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Attorneys for Defendants  
LVNV FUNDING, LLC AND RESURGENT CAPITAL SERVICES, LP

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

GRADY SHAUGHNESSY, *individually and on behalf of all others similarly situated*,  
Plaintiff,

vs.

LVNV FUNDING, LLC; RESURGENT  
CAPITAL SERVICES, LP; and DOES 1  
through 5,  
Defendants.

CASE NO. **'20CV1809 BEN WVG**  
(San Diego Superior Court Case  
No. 37-2020-00028067-CU-MC-  
CTL)

**NOTICE OF REMOVAL  
UNDER 28 U.S.C. § 1441 (A)  
(FEDERAL QUESTION)**

[Filed concurrently with Notice of  
Lodgment of State Court  
Pleadings and Civil Case Cover  
Sheet]

Complaint Filed: 8/11/2020

1 **TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

2 **PLEASE TAKE NOTICE** that Defendants LVNV Funding, LLC and  
 3 Resurgent Capital Services, LP (hereinafter referred to as “Defendants”)  
 4 respectfully submit this Notice of Removal in this civil action from the Superior  
 5 Court of the State of California for the County of San Diego to the United States  
 6 District Court for the Southern District of California, pursuant to 28 U.S.C. §§  
 7 1332(d) and 1446, based on CAFA and Diversity Jurisdiction.

8 In support of this Notice of Removal, Defendants, through its counsel, state  
 9 as follows:

10 **PROCEDURAL BACKGROUND**

11 1. Plaintiff Grady Shaughnessy (hereinafter referred to as “Plaintiff”)  
 12 commenced this action by filing a Complaint in the Superior Court of the State of  
 13 California for the County of San Diego on August 11, 2020, styled *Grady*  
 14 *Shaughnessy v. LVNV Funding, LLC; Resurgent Capital Services, LP; and DOES*  
 15 *1 through 5*, Case No. 37-2020-00028067-CU-MC-CTL (the “State Court Action”).  
 16 See Complaint, attached hereto as Ex. A.

17 2. The Complaint alleges violations of the California Consumer Credit  
 18 Reporting Agencies Act, California *Civil Code*, § 1785.25(a). See Complaint, ¶ 1.

19 3. The Complaint was served on Defendants on August 14, 2020.

20 **BASIS FOR REMOVAL – DIVERSITY JURISDICTION**

21 4. Under 28 U.S.C. §§ 1332(d) & 1441(b), any civil action brought in a  
 22 state court wherein the plaintiff and defendants are domiciled in different states ,  
 23 may be removed by the Defendants, to the district court of the United States for the  
 24 district and division embracing the place where state court action is pending.

25 5. Plaintiff alleges in paragraph 10 of the complaint that he is residing in  
 26 San Diego, California.

27 6. Plaintiff alleges in paragraph 13 of the complaint that LVNV is  
 28 domiciled in Carson City, Nevada.

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Irvine, CA 92614

7. Plaintiff alleges in paragraph 16 of the complaint that Resurgent is domiciled in Charleston, South Carolina.

8. Plaintiff alleges in paragraph 62 of the complaint that each class member is entitled to \$5000 in statutory damages.

9. Plaintiff alleges in paragraph 48 of the complaint there are thousands of potential class members.

10. Applying the thousands of potential class members to the statutory damages pled, Defendants easily satisfy the Amount in Controversy requirement pursuant to 28 U.S.C. § 1332(d)(2).

### **TIMELINESS OF REMOVAL**

11. As noted above, the Complaint was served on Defendants on August 14, 2020.

12. Defendants' Notice of Removal is timely because Defendants filed this Notice "within thirty days after receipt by the Defendants, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." 28 U.S.C. § 1446(b)(3).

### **VENUE**

13. Venue is proper in this district and division because the State Court Action was filed and is pending in the Superior Court of the State of California for the County of San Diego, which is located within the United States District Court for the Southern District of California.

### **COMPLIANCE WITH REMOVAL PROCEDURES**

14. Defendants have complied with all of the procedural requirements for removal set forth in 28 U.S.C. § 1446.

15. As noted above, the Notice of Removal is filed within 30 days of the service of the amended pleading from which it may first be ascertained that the case is one which is or has become removable.

1           16. Pursuant to § 1446(d), a copy of this Notice of Removal, including  
2 exhibits, is being served on Plaintiff.

3           17. Pursuant to § 1446(d), a copy of this Notice of Removal, including  
4 exhibits, will be filed with the Superior Court of the State of California for the  
5 County of San Diego, in Case No. 37-2020-00028067-CU-MC-CTL.

6           18. Copies of all process, pleadings and orders served on Defendants are  
7 attached hereto. *See* Notice of Lodgment of State Court Pleadings, filed  
8 concurrently herewith.

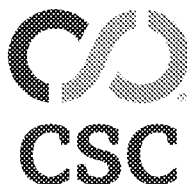
9           **WHEREFORE**, for the foregoing reasons, Defendants remove this action  
10 from the Superior Court of the State of California for the County of San Diego to  
11 the United States District Court for the Southern District of California and  
12 respectfully requests that this Court exercise jurisdiction over this action.

13  
14           Dated: September 14, 2020

GORDON REES SCULLY  
MANSUKHANI, LLP

15  
16           By: s/Sean P. Flynn  
17 Sean P. Flynn (SBN: 220184)  
18 Attorneys for Defendants  
19 LVNV Funding, LLC; Resurgent  
20 Capital Services, LP  
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24  
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26  
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# EXHIBIT A



## Notice of Service of Process

**HZC / ALL**  
**Transmittal Number: 21891500**  
**Date Processed: 08/14/2020**

**Primary Contact:** Jennifer Cooper  
Resurgent Capital Services, LP  
55 Beattie Pl  
Ste 110 MS 425  
Greenville, SC 29601-5115

**Electronic copy provided to:** Blake Nixon  
Wanda Boston  
Anthony Brannon  
Len Sternann  
Deanna Black  
Debra Ciapi

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<b>Entity:</b>	LVNV Funding LLC Entity ID Number 3235070
<b>Entity Served:</b>	LVNV Funding, LLC; Resurgent Capital Services, LP
<b>Title of Action:</b>	Grady Shaughnessy vs. LVNV Funding, LLC
<b>Matter Name/ID:</b>	Grady Shaughnessy vs. LVNV Funding, LLC (10440614)
<b>Document(s) Type:</b>	Summons/Complaint
<b>Nature of Action:</b>	Class Action
<b>Court/Agency:</b>	San Diego County Superior Court, CA
<b>Case/Reference No:</b>	37-2020-00028067-CU-MC-CTL
<b>Jurisdiction Served:</b>	South Carolina
<b>Date Served on CSC:</b>	08/14/2020
<b>Answer or Appearance Due:</b>	30 Days
<b>Originally Served On:</b>	CSC
<b>How Served:</b>	Personal Service
<b>Sender Information:</b>	Scott M. Grace 619-346-4612

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Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

**To avoid potential delay, please do not send your response to CSC**

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | [sop@cscglobal.com](mailto:sop@cscglobal.com)

552973 B

SUM-100

# SUMMONS (CITACION JUDICIAL)

## NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

LVNV FUNDING, LLC; RESURGENT CAPITAL SERVICES, LP, ✓  
and DOES 1 through 5,

## YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

GRADY SHAUGHNESSY, individually and on behalf of all others  
similarly situated,

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**08/11/2020 at 09:07:58 AM**

Clerk of the Superior Court  
By Linda Sheffa, Deputy Clerk

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): San Diego County Superior Court

330 West Broadway  
San Diego, CA 92101

CASE NUMBER:  
(Número del Caso):

37-2020-00028067-CU-MC-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jared M. Hartman, Esq.; 41707 Winchester Road, Suite 201, Temecula, CA 92590; 951-293-4187

DATE: 08/11/2020  
(Fecha)

Clerk, by  
(Secretario)

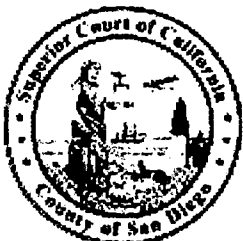
L. Sheffa

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



## NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
 

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. ☐ by personal delivery on (date):





CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Jared M. Hartman (SBN 254860)</b> 41707 Winchester Road, Suite 201 Temecula, CA 92590		<b>FOR COURT USE ONLY</b>  <b>ELECTRONICALLY FILED</b> Superior Court of California, County of San Diego  <b>08/11/2020 at 09:07:56 AM</b> Clerk of the Superior Court By Linda Sheffa, Deputy Clerk
TELEPHONE NO.: <b>951-293-4187</b> FAX NO.: <b>888-819-8230</b> ATTORNEY FOR (Name): <b>Plaintiff, GRADY SHAUGHNESSY</b>		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>SAN DIEGO</b> STREET ADDRESS: <b>330 WEST BROADWAY</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>SAN DIEGO, CA 92101</b> BRANCH NAME: <b>CENTRAL HALL OF JUSTICE</b>		
CASE NAME: <b>SHAUGHNESSY v. LVNV FUNDING, LLC; et al.</b>		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
CASE NUMBER: <b>37-2020-00028067-CU-MC-CTL</b>		JUDGE: <b>Judge Gregory W Pollack</b> DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |   |  |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties  | d. <input checked="" type="checkbox"/> Large number of witnesses   |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 1
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 08/11/2020  
 Jared M. Hartman, Esq.

