	Case	3:20-cv-01809-BEN-WVG Document 1 Filed 09	/14/20 PageID.1 Page 1 of 26
hani, LLP 00	1 2 3 4 5 6 7 8 9 10 11 12	SEAN P. FLYNN (SBN: 220184) sflynn@grsm.com GORDON REES SCULLY MANSUKHANI, 5 Park Plaza, Suite 1100 Irvine, CA 92614 Telephone: (702) 577-9317 Facsimile: (949) 474-2060 Attorneys for Defendants LVNV FUNDING, LLC AND RESURGENT UNITED STATES DIST SOUTHERN DISTRICT (GRADY SHAUGHNESSY, individually and on behalf of all others similarly situated, Plaintiff,	CAPITAL SERVICES, LP T RICT COURT
Gordon Rees Scully Mansukhani, LLP 5 Park Plaza, Suite 1100 Irvine, CA 92614	 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 	Plaintiff, vs. LVNV FUNDING, LLC; RESURGENT CAPITAL SERVICES, LP; and DOES 1 through 5, Defendants.	<section-header><text><text><text></text></text></text></section-header>
		NOTICE OF REMOVAL UNDER 20 U.S.C. §	(1++1)(A)(1) UDDERAL QUESTION)

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

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

8 In support of this Notice of Removal, Defendants, through its counsel, state9 as follows:

PROCEDURAL BACKGROUND

Plaintiff Grady Shaughnessy (hereinafter referred to as "Plaintiff")
 commenced this action by filing a Complaint in the Superior Court of the State of
 California for the County of San Diego on August 11, 2020, styled *Grady Shaughnessy v. LVNV Funding, LLC; Resurgent Capital Services, LP; and DOES 1 through5*, Case No. 37-2020-00028067-CU-MC-CTL (the "State Court Action").
 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.

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

BASIS FOR REMOVAL – DIVERSITY JURISDICTION

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

-2-NOTICE OF REMOVAL UNDER 28 U.S.C. § 1441 (A) (FEDERAL QUESTION)

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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.

5 9. Plaintiff alleges in paragraph 48 of the complaint there are thousands6 of potential class members.

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

TIMELINESS OF REMOVAL

11. As noted above, the Complaint was served on Defendants on August14, 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

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

COMPLIANCE WITH REMOVAL PROCEDURES

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

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

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

Gordon Rees Scully Mansukhani, LLP 5 Park Plaza, Suite 1100 Irvine, CA 92614 10

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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.

Dated: September 14, 2020

GORDON REES SCULLY MANSUKHANI, LLP

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

Gordon Rees Scully Mansukhani, LLP 5 Park Plaza, Suite 1100 Irvine, CA 92614

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NOTICE OF REMOVAL UNDER 28 U.S.C. § 1441 (A) (FEDERAL QUESTION)
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Case 3:20-cv-01809-BEN-WVG Document 1 Filed 09/14/20 PageID.5 Page 5 of 26

EXHIBIT A



Notice of Service of Process

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

Primary Contact:	Jennifer Coope Resurgent Cap 55 Beattie Pl Ste 110 MS 42 Greenville, SC	ital Services, LP 5
Electronic copy provide	d to:	Blake Nixon Wanda Boston Anthony Brannon Len Stemann 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

Case 3:20-cv-01809-BEN-WVG Document 1 Filed 09/14/20

SUM-100 SUMMONS FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE) (CITACION JUDICIAL) NOTICE TO DEFENDANT: **ELECTRONICALLY FILED** (AVISO AL DEMANDADO): Superior Court of California, County of San Diego LVNV FUNDING, LLC; RESURGENT CAPITAL SERVICES. LP 08/11/2020 at 09:07:58 AM and DOES 1 through 5, **Clerk of the Superior Court** YOU ARE BEING SUED BY PLAINTIFF: By Linda Sheffa, Deputy Clerk (LO ESTÁ DEMANDANDO EL DEMANDANTE): GRADY SHAUGHNESSY, individually and on behalf of all others similarly situated. 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), 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), the California Courts Online Self-Help Center (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. IAVISOI 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 conte 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), 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

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), en el Centro de Ayuda de las Cortes de California, (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

CASE NUMBER: (Número del Caso):

330 West Broadway San Diego, CA 92101

The name, address, and telephone number of plaintiffs 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: (Fecha)	08/11/2020		Clerk, by (Secretario)	h. Shetta L. Sheffa	, Deputy <i>(Adjunto)</i>
(Para prueba		 mmons, use Proof of Service of Sum sta citatión use el formulario Proof of NOTICE TO THE PERSON SERV 1 as an individual defendar 2 as the person sued unde 	Service of Summons, (PO /ED: You are served		
			funct corporation)	CCP 416.60 (minor) CCP 416.70 (conser CCP 416.90 (author)	vatee)
					Page 1 of 1
	r Mandatory Use cil of California v. July 1. 20091	SUM	MONS	Code of Civil P	rocedure §§ 412.20, 465 www.courtinfo.ca.gov



