Clerk with electronic access to the Contractor's data system in order to research transaction history of any or all accounts referred to the Contractor by the Clerk.
22. Bear all costs associated with conducting tests of the Contractor's collection system using data files provided by the Clerk, and the return of the files to the Clerk for analysis. Requested corrections, changes or modifications to the Contractor's collection system shall be performed at no cost to the Clerk.

**B. Clerk Division Coordination and File Transfer**

Referring Clerk Divisions and the Contractor shall work cooperatively to ensure the Contractor receives the necessary information required to complete collection of past due debt.

1. It is the Contractor's responsibility to coordinate and communicate with each referring Clerk Division to ensure the transfer of all applicable information. Additionally, it is the Contractor's responsibility to maintain adequate communication which ensures that the referring Clerk Division and the Contractor are kept up to date with each account assigned for collections.
2. Although it is the Clerk's intent to provide all records in the Clerk's possession associated with a case file, additional information related to the transferred file may be received by the referring Clerk Division after initial transfer to the Contractor. If additional information is required by the Contractor to accommodate collection efforts, the Clerk will provide the information upon request. Such additional information will be considered as a Public Records Request, and subject to appropriate fee(s) in accordance with Florida Statute 119.

**C. Communication Methods**

To ensure that Contractor staff is available, the following communication requirements must be met by Contractor:

**1. Clerk Inquiries**

The Contractor's staff shall be available as specified below during regular business hours (8:00am through 5:00pm (local time) Monday through Friday, except County holidays). The Contractor's staff shall be available to provide guidance to the Clerk regarding updates on collections laws, compliance and quality control practices on an as needed basis.

- a. **Verbal Inquiries:** A verbal inquiry to the Contractor, including voice mail messages, must be acknowledged by the Contractor within the next four business hours.
- b. **Written Inquiries:** A written inquiry to the Contractor, including email, must be acknowledged by the Contractor by the same time on the next business day.



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**2. Communication**

The following methods of communication must be provided to Clients whose accounts have been referred to the Contractor.

- a. **Toll-Free Telephone Number:** The Contractor shall maintain a nationwide, toll-free telephone number to provide Clients a method of contact. The toll-free number must be provided on all correspondence directed to Clients.
- b. **Facsimile Machine with Toll-free Number:** The Contractor shall maintain a facsimile machine with a toll-free number to provide Clients an additional means of contacting the Collection Agency. The toll-free facsimile number must be provided on all correspondence directed to Clients.
- c. **Email Communication:** Contractor shall maintain an email address as an additional means of communication that is available for Clients. The e-mail address may be the same as the one utilized by the Clerk Divisions for contract communication purposes.

**D. Collection Account Complaints**

The Contractor shall maintain a comprehensive record of each collection account complaint received from a Client or representative and how the complaint relates to the collection activity that has taken place for the account. The record must include the date the complaint was received, nature of the complaint, whether it was verbal or written, and the resolution. Complaint records must be provided to the Clerk Division upon reasonable request. Additionally, the Contractor must notify the referring Clerk Division of the complaint within 24 hours of receipt of the complaint.

**E. Client Payment Remittance**

Upon receipt of payments from Clients, the Contractor shall remit collected payments to the referring Clerk Division by ACH (automated clearing house) on a daily basis, minus the collection fee the Contractor has placed on top of the debt owed by the Client, as stipulated in Article 7, of the Contract, and credit the transaction for deposit into an account specified by the Clerk Division.

**F. Payments Received by Clerk Divisions**

In some cases, a payment may be received by a referring Clerk Division at its local office in response to collection efforts taken by the Contractor. In such instances, the payment shall be included in the total payments collected by the Contractor and shall be subject to the Collection Fee. Referring Clerk Divisions will review incoming payments on past due accounts to verify whether a payment received is from an account that has been assigned to the Contractor for collection.