(TYPE OR PRINT NAME)

*Jared M. Hartman*

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CM-010

**INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET**

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

**CASE TYPES AND EXAMPLES****Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

**Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

**Non-PI/PD/WD (Other) Tort**

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

**Employment**

Wrongful Termination (36)  
Other Employment (15)

**Contract**

Breach of Contract/Warranty (06)  
Breach of Rental/Lease  
Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

**Real Property**

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

**Unlawful Detainer**

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

**Judicial Review**

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor  
Commissioner Appeals

**Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)**

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

**Enforcement of Judgment**

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

**Miscellaneous Civil Complaint**

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

**Miscellaneous Civil Petition**

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition



## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

### ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2020-00028067-CU-MC-CTL

CASE TITLE: Shaughnessy vs LVNV Funding LLC [E-FILE]

**NOTICE:** All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) Information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), and
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

#### **Potential Advantages and Disadvantages of ADR**

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

##### **Potential Advantages**

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

##### **Potential Disadvantages**

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

#### **Most Common Types of ADR**

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdcourt.ca.gov/adr>.

**Mediation:** A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so.

Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

**Settlement Conference:** A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

**Arbitration:** A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

**Other ADR Processes:** There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

### **Local ADR Programs for Civil Cases**

**Mediation:** The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

**On-line mediator search and selection:** Go to the court's ADR webpage at [www.sdcourt.ca.gov/adr](http://www.sdcourt.ca.gov/adr) and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

**Settlement Conference:** The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

**Arbitration:** The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

**More information about court-connected ADR:** Visit the court's ADR webpage at [www.sdcourt.ca.gov/adr](http://www.sdcourt.ca.gov/adr) or contact the court's Mediation/Arbitration Office at (619) 450-7300.

**Dispute Resolution Programs Act (DRPA) funded ADR Programs:** The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at [www.ncrconline.com](http://www.ncrconline.com) or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at [www.nclifeline.org](http://www.nclifeline.org) or (760) 726-4900.

**Private ADR:** To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

### **Legal Representation and Advice**

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at [www.courtinfo.ca.gov/selfhelp/lowcost](http://www.courtinfo.ca.gov/selfhelp/lowcost).

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**ELECTRONICALLY FILED**  
 Superior Court of California,  
 County of San Diego  
**08/11/2020 at 09:07:56 AM**  
 Clerk of the Superior Court  
 By Linda Sheffa, Deputy Clerk

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Attorneys for Plaintiff, GRADY SHAUGHNESSY

**IN THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
 COUNTY OF SAN DIEGO**

GRADY SHAUGHNESSY,  
 individually and on behalf of all  
 others similarly situated,

Plaintiff,

vs.

LVNV FUNDING, LLC;  
 RESURGENT CAPITAL  
 SERVICES, LP; and DOES 1 through  
 5,

Defendants.

Case No.: 37-2020-00028067-CU-MC-CTL

**CLASS ACTION COMPLAINT  
 FOR DAMAGES AND  
 INJUNCTIVE RELIEF FOR  
 VIOLATIONS OF:**

**1. CALIF. CONSUMER CREDIT  
 REPORTING AGENCIES  
 ACT**



1 TO THE CLERK OF THE COURT, ALL PARTIES, AND THE HONORABLE  
2 CALIFORNIA SUPERIOR COURT JUDGE:

3 Plaintiff GRADY SHAUGHNESSY, individually and on behalf of all others  
4 similarly situated (hereinafter collectively referred to as "Plaintiff"), hereby files this  
5 Complaint against Defendants LVNV FUNDING, LLC (hereinafter "LVNV") and  
6 RESURGENT CAPITAL SERVICES LP (hereinafter "RESURGENT") (collectively  
7 "DEFENDANTS") and alleges as follows:

### 8 INTRODUCTION

9 1. The Legislature has determined that accurate credit reporting is vital to the  
10 proper functioning of today's consumer-driven economy, and has determined that it is  
11 essential for businesses who utilize the credit reporting industry in their business  
12 models to implement policies and procedures to ensure credit reporting is done  
13 accurately

14 2. Credit reporting has become a vital and essential tool in our everyday lives,  
15 as creditors, potential creditors, landlords, lessors, and employers all use credit  
16 reporting as a basis for screening applicants and consumers to determine whether to  
17 enter into business relations with the applicant.

18 3. Plaintiff brings this action for penalties and other legal and equitable  
19 remedies, resulting from the illegal actions of DEFENDANTS in updating credit reports  
20 ~~with the false information that the accounts maintain an outstanding balance and are~~  
21 still "in collections" after the accounts are actually closed with a \$0.00 balance owed. In  
22 so doing, DEFENDANTS have violated the California Consumer Credit Reporting  
23 Agencies Act (hereinafter "Calif. CCRAA"), codified at Calif. Civ. Code § 1785.25(a).

24 4. Plaintiff is unaware of the true names or capacities, whether individual,  
25 corporate, associate or otherwise of the Defendants sued herein as Does 1 through 5,  
26 and therefore, sues the Defendants by such fictitious names.

### 27 JURISDICTION & VENUE

28 5. This class action is brought pursuant to California Code of Civil Procedure

1 § 382. The monetary damages and injunctive relief sought by Plaintiffs in the class  
2 action exceed the minimum jurisdiction limits of the California Superior Court and will  
3 be established according to proof at trial.

4 6. This Court has jurisdiction over this action pursuant to the California  
5 Constitution Article VI §10, which grants the California Superior Court original  
6 jurisdiction in all causes except those given by statute to other courts. The statutes  
7 under which this action are brought do not give jurisdiction to any other court.

8 7. This Court has jurisdiction over Defendants because Defendants have  
9 availed themselves of the California market so as to render the exercise of jurisdiction  
10 over it by the California Courts consistent with traditional notions of fair play and  
11 substantial justice, and because the actions taken by Defendant that have violated Calif.  
12 Civ. Code § 1785.25(a) have occurred within this district.

13 8. The unlawful acts alleged herein have had a direct effect on Plaintiffs, and  
14 the similarly situated class members throughout the State of California.

15 9. The California Superior Court also has jurisdiction in this matter because  
16 the issues herein are based on California statutes and law, and there is no diversity  
17 between Plaintiffs or Defendant.

### 18 THE PARTIES

19 10. Plaintiff is a natural individual residing in San Diego.

20 11. As this matter pertains to Plaintiff's credit reports and that Plaintiff is a  
21 natural person, Plaintiff is therefore a "consumer" as that term is defined by Calif. Civ.  
22 Code § 1785.3(b).

23 12. This matter pertains to Plaintiff's "consumer credit reports", as that term is  
24 defined by Calif. Civ. Code § 1785.3(c), in that inaccurate misrepresentations of  
25 Plaintiff's credit worthiness, credit standing, and credit capacity were made via written,  
26 oral, or other communication of information by a consumer credit reporting agency,  
27 which is used or is expected to be used, or collected in whole or in part, for the purpose  
28 of serving as a factor in establishing Plaintiff's eligibility for, among other things, credit

1 to be used primarily for personal, family, or household purposes, and employment  
2 purposes.

3 13. LVNV is a Nevada limited liability company with a mailing address of 112  
4 North Curry Street, Carson City, NV whose principal purpose is the purchase and  
5 collection of consumer debts.

6 14. LVNV attempts to collect the purchased debts by filing suits. It is the  
7 plaintiff in more than 500 collection lawsuits, filed in California courts, that were  
8 pending in the year before this complaint was filed.

9 15. LVNV is a "person" as defined by Calif. Civ. Code § 1785.3(j).

10 16. RESURGENT is a limited partnership entity organized under Delaware  
11 law, with offices at 200 Meeting Street, Suite 206, Charleston, South Carolina 29401.

12 17. RESURGENT is a "person" as defined by Calif. Civ. Code § 1785.3(j).

13 18. All actions taken in the name of LVNV are in fact taken by RESURGENT,  
14 under an agreement and power of attorney that LVNV executed in RESURGENT'S  
15 favor. [See *Mitchel v LVNV Funding et al.*, 2:12-cv-00523-TLS, Doc. 176 (ND Ind.  
16 December 15, 2017) (Opinion and Order).]

17 19. On information and belief, LVNV and RESURGENT are under common  
18 ownership and management; both are part of the Sherman Financial Group.

19 20. On information and belief, RESURGENT directed the acts complained of,  
20 even though those acts were done in the name of LVNV.

21 21. On information and belief, LVNV acted as the agent at the direction of,  
22 and in association with, and on behalf of, RESURGENT.