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SA	AN DIEGO	FOR COURT USE ONLY	
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	ILLC [E-FIL	LE]	
STIPULATION TO USE AL DISPUTE RESOLUTIO			
Judge: Gregory W Pollack		Department: C-71	
The parties and their attorneys stipulate that the ma alternative dispute resolution (ADR) process. Sele	atter is at lection of an	issue and the claims in this action shall be submitted to the followir ny of these options will not delay any case management timelines.	g
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)	
	and the lu		
It is also stipulated that the following shall serve as arbitr	rator, media	ator or other neutral: (Name)	
Alternate neutral (for court Civil Mediation Program and a	arbitration o	only):	
	arbitration o		
Alternate neutral (for court Civil Mediation Program and a	arbitration o	only):	
Alternate neutral (for court Civil Mediation Program and a Date:	arbitration o	only): Date: Name of Defendant	
Alternate neutral (for court Civil Mediation Program and a	arbitration o	only): Date:	
Alternate neutral (for court Civil Mediation Program and a Date: Name of Plaintiff Signature	arbitration o	only): Date: Name of Defendant	
Alternate neutral (for court Civil Mediation Program and a Date:	arbitration o	only): Date: Name of Defendant Signature	
Alternate neutral (for court Civil Mediation Program and a Date:	arbitration o	only): Date: Name of Defendant Signature Name of Defendant's Attorney Signature Signature completed and fully executed sheets.	
Alternate neutral (for court Civil Mediation Program and a Date:	arbitration o	only): Date: Name of Defendant Signature Name of Defendant's Attorney Signature Signature	
Alternate neutral (for court Civil Mediation Program and a Date:	arbitration o	only): Date: Name of Defendant Signature Name of Defendant's Attorney Signature Signature completed and fully executed sheets.	
Alternate neutral (for court Civil Mediation Program and a Date:	arbitration o	only): Date: Name of Defendant Signature Name of Defendant's Attorney Signature Signature completed and fully executed sheets.	

•		CM-010
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Jared M. Hartman (SBN 254860) 41707 Winchester Road, Suite 201 Temecula, CA 92590	number, and address):	FOR COURT USE ONLY
TELEPHONE NO.: 951-293-4187 ATTORNEY FOR (Name): Plaintiff, GRADY SH SUPERIOR COURT OF CALIFORNIA, COUNTY OF SA STREET ADDRESS: 330 WEST BROADY MAILING ADDRESS:	AN DIEGO WAY	ELECTRONICALLY FILED Superior Court of California, County of San Diego 08/11/2020 at D9:07:56 AM Clerk of the Superior Court
CITY AND ZIP CODE: SAN DIEGO, CA 92 BRANCH NAME: CENTRAL HALL O	F JUSTICE	By Linda Sheffa Deputy Clerk
CASE NAME:		
SHAUGHNESSY v. LVNV FUND	NG, LLC; et al.	
CIVIL CASE COVER SHEET	Complex Case Designation	CASE NUMBER:
Unlimited Limited (Amount (Amount	Counter Doinder	37-2020-00028067-CU-MC-CTL
demanded demanded is exceeds \$25,000) \$25,000 or less)	Filed with first appearance by defence (Cal. Rules of Court, rule 3.402)	iant Judge Gregory W Pollack
	ow must be completed (see instructions of	on page 2).
Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
L Auto (22) L Uninsured motorist (46)	Breach of contract/warranty (06) Rule 3.740 collections (09)	Antitrust/Trade regulation (03)
Other PI/PD/WD (Personal Injury/Property	Other collections (09)	Construction defect (10)
Damage/Wrongful Death) Tort	Insurance coverage (18)	Mass tort (40)
Asbestos (04) Product liability (24)	Other contract (37)	Securities litigation (28)
Medical malpractice (45)	Real Property Eminent domain/Inverse	Environmental/Toxic tort (30)
Other PI/PD/WD (23)	condemnation (14)	Insurance coverage claims arising from the above listed provisionally complex case
Non-PI/PD/WD (Other) Tort	Wrongful eviction (33)	types (41)
Business tort/unfair business practice (07) Unlawful Detainer	Enforcement of Judgment Enforcement of judgment (20)
Civil rights (08)		Miscellaneous Civil Complaint
Fraud (16)	Residential (32)	RICO (27)
Intellectual property (19)	Drugs (38)	Other complaint (not specified above) (42)
Professional negligence (25)		Miscellaneous Civil Petition
Other non-PI/PD/WD tort (35) Employment	Asset forfeiture (05) Petition re: arbitration award (11)	Partnership and corporate governance (21)
Wrongful termination (36)	Writ of mandate (02)	Other petition (not specified above) (43)
Other employment (15)	Other judicial review (39)	·
This case 1 is is not com factors requiring exceptional judicial mana a. Large number of separately repre b	gement: sented parties d. 🗹 Large number	iles of Court. If the case is complex, mark the r of witnesses with related actions pending in one or more cour
 issues that will be time-consuming c. Substantial amount of documenta 		ies, states, or countries, or in a federal court ostjudgment judicial supervision
Remedies sought (check all that apply): a	monetary b. 🖌 nonmonetary; c	leclaratory or injunctive relief c. V punitive
Number of causes of action (specify): 1		· · · · · · · · · · · · · · · · · · ·
This case is is is not a class of there are any known related cases, file a		nay use form CM-015.)
ate: 08/11/2020 red M. Hartman, Esq.) Jare	d M. Hartman
(TYPE OR PRINT NAME)		IGNATURE OF PARTY OR ATTORNEY FOR PARTY)
in sanctions.	Welfare and Institutions Code). (Cal. Rule	g (except small claims cases or cases filed es of Court, rule 3.220.) Failure to file may result
ather portion to the estimates as your address	seq. of the California Rules of Court, you	must serve a copy of this cover sheet on all
 Unless this is a collections case under rule 	3.740 or a complex case, this cover she	et will be used for statistical purposes only.
rm Adopted for Mandatory Use Judicial Council of California	CIVIL CASE COVER SHEET	Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.74 Cal. Standards of Judicial Aoministration, std. 3.1 www.courdinfo.ca.go