**G. Accounting Reporting Procedures**

1. The Contractor shall maintain an accounting system that provides accounting records that are supported with adequate documentation, and procedures to support the reporting requirements in Section 7, of the Scope of Services.
2. Account reporting procedures applied by the Contractor for each account shall be determined by the referring Clerk Division. Accounting reporting procedures shall be provided to the Contractor in writing at the time of account referral by each using Clerk Division.

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*Appendix A*

H. Audits

1. The Contractor shall allow the Clerk or his duly authorized representatives, for three (3) years after Contract expiration and any extension thereof, to have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and those of its subcontractors and suppliers which apply to all matters of the Clerk. Such records shall conform to generally accepted accounting principles requirements, and shall only apply to those transactions related to any Contract resulting from this Contract.
2. The Clerk reserves the right to request Third-Party Service Audits of the Contractor, its subcontractors and suppliers no more than once every two years. A request for a Third Party Service Audit will be provided to the Contractor in writing, by the Clerk's Project Manager. Copies of the completed Third Party Service Audit report shall be provided to the Clerk's Project Manager within 120 calendar days of the audit request. The cost of the Third-Party Audit shall be borne by the Contractor. Only the Clerk's Project Manager may request a Third-Party Audit.

I. Return of Covered Data and Information

1. Upon termination, cancellation, expiration or other conclusion of the Contract, the Contractor shall return to the Clerk any and all data and information that was received from or created on behalf of the Clerk by the Contractor.

J. Electronic File Transfers and Formats

The Contractor shall provide Electronic File Transfers. All file transfer processes and formats must be approved in advance by the Clerk's Technical Services Division. At a minimum, the following requirements shall apply to all file transfers and file formats:

1. The Contractor will provide a secure FTP site to conduct the file transfers.
2. The Contractor shall use the file layouts provided by each Clerk Division utilizing the Contractor's services.
3. All files shall be in field position (info/data provided in different fields) text format or in a format otherwise requested by the referring Clerk Division.

K. Database Access

In some instances, database access by Clients, the referring Clerk Divisions and the Contractor may be required or requested. The following guidelines apply to all database access concerns:

1. **Client:** The Contractor may allow the collection Client access to the Contractor's database, by obtaining prior approval in writing from the Clerk Division. The Contractor will be required to bear all costs incurred to establish Client access to their account(s) in the Contractor's database, including obtaining secure internet connections as required by the Contractor.
2. **Referring Clerk Division:** If a referring Clerk Division requests access to the Contractor's database that contains Client account information, access shall be provided by the Contractor to the Clerk Division through a secure internet connection that meets security requirements outlined by the Clerk's Technical Services Division.

**7. Reporting/Other Requirements**

Contractors shall maintain a computerized database of all assigned accounts from the Clerk and shall prepare reports which describe what action(s) have been taken to collect the accounts. Reporting frequencies, dates and formats will be coordinated with the Contractor after award. Reporting requirements include, but are not limited to, the following types of reports:

1. Monthly Referral Acknowledgement Report – List in alphabetical order the accounts referred. Include the case/citation name, Clerk case number, Contractor's file number, account balance and date referred. The report shall be summarized by Clerk Division and type of account, showing the total accounts referred and the total value of accounts referred. This report shall be electronically submitted to the Clerk of the Courts.
2. Monthly Remittance and Reporting – List in alphabetical order the account name, and include the Clerk case number, Contractor's file number, credits to the accounts (for accounts involving litigation, recovered costs), total amount collected, whether the payment was made to the Contractor or directly to the Clerk, balance due and Contractor's fees associated with the collections. This report shall be summarized by Clerk Division and type of account, showing totals for all number and value categories.
3. A detailed Status Report shall be submitted to the Clerk, at the beginning of each month, or as agreed upon by the Clerk Division providing the most recent activity for the previous month on each account and totals for the accounts. This report shall include at a minimum, the name, case/citation number, status, original and modified amount due, amount paid previous month, amount paid to date for each account, balance due, amount distributed to the Clerk, fee deducted by the Contractor, and accounts reported to a credit bureau.
4. Monthly Recovery by Placement Analysis Report- This report shall analyze the accounts referred to the Contractor for each month in which accounts are referred. The report shall analyze the actual collections against the total amount referred for that month, reflecting the Contractor's liquidation rate, against the cumulative total for all accounts assigned.
5. A Cancellation/Recall Report by case/citation number(s), showing the reason for return to the Clerk and the outstanding balance. This report shall include a compilation of accounts recalled by the Clerk, information on any legal action undertaken and judgment issued (if any), bankruptcy status, or deceased status. If the Client is bankrupt, the bankruptcy case number shall be indicated. If deceased, an indication as to the status of estate and probate case number shall be provided. The report shall indicate if collection activity has stopped for any other reason than those outlined above, and any that the Contractor feels is uncollectible. All cancelled/recalled accounts listed in this report shall be totaled, and submitted monthly.
6. Other Reports, which the Clerk may require on occasion. While the Clerk does not expect to request such reports on a routine basis, there may be instances when the Clerk may require a special report as it relates to the collection of accounts. The Clerk will use reasonableness in requesting these reports.

Contractor shall provide all required reports to the Clerk, in a format, frequency (if not already stated herein) and quantity acceptable to the Clerk. With the exception of the Monthly Recovery by Placement Analysis Report, a separate set of reports shall be provided for each Clerk Division that summarizes all accounts received from the respective Clerk Division. Additionally, Contractor(s) shall meet with the Clerk's Project Manager on a quarterly basis, at a minimum, to discuss collection efforts.

**8. Clerk's Responsibilities**

The Clerk will:

1. Transfer accounts over 90 calendar days delinquent, except for any accounts the Clerk does not wish to transfer to Contractors. Although it is the intent of the Clerk to transfer accounts to the Contractors when accounts are more than 90 calendar days delinquent, the Clerk reserves the right to extend that period, at its sole discretion, for any additional time period the Clerk deems necessary. Additionally, individual Clerk Divisions may have the discretion to determine at what point an account is considered delinquent and how many days delinquent the account must be in order to transfer it to a Contractor.
2. Determine the most effective and equitable method of assigning accounts to Contractors. The Clerk shall take into consideration the type of account(s), total dollar value, age of account(s) and other related information when transferring accounts to Contractors. The Clerk reserves the right to exercise sole discretion as to which accounts will be transferred to Contractors. The Clerk shall notify Contractors when accounts are ready for transfer or arrange a periodic automatic transfer.
3. Reserve the right to recall assigned accounts at any time and for whatever reason, and will not be responsible for any costs incurred by the Contractor for that account.
4. Designate a Project Manager(s) responsible for matters concerning the services being provided.
5. Notify the Contractor when collection action is to be cancelled and transferred back to the Clerk, or suspended for any period of time.
6. Notify the Contractor of any adjustments or corrections made to the amount due.
7. Reserves the right to change any portion of the required services outlined herein, based upon changes in Federal, State, and Local laws, or County ordinance, written rule, resolution, administrative policy or procedure that make it necessary.
8. Remit to the Contractor, the collection fee, when the Clerk accepts payment by a Client, including collection fee, for an account referred to the Contractor. The Clerk reserves the right to not accept, at a Clerk Office, any payment(s) by Clients for any account(s) which have been referred to the Contractor.
9. Provide data files to the Contractor for purposes of testing the Contractor's collection system. The Clerk reserves the right to be sole judge as to suitability of the Contractor's collection system, based on test results. The Clerk also reserves the right to withhold account transfers to the Contractor until such time as the Contractor has satisfactorily met all corrections, changes or modifications to its system as deemed necessary to satisfy the Clerk's requirements.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Miami-Dade County Debt Collector Sued Over 'Unearned' Collection Fees](#)

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