23 22. The true names and capacities, whether individual, corporate, or otherwise  
24 of Defendants named herein as DOES 1 through 5 are unknown to Plaintiff who  
25 therefore sues said Defendants by such fictitious names. Plaintiff will seek leave to  
26 amend this Complaint to allege their true names and capacities when the same have  
27 been ascertained. Plaintiff is informed and believes that each of the fictitiously named  
28 Defendants and/or their agents and employees are responsible for the violative conduct



1 alleged in this Complaint, and proximately caused Plaintiff's damages.

2 **FACTUAL ALLEGATIONS**

3 23. Upon information and belief, DEFENDANTS' primary business model is  
4 to purchase from other entities consumer debts that are alleged to still be owed and are  
5 alleged to be in default, and then file lawsuits against the consumers in state court  
6 collections lawsuits *en masse*.

7 24. Upon information and belief, DEFENDANTS file hundreds (if not  
8 thousands) of consumer debt collection lawsuits in state court actions throughout the  
9 State of California each year.

10 25. DEFENDANTS file these lawsuits in its own name as the party to whom  
11 the debt is now alleged to be owed, as DEFENDANTS purchase the debts outright  
12 which includes purchasing all rights and liabilities upon the purchased accounts.

13 26. In September of 2019, Plaintiff and DEFENDANTS entered into a written  
14 agreement that required Plaintiff to pay a total settlement amount of \$1,250.00 in a one-  
15 time payment upon a debt that DEFENDANTS maintained as Account No. 4179531.

16 27. In exchange for Plaintiff paying the agreed-upon amount in full, the  
17 agreement required DEFENDANTS to waive and release Plaintiff from any further  
18 amounts that DEFENDANTS alleged was owed upon the account and to discharge  
19 Plaintiff from any further claim that DEFENDANTS may have had that Plaintiff owed  
20 any further monies upon the account.

21 28. On or about October 31, 2019, Plaintiff paid the full amount agreed upon.

22 29. By email dated May 4, 2020, counsel for DEFENDANTS informed  
23 Plaintiff's attorney of record in writing that Plaintiff had paid the agreed-upon amount  
24 in full.

25 30. Therefore, as of the date that the monies had been paid by Plaintiff on  
26 October 31, 2019, Plaintiff had been discharged of any obligation to owe any further  
27 sums of money to DEFENDANTS upon the account, and Plaintiff therefore owed \$0.00  
28 to DEFENDANTS as of that date.

1           31. However, on or about June 29, 2020, Plaintiff discovered that  
2 DEFENDANTS had updated its reporting of the account on April 1, 2020 with the false  
3 information that the account is still “in collections” and has a balance of \$1,214.00  
4 owed.

5           32. However, it is factually false for DEFENDANTS to claim at any point  
6 after the payment was made on or about October 31, 2019 that the account is still “in  
7 collections” and has an outstanding balance owed.

8           33. Instead, DEFENDANTS should have updated the reporting to show that  
9 the account is closed with a \$0.00 balance owed.

10          34. By submitting updates in April of 2020 that the account is still “in  
11 collections” with an outstanding and unpaid balance, DEFENDANTS have furnished  
12 false and inaccurate information to the consumer credit reporting agencies that  
13 DEFENDANTS know and have reason to know is false and inaccurate.

14          35. Upon information and belief, DEFENDANTS have undertaken similar  
15 conduct against numerous individuals residing within the State of California, and has  
16 submitted updates to the consumer credit reporting agencies that the consumers’  
17 accounts are still “in collections” with an unpaid balance alleged to be owed, and such  
18 updating occurred after the accounts were actually closed with a \$0.00 balance owed.

19          36. Therefore, DEFENDANTS have knowingly and willfully furnished  
20 inaccurate credit reporting information that DEFENDANTS knew or should have

21 known was inaccurate with respect to all such consumers residing within the State of  
22 California with whom it has settled a debt collection account within the previous seven  
23 (7) years.

24          37. Upon information and belief, DEFENDANTS have agreed to understand,  
25 utilize, and follow the policies and procedures implemented by the “big three” credit  
26 reporting agencies—Experian, Equifax, and Trans Union—known as Metro 2.

27          38. Upon information and belief, Metro 2 instructs creditors and debt  
28 collectors, such as DEFENDANTS, to update financial accounts when the accounts are

1 no longer owed (whether by way of payment or release) so that the credit reporting can  
2 reflect the current balance of the accounts.

3 39. Further, upon information and belief, Metro 2 instructs creditors and debt  
4 collectors, such as DEFENDANTS, to update financial accounts to explain the status of  
5 the account, such as whether the account is closed, has been paid in full, has been paid  
6 for less than full value, has been settled, is in collection, or is charged off. If an account  
7 has been zeroed out, then the "in collections" remark is to be removed and the account  
8 is to be reported as "closed".

9 40. DEFENDANTS' violations of the above are willful, because  
10 DEFENDANTS knowingly and deliberately ignored its own obligations with respect to  
11 Plaintiff, and to each consumer with whom DEFENDANTS settled a debt collection  
12 account but continued to update the account as being in collections with a negative  
13 balance alleged to be owed.

14 41. Upon information and belief, DEFENDANTS acted with reckless  
15 disregard because it acted with such a high degree of risk of committing a legal  
16 violation that was higher than mere carelessness, because DEFENDANTS agreed to  
17 waive/release any claim against Plaintiff (and each member of the Class) that they owe  
18 any further monies to DEFENDANTS upon the accounts at issue.

19 42. Any third party who reviews the reporting (such as a creditor, potential  
20 creditor, potential employer, and potential landlord/lessor) will now have the false  
21 impression that Plaintiff (and each member of the Class) still owes a sum upon the  
22 accounts and is still subject to debt collection efforts, whereas, if DEFENDANTS were  
23 to update the reporting to accurately reflect that the account has been closed with a  
24 \$0.00 balance owed, then potential creditors will have a more accurate reflection of  
25 Plaintiff's (and each member of the Class') creditworthiness and credit standing.

26 43. As such, Plaintiff and each member of the Class now suffer from being  
27 presented in a false light in the eyes of the credit industry, which necessarily depends  
28 upon accurate credit reporting in order to operate effectively and efficiently. Plaintiff

1 brings Count I on behalf of himself as an individual and also on behalf of all others  
 2 similarly situated pursuant to Code of Civil Procedure § 382. The members of the Class  
 3 are defined as follows:

4 All residents of the State of California who, within the previous seven (7)  
 5 years from the date of filing the instant Complaint, have suffered  
 6 inaccurate reporting by DEFENDANTS whereby DEFENDANTS  
 7 updated the account to show it as “in collections” with a negative balance  
 8 alleged to be owed, and such updating occurred on any date after the  
 9 account was closed with a \$0.00 balance owed.

10 44. Plaintiff reserves the right under California Rule of Court 3.765(b) and  
 11 other applicable law to amend or modify the class definition with respect to issues.

12 45. The term “Class” includes Plaintiff and all members of the Class.

13 46. Plaintiff seeks class-wide recovery based on the class allegations only as  
 14 set forth in this Complaint.

15 47. There is a well-defined community of interest in the litigation and the  
 16 proposed Class is easily ascertainable through the records Defendants are required to  
 17 keep.

### 18 CLASS ACTION ALLEGATIONS

19 48. Numerosity. The members of the Class are so numerous that individual  
 20 joinder of all of them as plaintiffs is impracticable. While the exact number of the Class  
 21 members is unknown to Plaintiff at this time, Plaintiff is informed and believes, and  
 22 thereon alleges, that there are potentially hundreds, if not thousands of potential class  
 23 members. Upon information and belief, DEFENDANTS purchase and own hundreds (if  
 24 not thousands) of accounts alleged to be owed by California residents, and files at least  
 25 hundreds of debt collection lawsuits each year in the state of California. As such,  
 26 DEFENDANTS are in possession of documents that Plaintiff anticipates will show the  
 27 true number of Class members, which necessitates discovery to reach such a  
 28 determination.

49. Commonality. Common questions of law and fact exist as to all Class

1 members and predominate over any questions that affect only individual members of  
 2 the Class. These common questions include, but are not limited to:

- 3 a. Whether DEFENDANTS are each a "person" within the definition of  
 4 Calif. Civ. Code § Calif. Civ. Code § 1785.3(j);
- 5 b. Whether Plaintiff and members of the class no longer owed any amounts  
 6 on the accounts when DEFENDANTS furnished updates to the consumer  
 7 credit reporting agencies that the accounts were still "in collections" with  
 8 an alleged unpaid balance owed;
- 9 c. Whether DEFENDANTS knew or should have known that the updated  
 10 information was inaccurate or incomplete within the meaning of Calif. Civ.  
 11 Code § 1785.25(a) when it updated the accounts as "in collections" with an  
 12 alleged outstanding balance at a time when the accounts were closed with a  
 13 \$0.00 balance owed;
- 14 d. Whether Plaintiff and the class members are entitled to damages and the  
 15 extent of damages and or penalties;
- 16 e. Whether DEFENDANTS' violations were willful within the contemplation  
 17 of Calif. Civ. Code § 1785.31;
- 18 f. Whether Plaintiff and members of the Class are entitled to statutory  
 19 punitive damages, and to what extent, pursuant to Calif. Civ. Code §  
 20 1785.31;

21 g. Whether DEFENDANTS should be enjoined from engaging in such  
 22 conduct in the future;

23 h. Whether DEFENDANTS should be ordered to update the settled accounts  
 24 to reflect that the accounts are closed and have a balance of \$0.00.

25 50. Typicality. Plaintiff's claims are typical of the claims of the other members  
 26 of the Class. On information and belief, Plaintiff, like other Class members, suffered  
 27 inaccurate credit reporting by DEFENDANTS updating the account with the consumer  
 28 credit reporting agencies by falsely claiming that a balance is still owed upon the

1 account and that the account is still in collections, after the account was closed with a  
2 \$0.00 balance owed.

3 51. Adequacy. Plaintiff will adequately and fairly protect the interests of the  
4 members of the Class. Plaintiff has no interests adverse to the interests of absent Class  
5 members. Plaintiff is represented by attorneys who have class action experience in  
6 consumer protection matters.

7 52. Superiority. A class action is superior to other available means for the fair  
8 and efficient adjudication of the claims of the Class and would be beneficial for the  
9 parties and the court. Class action treatment will allow a large number of similarly  
10 situated persons to prosecute their common claims in a single forum, simultaneously,  
11 efficiently, and without the unnecessary duplication of effort and expense that  
12 numerous individual actions would require. The damages suffered by each Class  
13 member are relatively small in the sense pertinent to class action analysis, and the  
14 expense and burden of individual litigation would make it extremely difficult or  
15 impossible for the individual Class members to seek and obtain individual relief. A  
16 class action will serve an important public interest by permitting such individuals to  
17 effectively pursue injunctive remedies and recovery of the sums owed to them. Further,  
18 class litigation prevents the potential for inconsistent or contradictory judgments raised  
19 by individual litigation.

20 **FIRST CAUSE OF ACTION**  
21 **VIOALTIONS OF CALIF. CCRAA**  
22 **Calif. Civ. Code §1785.25(a)**

23 53. Plaintiff repeats, re-alleges, and incorporates by reference all other  
24 paragraphs, as if fully set forth herein.

25 54. As the furnisher of information to credit reporting agencies,  
26 DEFENDANTS are and always were obligated to not furnish information on a specific  
27 transaction or experience to any consumer credit reporting agency if they knew or  
28 should have known the information was incomplete or inaccurate, as required by Calif.

1 Civ. Code § 1785.25(a) of the California CCRAA.

2 55. Even if the derogatory reporting is technically accurate, it is still a violation  
3 of this law if the derogatory reporting is misleading in such a way and to such an extent  
4 that it can be expected to adversely affect credit decisions. *Cisneros v. U.D. Registry,*  
5 *Inc.* (1995) 39 Cal. App. 4th 548.

6 56. DEFENDANTS committed willful violations of its obligations under  
7 Section 1785.25(a) of the Calif. CCRAA multiple times by updating the reporting of the  
8 account to inaccurately claim that the account is “in collections” with a balance owed.

9 57. Such false and inaccurate reporting has caused Plaintiff actual damages as  
10 explained in the statement of facts above.

11 58. A credit reporting violation is “willful” if it involves the commission not  
12 only of “acts known to violate the [FCRA],” but also “reckless disregard of statutory  
13 duty.” *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 56-57 (2007).

14 59. The Ninth Circuit in *Syed v. M-I, LLC* 2017 U.S. App. LEXIS 1029, FN 6  
15 recently stated, with respect to credit reporting violations, “[W]here a party’s action  
16 violates an unambiguous statutory requirement, that fact alone may be sufficient to  
17 conclude that violation is reckless, and therefore willful. ... [R]ecklessness may be  
18 determined by objective evidence alone.”

19 60. Plaintiff is informed and believes that DEFENDANTS’ violations were  
20 willful in that DEFENDANTS acted with such a high degree of risk of committing a  
21 legal violation that was higher than mere carelessness, because DEFENDANTS  
22 knowingly agreed to waive/release any claim against Plaintiff that he owes any further  
23 obligations to DEFENDANTS upon the account.

24 61. Plaintiff brings Count I on behalf of himself as an individual and also on  
25 behalf of all others similarly situated, and to only pursue Class relief for willful  
26 violations as opposed to negligent violations.

27 62. Pursuant to Calif. Civ. Code § 1785.31, Plaintiff and each member of the  
28 Class is entitled to \$100.00 to \$5,000.00 statutory punitive damages for each willful



violation; actual damages; and attorneys' fees and costs of litigation.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays, individually and on behalf of all others similarly situated, that judgment be entered against DEFENDANTS individually, and Plaintiff and the Class members be awarded damages as follows:

1. For certification of this action as a class action;
2. For appointment of Plaintiff as the representative of the Class;
3. For appointment of counsel for Plaintiff as Class counsel;
4. For actual damages, subject to proof at trial;
5. For general and special damages, subject to proof at trial;
6. For statutory punitive damages of \$5,000.00 for each Class member, for each willful violation of Calif. Civ. Code § 1785.25(a), pursuant to Calif. Civ. Code § 1785.31(a)(2)(A)-(C);
7. Injunctive relief to order Defendant to not engage in any such violations in the future, pursuant to Calif. Civ. Code § 1785.31(b);
8. Injunctive relief to order Defendant to remove false information from all consumer credit reports for each member of the Class, pursuant to Calif. Civ. Code § 1785.31(b);
9. Any reasonable attorney's fees and costs to maintain the instant action;
10. For such other relief as the Court may deem just and proper.

**TRIAL BY JURY**

Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

DATED: August 11, 2020

SEMNR & HARTMAN, LLP

*Jared M. Hartman*

JARED M. HARTMAN, ESQ.  
Attorneys for Plaintiff



<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b>	
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MAILING ADDRESS: 330 W Broadway	
CITY AND ZIP CODE: San Diego, CA 92101-3827	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7071	
PLAINTIFF(S) / PETITIONER(S): Grady Shaughnessy	
DEFENDANT(S) / RESPONDENT(S): LVNV Funding LLC et.al.	
SHAUGHNESSY VS LVNV FUNDING LLC [E-FILE]	
<b>NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE on MANDATORY eFILE CASE</b>	CASE NUMBER: 37-2020-00028067-CU-MC-CTL

**CASE ASSIGNED FOR ALL PURPOSES TO:**

Judge: Gregory W Pollack

Department: C-71

**COMPLAINT/PETITION FILED: 08/11/2020**

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	03/05/2021	01:30 pm	C-71	Gregory W Pollack

Due to the COVID-19 pandemic, all hearings will be conducted remotely until further notice. Absent an order of the court, personal appearances at the hearing will not be allowed. For information on arranging telephonic or video appearances, contact CourtCall at (888)882-6878, or at [www.courtcall.com](http://www.courtcall.com). Please make arrangements with CourtCall as soon as possible.

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR\* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

**TIME STANDARDS:** The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

**COMPLAINTS:** Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants.

**DEFENDANT'S APPEARANCE:** Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

**JURY FEES:** In order to preserve the right to a jury trial, one party for each side demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference in the action.

**MANDATORY eFILE:** Case assigned to mandatory eFile program per CRC 3.400-3.403 and SDSC Rule 2.4.11. All documents must be eFiled at [www.onelegal.com](http://www.onelegal.com). Refer to General Order in re procedures regarding electronically imaged court records, electronic filing, and access to electronic court records in civil and probate cases or guidelines and procedures.

**COURT REPORTERS:** Court reporters are not provided by the Court in Civil cases. See policy regarding normal availability and unavailability of official court reporters at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov).

**\*ALTERNATIVE DISPUTE RESOLUTION (ADR):** THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).

**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify and declare that I am over the age of 18 years; I am an employee of Gordon & Rees LLP, and my business address is 5 Park Plaza, Suite 1100, Irvine, CA 92614. On **September 14, 2020**, I served a true and correct of the following: **NOTICE OF REMOVAL UNDER 28 U.S.C. § 1441 (A) (FEDERAL QUESTION)**, to the individuals listed below as follows:

**Attorneys for Plaintiffs:**

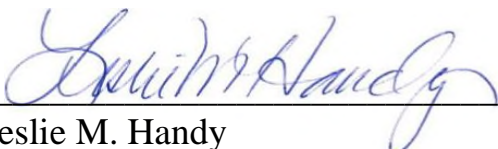
Scott M. Grace, Esq.  
Grace Law, APC  
1958 Sunset Cliffs Boulevard  
San Diego, CA 92107  
(619) 346-4612  
[sgrace@gracelawapc.com](mailto:sgrace@gracelawapc.com)

☐ U.S. Mail Postage Prepaid  
☒ CM/ECF  
☐ Hand Delivery  
☐ Email:

Babak Semnar, Esq.  
Jared Hartman, Esq.  
Semnar & Hartman, LLP  
41707 Winchester Road, Suite 201  
Temecula, CA 92590  
(951) 293-4187  
[bob@sandiegoconsumerattorneys.com](mailto:bob@sandiegoconsumerattorneys.com)  
[jared@sandiegoconsumerattorneys.com](mailto:jared@sandiegoconsumerattorneys.com)

Patric A. Lester, Esq.  
Consumer Attorney Advocates, Inc.  
5694 Mission Center Road, #358  
San Diego, CA 92108  
(619) 665-3888  
[pl@lesterlaw.com](mailto:pl@lesterlaw.com)

I declare that I am employed in the office of a member of the California State Bar who is permitted to practice before this Court, and at whose direction the service stated above was made in the ordinary course of business. I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 14, 2020, at Chino Hills, California.

  
\_\_\_\_\_  
Leslie M. Handy

## 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.)

**I. (a) PLAINTIFFS**

Grady Shaughnessy

(b) County of Residence of First Listed Plaintiff San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Scott M. Grace, Esq., Grace Law, APC (619) 346-4612  
1958 Sunset Cliffs Blvd., San Diego, CA 92107  
sgrace@gracelawapc.com

**DEFENDANTS**

LVNV Funding, LLC; Resurgent Capital Services, LP

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

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Sean P. Flynn, Esq.; Gordon Rees Scully Mansukhani, LLP, 5 Park Plaza, Suite 1100, Irvine, CA 92614; sflynn@grsm.com; (702) 577-9317

**'20CV1809 BEN WVG****II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 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)

- |   |                                       |                            |   |                            |                                       |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities-Employment <input type="checkbox"/> 446 Amer. w/Disabilities-Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation-Transfer ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC §§ 1332(d) & 1441(b)

Brief description of cause:

California Consumer Credit Reporting Agencies Act, California Civil Code, § 1785.25(a)

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE September 14 2020

SIGNATURE OF ATTORNEY OF RECORD s/Sean P. Flynn

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_



## 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.Cv.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; **NOTE: 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 there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- 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.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. 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
- VII. 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 actual dollar amount 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.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

1 SEAN P. FLYNN (SBN: 220184)  
sflynn@grsm.com  
2 GORDON REES SCULLY MANSUKHANI, LLP  
5 Park Plaza, Suite 1100  
3 Irvine, CA 92614  
Telephone: (702) 577-9317  
4 Facsimile: (949) 474-2060  
5 Attorneys for Defendants  
LVNV FUNDING, LLC AND RESURGENT CAPITAL SERVICES, LP  
6  
7

8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
10

11 GRADY SHAUGHNESSY, *individually and*  
12 *on behalf of all others similarly situated,*

13 Plaintiff,

14 vs.

15 LVNV FUNDING, LLC; RESURGENT  
CAPITAL SERVICES, LP; and DOES 1  
16 through 5,

17 Defendants.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CASE NO. **'20CV1809 BEN WVG**  
(San Diego Superior Court Case  
No. 37-2020-00028067-CU-MC-  
CTL)

**NOTICE OF LODGMENT OF  
STATE COURT PLEADINGS**

[filed concurrently with Notice of  
Removal and Civil Cover Sheet]

Complaint Filed: 8/11/2020

**TO THIS HONORABLE COURT:**

Pursuant to §1446(a), Defendants LVNV Funding, LLC and Resurgent Capital Services, LP (“Defendants”) hereby lodge true and correct copies of all process, pleadings and orders served by or on Defendants in the Superior Court of the State of California for the County of San Diego, Case No. 37-2020-00028067-CU-MC-CTL.

<b>Exhibit</b>	<b>Title</b>	<b>Party</b>
1.	Complaint	Plaintiff

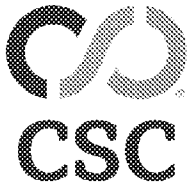
Dated: September 14, 2020

GORDON REES SCULLY  
MANSUKHANI, LLP

By: s/Sean P. Flynn  
Sean P. Flynn (SBN: 220184)  
Attorneys for Defendants  
LVNV Funding, LLC; Resurgent  
Capital Services, LP

# **EXHIBIT 1**





## Notice of Service of Process

HZC / ALL  
Transmittal Number: 21891500  
Date Processed: 08/14/2020

**Primary Contact:** Jennifer Cooper  
Resurgent Capital Services, LP  
55 Beattie Pl  
Ste 110 MS 425  
Greenville, SC 29601-5115

**Electronic copy provided to:** Blake Nixon  
Wanda Boston  
Anthony Brannon  
Len Sternann  
Deanna Black  
Debra Ciapi

---

**Entity:** LVNV Funding LLC  
Entity ID Number 3235070

**Entity Served:** LVNV Funding, LLC; Resurgent Capital Services, LP

**Title of Action:** Grady Shaughnessy vs. LVNV Funding, LLC

**Matter Name/ID:** Grady Shaughnessy vs. LVNV Funding, LLC (10440614)

**Document(s) Type:** Summons/Complaint

**Nature of Action:** Class Action

**Court/Agency:** San Diego County Superior Court, CA

**Case/Reference No:** 37-2020-00028067-CU-MC-CTL

**Jurisdiction Served:** South Carolina

**Date Served on CSC:** 08/14/2020

**Answer or Appearance Due:** 30 Days

**Originally Served On:** CSC

**How Served:** Personal Service

**Sender Information:** Scott M. Grace  
619-346-4612

---

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

**To avoid potential delay, please do not send your response to CSC**

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | [sop@cscglobal.com](mailto:sop@cscglobal.com)



552973 B

SUM-100

# SUMMONS (CITACION JUDICIAL)

## NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

LVNV FUNDING, LLC; RESURGENT CAPITAL SERVICES, LP,  
and DOES 1 through 5,

## YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

GRADY SHAUGHNESSY, individually and on behalf of all others  
similarly situated,

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**08/11/2020 at 09:07:58 AM**

Clerk of the Superior Court  
By Linda Sheffa, Deputy Clerk

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): San Diego County Superior Court

330 West Broadway  
San Diego, CA 92101

CASE NUMBER:  
(Número del Caso):

37-2020-00028067-CU-MC-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jared M. Hartman, Esq.; 41707 Winchester Road, Suite 201, Temecula, CA 92590; 951-293-4187

DATE: 08/11/2020  
(Fecha)

Clerk, by  
(Secretario)

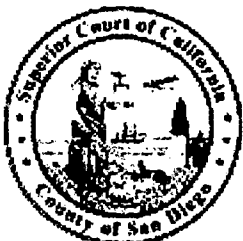
L. Sheffa

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



## NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
 

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. ☐ by personal delivery on (date):

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

STREET ADDRESS: 330 West Broadway  
MAILING ADDRESS: 330 West Broadway  
CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827  
BRANCH NAME: Central

**PLAINTIFF(S):** Grady Shaughnessy

**DEFENDANT(S):** LVNV Funding LLC et.al.

SHORT TITLE: SHAUGHNESSY VS LVNV FUNDING LLC [E-FILE]

## STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR)

**FOR COURT USE ONLY**

CASE NUMBER:  
37-2020-00028067-CU-MC-CTL

**Judge: Gregory W Pollack**

Department: C-71

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution (ADR) process. Selection of any of these options will not delay any case management timelines.

- ☐ Mediation (court-connected) ☐ Non-binding private arbitration
- ☐ Mediation (private) ☐ Binding private arbitration
- ☐ Voluntary settlement conference (private) ☐ Non-binding judicial arbitration (discovery until 15 days before trial)
- ☐ Neutral evaluation (private) ☐ Non-binding judicial arbitration (discovery until 30 days before trial)
- ☐ Other (specify e.g., private mini-trial, private judge, etc.): \_\_\_\_\_

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name)

**Alternate neutral (for court Civil Mediation Program and arbitration only):**

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

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

Name of Plaintiff

Name of Defendant

**Signature**

**Signature**

Name of Plaintiff's Attorney

Name of Defendant's Attorney

**Signature**

**Signature**

**If there are more parties and/or attorneys, please attach additional completed and fully executed sheets.**

It is the duty of the parties to notify the court of any settlement pursuant to Cal. Rules of Court, rule 3.1385. Upon notification of the settlement, the court will place this matter on a 45-day dismissal calendar.

**No new parties may be added without leave of court.**

**IT IS SO ORDERED.**

**JUDGE OF THE SUPERIOR COURT**

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Jared M. Hartman (SBN 254860)</b> <b>41707 Winchester Road, Suite 201</b> <b>Temecula, CA 92590</b>		<b>FOR COURT USE ONLY</b>  <b>ELECTRONICALLY FILED</b> Superior Court of California, County of San Diego  <b>08/11/2020 at 09:07:56 AM</b> Clerk of the Superior Court By Linda Sheffa, Deputy Clerk
TELEPHONE NO.: <b>951-293-4187</b> FAX NO.: <b>888-819-8230</b> ATTORNEY FOR (Name): <b>Plaintiff, GRADY SHAUGHNESSY</b>		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>SAN DIEGO</b> STREET ADDRESS: <b>330 WEST BROADWAY</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>SAN DIEGO, CA 92101</b> BRANCH NAME: <b>CENTRAL HALL OF JUSTICE</b>		
CASE NAME: <b>SHAUGHNESSY v. LVNV FUNDING, LLC; et al.</b>		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: <b>37-2020-00028067-CU-MC-CTL</b>  JUDGE: <b>Judge Gregory W Pollack</b> DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	--	---

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |   |  |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties  | d. <input checked="" type="checkbox"/> Large number of witnesses   |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): **1**
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 08/11/2020

Jared M. Hartman, Esq.

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CM-010

**INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET**

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

**CASE TYPES AND EXAMPLES****Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

**Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

**Non-PI/PD/WD (Other) Tort**

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

**Employment**

Wrongful Termination (36)  
Other Employment (15)

**Contract**

Breach of Contract/Warranty (06)  
Breach of Rental/Lease  
Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

**Real Property**

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

**Unlawful Detainer**

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

**Judicial Review**

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor  
Commissioner Appeals

**Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)**

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

**Enforcement of Judgment**

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

**Miscellaneous Civil Complaint**

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)

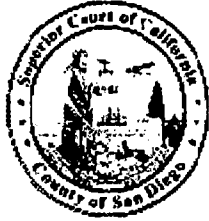
**Mechanics Lien**

Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

**Miscellaneous Civil Petition**

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition





## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

### ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2020-00028067-CU-MC-CTL

CASE TITLE: Shaughnessy vs LVNV Funding LLC [E-FILE]

**NOTICE:** All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) Information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), and
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

#### **Potential Advantages and Disadvantages of ADR**

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

##### **Potential Advantages**

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

##### **Potential Disadvantages**

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

#### **Most Common Types of ADR**

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdcourt.ca.gov/adr>.

**Mediation:** A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so.

Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

**Settlement Conference:** A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

**Arbitration:** A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

**Other ADR Processes:** There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

### **Local ADR Programs for Civil Cases**

**Mediation:** The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

**On-line mediator search and selection:** Go to the court's ADR webpage at [www.sdcourt.ca.gov/adr](http://www.sdcourt.ca.gov/adr) and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

**Settlement Conference:** The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

**Arbitration:** The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

**More information about court-connected ADR:** Visit the court's ADR webpage at [www.sdcourt.ca.gov/adr](http://www.sdcourt.ca.gov/adr) or contact the court's Mediation/Arbitration Office at (619) 450-7300.

**Dispute Resolution Programs Act (DRPA) funded ADR Programs:** The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at [www.ncrconline.com](http://www.ncrconline.com) or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at [www.nclifeline.org](http://www.nclifeline.org) or (760) 726-4900.

**Private ADR:** To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

### **Legal Representation and Advice**

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at [www.courtinfo.ca.gov/selfhelp/lowcost](http://www.courtinfo.ca.gov/selfhelp/lowcost).

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**ELECTRONICALLY FILED**  
Superior Court of California,  
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**08/11/2020 at 08:07:58 AM**  
Clerk of the Superior Court  
By Linda Sheffa, Deputy Clerk

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Attorneys for Plaintiff, GRADY SHAUGHNESSY

**IN THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO**

GRADY SHAUGHNESSY,  
individually and on behalf of all  
others similarly situated,

Plaintiff,

vs.

LVNV FUNDING, LLC;  
RESURGENT CAPITAL  
SERVICES, LP; and DOES 1 through  
5,

Defendants.

Case No.: 37-2020-00028067-CU-MC-CTL

**CLASS ACTION COMPLAINT  
FOR DAMAGES AND  
INJUNCTIVE RELIEF FOR  
VIOLATIONS OF:**

**1. CALIF. CONSUMER CREDIT  
REPORTING AGENCIES  
ACT**

1 TO THE CLERK OF THE COURT, ALL PARTIES, AND THE HONORABLE  
2 CALIFORNIA SUPERIOR COURT JUDGE:

3 Plaintiff GRADY SHAUGHNESSY, individually and on behalf of all others  
4 similarly situated (hereinafter collectively referred to as "Plaintiff"), hereby files this  
5 Complaint against Defendants LVNV FUNDING, LLC (hereinafter "LVNV") and  
6 RESURGENT CAPITAL SERVICES LP (hereinafter "RESURGENT") (collectively  
7 "DEFENDANTS") and alleges as follows:

### 8 INTRODUCTION

9 1. The Legislature has determined that accurate credit reporting is vital to the  
10 proper functioning of today's consumer-driven economy, and has determined that it is  
11 essential for businesses who utilize the credit reporting industry in their business  
12 models to implement policies and procedures to ensure credit reporting is done  
13 accurately

14 2. Credit reporting has become a vital and essential tool in our everyday lives,  
15 as creditors, potential creditors, landlords, lessors, and employers all use credit  
16 reporting as a basis for screening applicants and consumers to determine whether to  
17 enter into business relations with the applicant.

18 3. Plaintiff brings this action for penalties and other legal and equitable  
19 remedies, resulting from the illegal actions of DEFENDANTS in updating credit reports  
20 ~~with the false information that the accounts maintain an outstanding balance and are~~  
21 still "in collections" after the accounts are actually closed with a \$0.00 balance owed. In  
22 so doing, DEFENDANTS have violated the California Consumer Credit Reporting  
23 Agencies Act (hereinafter "Calif. CCRAA"), codified at Calif. Civ. Code § 1785.25(a).

24 4. Plaintiff is unaware of the true names or capacities, whether individual,  
25 corporate, associate or otherwise of the Defendants sued herein as Does 1 through 5,  
26 and therefore, sues the Defendants by such fictitious names.

### 27 JURISDICTION & VENUE

28 5. This class action is brought pursuant to California Code of Civil Procedure



1 § 382. The monetary damages and injunctive relief sought by Plaintiffs in the class  
 2 action exceed the minimum jurisdiction limits of the California Superior Court and will  
 3 be established according to proof at trial.

4 6. This Court has jurisdiction over this action pursuant to the California  
 5 Constitution Article VI §10, which grants the California Superior Court original  
 6 jurisdiction in all causes except those given by statute to other courts. The statutes  
 7 under which this action are brought do not give jurisdiction to any other court.

8 7. This Court has jurisdiction over Defendants because Defendants have  
 9 availed themselves of the California market so as to render the exercise of jurisdiction  
 10 over it by the California Courts consistent with traditional notions of fair play and  
 11 substantial justice, and because the actions taken by Defendant that have violated Calif.  
 12 Civ. Code § 1785.25(a) have occurred within this district.

13 8. The unlawful acts alleged herein have had a direct effect on Plaintiffs, and  
 14 the similarly situated class members throughout the State of California.

15 9. The California Superior Court also has jurisdiction in this matter because  
 16 the issues herein are based on California statutes and law, and there is no diversity  
 17 between Plaintiffs or Defendant.

### 18 THE PARTIES

19 10. Plaintiff is a natural individual residing in San Diego.

20 11. As this matter pertains to Plaintiff's credit reports and that Plaintiff is a  
 21 natural person, Plaintiff is therefore a "consumer" as that term is defined by Calif. Civ.  
 22 Code § 1785.3(b).

23 12. This matter pertains to Plaintiff's "consumer credit reports", as that term is  
 24 defined by Calif. Civ. Code § 1785.3(c), in that inaccurate misrepresentations of  
 25 Plaintiff's credit worthiness, credit standing, and credit capacity were made via written,  
 26 oral, or other communication of information by a consumer credit reporting agency,  
 27 which is used or is expected to be used, or collected in whole or in part, for the purpose  
 28 of serving as a factor in establishing Plaintiff's eligibility for, among other things, credit

1 to be used primarily for personal, family, or household purposes, and employment  
2 purposes.

3 13. LVNV is a Nevada limited liability company with a mailing address of 112  
4 North Curry Street, Carson City, NV whose principal purpose is the purchase and  
5 collection of consumer debts.

6 14. LVNV attempts to collect the purchased debts by filing suits. It is the  
7 plaintiff in more than 500 collection lawsuits, filed in California courts, that were  
8 pending in the year before this complaint was filed.

9 15. LVNV is a "person" as defined by Calif. Civ. Code § 1785.3(j).

10 16. RESURGENT is a limited partnership entity organized under Delaware  
11 law, with offices at 200 Meeting Street, Suite 206, Charleston, South Carolina 29401.

12 17. RESURGENT is a "person" as defined by Calif. Civ. Code § 1785.3(j).

13 18. All actions taken in the name of LVNV are in fact taken by RESURGENT,  
14 under an agreement and power of attorney that LVNV executed in RESURGENT'S  
15 favor. [See *Mitchel v LVNV Funding et al.*, 2:12-cv-00523-TLS, Doc. 176 (ND Ind.  
16 December 15, 2017) (Opinion and Order).]

17 19. On information and belief, LVNV and RESURGENT are under common  
18 ownership and management; both are part of the Sherman Financial Group.

19 20. On information and belief, RESURGENT directed the acts complained of,  
20 even though those acts were done in the name of LVNV.

21 21. On information and belief, LVNV acted as the agent at the direction of,  
22 and in association with, and on behalf of, RESURGENT.

23 22. The true names and capacities, whether individual, corporate, or otherwise  
24 of Defendants named herein as DOES 1 through 5 are unknown to Plaintiff who  
25 therefore sues said Defendants by such fictitious names. Plaintiff will seek leave to  
26 amend this Complaint to allege their true names and capacities when the same have  
27 been ascertained. Plaintiff is informed and believes that each of the fictitiously named  
28 Defendants and/or their agents and employees are responsible for the violative conduct

1 alleged in this Complaint, and proximately caused Plaintiff's damages.

2 **FACTUAL ALLEGATIONS**

3 23. Upon information and belief, DEFENDANTS' primary business model is  
4 to purchase from other entities consumer debts that are alleged to still be owed and are  
5 alleged to be in default, and then file lawsuits against the consumers in state court  
6 collections lawsuits *en masse*.

7 24. Upon information and belief, DEFENDANTS file hundreds (if not  
8 thousands) of consumer debt collection lawsuits in state court actions throughout the  
9 State of California each year.

10 25. DEFENDANTS file these lawsuits in its own name as the party to whom  
11 the debt is now alleged to be owed, as DEFENDANTS purchase the debts outright  
12 which includes purchasing all rights and liabilities upon the purchased accounts.

13 26. In September of 2019, Plaintiff and DEFENDANTS entered into a written  
14 agreement that required Plaintiff to pay a total settlement amount of \$1,250.00 in a one-  
15 time payment upon a debt that DEFENDANTS maintained as Account No. 4179531.

16 27. In exchange for Plaintiff paying the agreed-upon amount in full, the  
17 agreement required DEFENDANTS to waive and release Plaintiff from any further  
18 amounts that DEFENDANTS alleged was owed upon the account and to discharge  
19 Plaintiff from any further claim that DEFENDANTS may have had that Plaintiff owed  
20 any further monies upon the account.

21 28. On or about October 31, 2019, Plaintiff paid the full amount agreed upon.

22 29. By email dated May 4, 2020, counsel for DEFENDANTS informed  
23 Plaintiff's attorney of record in writing that Plaintiff had paid the agreed-upon amount  
24 in full.

25 30. Therefore, as of the date that the monies had been paid by Plaintiff on  
26 October 31, 2019, Plaintiff had been discharged of any obligation to owe any further  
27 sums of money to DEFENDANTS upon the account, and Plaintiff therefore owed \$0.00  
28 to DEFENDANTS as of that date.

1           31. However, on or about June 29, 2020, Plaintiff discovered that  
2 DEFENDANTS had updated its reporting of the account on April 1, 2020 with the false  
3 information that the account is still “in collections” and has a balance of \$1,214.00  
4 owed.

5           32. However, it is factually false for DEFENDANTS to claim at any point  
6 after the payment was made on or about October 31, 2019 that the account is still “in  
7 collections” and has an outstanding balance owed.

8           33. Instead, DEFENDANTS should have updated the reporting to show that  
9 the account is closed with a \$0.00 balance owed.

10          34. By submitting updates in April of 2020 that the account is still “in  
11 collections” with an outstanding and unpaid balance, DEFENDANTS have furnished  
12 false and inaccurate information to the consumer credit reporting agencies that  
13 DEFENDANTS know and have reason to know is false and inaccurate.

14          35. Upon information and belief, DEFENDANTS have undertaken similar  
15 conduct against numerous individuals residing within the State of California, and has  
16 submitted updates to the consumer credit reporting agencies that the consumers’  
17 accounts are still “in collections” with an unpaid balance alleged to be owed, and such  
18 updating occurred after the accounts were actually closed with a \$0.00 balance owed.

19          36. Therefore, DEFENDANTS have knowingly and willfully furnished  
20 inaccurate credit reporting information that DEFENDANTS knew or should have

21 known was inaccurate with respect to all such consumers residing within the State of  
22 California with whom it has settled a debt collection account within the previous seven  
23 (7) years.

24          37. Upon information and belief, DEFENDANTS have agreed to understand,  
25 utilize, and follow the policies and procedures implemented by the “big three” credit  
26 reporting agencies—Experian, Equifax, and Trans Union—known as Metro 2.

27          38. Upon information and belief, Metro 2 instructs creditors and debt  
28 collectors, such as DEFENDANTS, to update financial accounts when the accounts are

1 no longer owed (whether by way of payment or release) so that the credit reporting can  
2 reflect the current balance of the accounts.

3 39. Further, upon information and belief, Metro 2 instructs creditors and debt  
4 collectors, such as DEFENDANTS, to update financial accounts to explain the status of  
5 the account, such as whether the account is closed, has been paid in full, has been paid  
6 for less than full value, has been settled, is in collection, or is charged off. If an account  
7 has been zeroed out, then the "in collections" remark is to be removed and the account  
8 is to be reported as "closed".

9 40. DEFENDANTS' violations of the above are willful, because  
10 DEFENDANTS knowingly and deliberately ignored its own obligations with respect to  
11 Plaintiff, and to each consumer with whom DEFENDANTS settled a debt collection  
12 account but continued to update the account as being in collections with a negative  
13 balance alleged to be owed.

14 41. Upon information and belief, DEFENDANTS acted with reckless  
15 disregard because it acted with such a high degree of risk of committing a legal  
16 violation that was higher than mere carelessness, because DEFENDANTS agreed to  
17 waive/release any claim against Plaintiff (and each member of the Class) that they owe  
18 any further monies to DEFENDANTS upon the accounts at issue.

19 42. Any third party who reviews the reporting (such as a creditor, potential  
20 creditor, potential employer, and potential landlord/lessor) will now have the false  
21 impression that Plaintiff (and each member of the Class) still owes a sum upon the  
22 accounts and is still subject to debt collection efforts, whereas, if DEFENDANTS were  
23 to update the reporting to accurately reflect that the account has been closed with a  
24 \$0.00 balance owed, then potential creditors will have a more accurate reflection of  
25 Plaintiff's (and each member of the Class') creditworthiness and credit standing.

26 43. As such, Plaintiff and each member of the Class now suffer from being  
27 presented in a false light in the eyes of the credit industry, which necessarily depends  
28 upon accurate credit reporting in order to operate effectively and efficiently. Plaintiff

1 brings Count I on behalf of himself as an individual and also on behalf of all others  
 2 similarly situated pursuant to Code of Civil Procedure § 382. The members of the Class  
 3 are defined as follows:

4 All residents of the State of California who, within the previous seven (7)  
 5 years from the date of filing the instant Complaint, have suffered  
 6 inaccurate reporting by DEFENDANTS whereby DEFENDANTS  
 7 updated the account to show it as “in collections” with a negative balance  
 8 alleged to be owed, and such updating occurred on any date after the  
 9 account was closed with a \$0.00 balance owed.

10 44. Plaintiff reserves the right under California Rule of Court 3.765(b) and  
 11 other applicable law to amend or modify the class definition with respect to issues.

12 45. The term “Class” includes Plaintiff and all members of the Class.

13 46. Plaintiff seeks class-wide recovery based on the class allegations only as  
 14 set forth in this Complaint.

15 47. There is a well-defined community of interest in the litigation and the  
 16 proposed Class is easily ascertainable through the records Defendants are required to  
 17 keep.

### 18 CLASS ACTION ALLEGATIONS

19 48. Numerosity. The members of the Class are so numerous that individual  
 20 joinder of all of them as plaintiffs is impracticable. While the exact number of the Class  
 21 members is unknown to Plaintiff at this time, Plaintiff is informed and believes, and  
 22 thereon alleges, that there are potentially hundreds, if not thousands of potential class  
 23 members. Upon information and belief, DEFENDANTS purchase and own hundreds (if  
 24 not thousands) of accounts alleged to be owed by California residents, and files at least  
 25 hundreds of debt collection lawsuits each year in the state of California. As such,  
 26 DEFENDANTS are in possession of documents that Plaintiff anticipates will show the  
 27 true number of Class members, which necessitates discovery to reach such a  
 28 determination.

49. Commonality. Common questions of law and fact exist as to all Class



1 members and predominate over any questions that affect only individual members of  
 2 the Class. These common questions include, but are not limited to:

- 3 a. Whether DEFENDANTS are each a “person” within the definition of  
 4 Calif. Civ. Code § Calif. Civ. Code § 1785.3(j);
- 5 b. Whether Plaintiff and members of the class no longer owed any amounts  
 6 on the accounts when DEFENDANTS furnished updates to the consumer  
 7 credit reporting agencies that the accounts were still “in collections” with  
 8 an alleged unpaid balance owed;
- 9 c. Whether DEFENDANTS knew or should have known that the updated  
 10 information was inaccurate or incomplete within the meaning of Calif. Civ.  
 11 Code § 1785.25(a) when it updated the accounts as “in collections” with an  
 12 alleged outstanding balance at a time when the accounts were closed with a  
 13 \$0.00 balance owed;
- 14 d. Whether Plaintiff and the class members are entitled to damages and the  
 15 extent of damages and or penalties;
- 16 e. Whether DEFENDANTS’ violations were willful within the contemplation  
 17 of Calif. Civ. Code § 1785.31;
- 18 f. Whether Plaintiff and members of the Class are entitled to statutory  
 19 punitive damages, and to what extent, pursuant to Calif. Civ. Code §  
 20 1785.31;

21 g. Whether DEFENDANTS should be enjoined from engaging in such  
 22 conduct in the future;

23 h. Whether DEFENDANTS should be ordered to update the settled accounts  
 24 to reflect that the accounts are closed and have a balance of \$0.00.

25 50. Typicality. Plaintiff’s claims are typical of the claims of the other members  
 26 of the Class. On information and belief, Plaintiff, like other Class members, suffered  
 27 inaccurate credit reporting by DEFENDANTS updating the account with the consumer  
 28 credit reporting agencies by falsely claiming that a balance is still owed upon the

1 account and that the account is still in collections, after the account was closed with a  
2 \$0.00 balance owed.

3 51. Adequacy. Plaintiff will adequately and fairly protect the interests of the  
4 members of the Class. Plaintiff has no interests adverse to the interests of absent Class  
5 members. Plaintiff is represented by attorneys who have class action experience in  
6 consumer protection matters.

7 52. Superiority. A class action is superior to other available means for the fair  
8 and efficient adjudication of the claims of the Class and would be beneficial for the  
9 parties and the court. Class action treatment will allow a large number of similarly  
10 situated persons to prosecute their common claims in a single forum, simultaneously,  
11 efficiently, and without the unnecessary duplication of effort and expense that  
12 numerous individual actions would require. The damages suffered by each Class  
13 member are relatively small in the sense pertinent to class action analysis, and the  
14 expense and burden of individual litigation would make it extremely difficult or  
15 impossible for the individual Class members to seek and obtain individual relief. A  
16 class action will serve an important public interest by permitting such individuals to  
17 effectively pursue injunctive remedies and recovery of the sums owed to them. Further,  
18 class litigation prevents the potential for inconsistent or contradictory judgments raised  
19 by individual litigation.

20 **FIRST CAUSE OF ACTION**  
21 **VIOALTIONS OF CALIF. CCRAA**  
22 **Calif. Civ. Code §1785.25(a)**

23 53. Plaintiff repeats, re-alleges, and incorporates by reference all other  
24 paragraphs, as if fully set forth herein.

25 54. As the furnisher of information to credit reporting agencies,  
26 DEFENDANTS are and always were obligated to not furnish information on a specific  
27 transaction or experience to any consumer credit reporting agency if they knew or  
28 should have known the information was incomplete or inaccurate, as required by Calif.

1 Civ. Code § 1785.25(a) of the California CCRAA.

2 55. Even if the derogatory reporting is technically accurate, it is still a violation  
3 of this law if the derogatory reporting is misleading in such a way and to such an extent  
4 that it can be expected to adversely affect credit decisions. *Cisneros v. U.D. Registry,*  
5 *Inc.* (1995) 39 Cal. App. 4th 548.

6 56. DEFENDANTS committed willful violations of its obligations under  
7 Section 1785.25(a) of the Calif. CCRAA multiple times by updating the reporting of the  
8 account to inaccurately claim that the account is “in collections” with a balance owed.

9 57. Such false and inaccurate reporting has caused Plaintiff actual damages as  
10 explained in the statement of facts above.

11 58. A credit reporting violation is “willful” if it involves the commission not  
12 only of “acts known to violate the [FCRA],” but also “reckless disregard of statutory  
13 duty.” *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 56-57 (2007).

14 59. The Ninth Circuit in *Syed v. M-I, LLC* 2017 U.S. App. LEXIS 1029, FN 6  
15 recently stated, with respect to credit reporting violations, “[W]here a party’s action  
16 violates an unambiguous statutory requirement, that fact alone may be sufficient to  
17 conclude that violation is reckless, and therefore willful. ... [R]ecklessness may be  
18 determined by objective evidence alone.”

19 60. Plaintiff is informed and believes that DEFENDANTS’ violations were  
20 willful in that DEFENDANTS acted with such a high degree of risk of committing a  
21 legal violation that was higher than mere carelessness, because DEFENDANTS  
22 knowingly agreed to waive/release any claim against Plaintiff that he owes any further  
23 obligations to DEFENDANTS upon the account.

24 61. Plaintiff brings Count I on behalf of himself as an individual and also on  
25 behalf of all others similarly situated, and to only pursue Class relief for willful  
26 violations as opposed to negligent violations.

27 62. Pursuant to Calif. Civ. Code § 1785.31, Plaintiff and each member of the  
28 Class is entitled to \$100.00 to \$5,000.00 statutory punitive damages for each willful

violation; actual damages; and attorneys' fees and costs of litigation.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays, individually and on behalf of all others similarly situated, that judgment be entered against DEFENDANTS individually, and Plaintiff and the Class members be awarded damages as follows:

1. For certification of this action as a class action;
2. For appointment of Plaintiff as the representative of the Class;
3. For appointment of counsel for Plaintiff as Class counsel;
4. For actual damages, subject to proof at trial;
5. For general and special damages, subject to proof at trial;
6. For statutory punitive damages of \$5,000.00 for each Class member, for each willful violation of Calif. Civ. Code § 1785.25(a), pursuant to Calif. Civ. Code § 1785.31(a)(2)(A)-(C);
7. Injunctive relief to order Defendant to not engage in any such violations in the future, pursuant to Calif. Civ. Code § 1785.31(b);
8. Injunctive relief to order Defendant to remove false information from all consumer credit reports for each member of the Class, pursuant to Calif. Civ. Code § 1785.31(b);
9. Any reasonable attorney's fees and costs to maintain the instant action;
10. For such other relief as the Court may deem just and proper.

**TRIAL BY JURY**

Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

DATED: August 11, 2020

SEMNR & HARTMAN, LLP

*Jared M. Hartman*  
JARED M. HARTMAN, ESQ.  
Attorneys for Plaintiff

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b>	
STREET ADDRESS: 330 W Broadway	
MAILING ADDRESS: 330 W Broadway	
CITY AND ZIP CODE: San Diego, CA 92101-3827	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7071	
PLAINTIFF(S) / PETITIONER(S): Grady Shaughnessy	
DEFENDANT(S) / RESPONDENT(S): LVNV Funding LLC et.al.	
SHAUGHNESSY VS LVNV FUNDING LLC [E-FILE]	
<b>NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE on MANDATORY eFILE CASE</b>	CASE NUMBER: 37-2020-00028067-CU-MC-CTL

**CASE ASSIGNED FOR ALL PURPOSES TO:**

Judge: Gregory W Pollack

Department: C-71

**COMPLAINT/PETITION FILED: 08/11/2020**

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	03/05/2021	01:30 pm	C-71	Gregory W Pollack

Due to the COVID-19 pandemic, all hearings will be conducted remotely until further notice. Absent an order of the court, personal appearances at the hearing will not be allowed. For information on arranging telephonic or video appearances, contact CourtCall at (888)882-6878, or at [www.courtcall.com](http://www.courtcall.com). Please make arrangements with CourtCall as soon as possible.

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR\* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

**TIME STANDARDS:** The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

**COMPLAINTS:** Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants.

**DEFENDANT'S APPEARANCE:** Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

**JURY FEES:** In order to preserve the right to a jury trial, one party for each side demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference in the action.

**MANDATORY eFILE:** Case assigned to mandatory eFile program per CRC 3.400-3.403 and SDSC Rule 2.4.11. All documents must be eFiled at [www.onelegal.com](http://www.onelegal.com). Refer to General Order in re procedures regarding electronically imaged court records, electronic filing, and access to electronic court records in civil and probate cases or guidelines and procedures.

**COURT REPORTERS:** Court reporters are not provided by the Court in Civil cases. See policy regarding normal availability and unavailability of official court reporters at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov).

**\*ALTERNATIVE DISPUTE RESOLUTION (ADR):** THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).

**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify and declare that I am over the age of 18 years; I am an employee of Gordon & Rees LLP, and my business address is 5 Park Plaza, Suite 1100, Irvine, CA 92614. On **September 14, 2020**, I served a true and correct of the following: **NOTICE OF LODGMENT OF STATE COURT PLEADINGS**, to the individuals listed below as follows:

**Attorneys for Plaintiffs:**

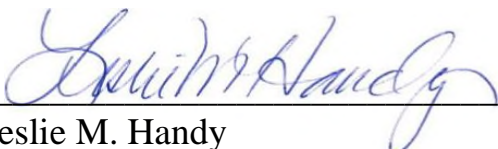
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I declare that I am employed in the office of a member of the California State Bar who is permitted to practice before this Court, and at whose direction the service stated above was made in the ordinary course of business. I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 14, 2020, at Chino Hills, California.

  
\_\_\_\_\_  
Leslie M. Handy



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [LVNV, Resurgent Capital Services Improperly Reported Settled Account as 'In Collections' with Unpaid Balance, Case Claims](#)

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