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

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 plaintiffs 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.

Contract (not unlawful detainer

Breach of Contract/Warranty (06)

Breach of Rental/Lease

Contract

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)

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

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 (nondomestic 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 (nonharassment) 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

Provisionally Complex Civil Litigation (Cal.

Rules of Court Rules 3.400-3.403)

CM-010 [Rev. July 1, 2007]

Commissioner Appeals
CIVIL CASE COVER SHEET

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.

<u>On-line mediator search and selection</u>: Go to the court's ADR webpage at <u>www.sdcourt.ca.gov/adr</u> 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 <u>2.2.1</u> 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 <u>Division II, Chapter III</u> and Code Civ. Proc. <u>§ 1141.10 et seq</u> 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 <u>www.sdcourt.ca.gov/adr</u> 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 <u>www.ncrconline.com</u> or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at <u>www.nclifeline.org</u> 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 <u>www.courtinfo.ca.gov/selfhelp/lowcost</u>.

1	Scott M. Grace S.B.N. 236621	ELECTRONICALLY FILED Superior Court of California,
2	Grace Law, APC 1958 Sunset Cliffs Boulevard	County of San Diego
3	San Diego, CA 92107	08/11/2020 at 09:07:56 AM
4	sgrace@gracelawapc.com	Clerk of the Superior Court By Linda Sheffa,Deputy Clerk
	Phone: (619) 346-4612	
5	Fax: (619) 501-8106	
6	SEMNAR & HARTMAN, LLP	
7	Babak Semnar (SBN 224890) bob@sandiegoconsumerattorneys.com	
8	Jared M. Hartman (SBN 254860)	
9	jared@sandiegoconsumerattorneys.com 41707 Winchester Road, Suite 201	
	Temecula, CA 92590	
10	Telephone: (951) 293-4187 Fax: (888) 819-8230	
[1]		
12	Patric A. Lester (SBN 220092) pl@lesterlaw.com	
13	Consumer Attorney Advocates, Inc.	
[4	San Diego, CA 92108 Phone: (619) 665-3888	
	Fax: (314) 241-5777	
15		
16	Attorneys for Plaintiff, GRADY SHAU	JHNESSY
17	IN THE SUPERIOR COURT	FOR THE STATE OF CALIFORNIA
18	COUNTY	OF SAN DIEGO
19	GRADY SHAUGHNESSY,	Case No.: 37-2020-00028067-CU-MC-CTL
	individually and on behalf of all	
	others similarly situated,	-CLASS ACTION COMPLAINT
21		FOR DAMAGES AND INJUNCTIVE RELIEF FOR
22	Plaintiff,	VIOLATIONS OF:
23	vs.	
24		1. CALIF. CONSUMER CREDIT
25	LVNV FUNDING, LLC;	REPORTING AGENCIES ACT
	RESURGENT CAPITAL	
26	SERVICES, LP; and DOES 1 through	
27	5, D. C. Jant	
28	Defendants.	
		1
	Complaint for Dam	ages and Injunctive Relief

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

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

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

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

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

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JURISDICTION & VENUE

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

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Complaint for Damages and Injunctive Relief

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

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

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

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

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

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THE PARTIES

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).

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

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

13. LVNV is a Nevada limited liability company with a mailing address of 112
North Curry Street, Carson City, NV whose principal purpose is the purchase and
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).

1016.RESURGENT is a limited partnership entity organized under Delaware11law, with offices at 200 Meeting Street, Suite 206, Charleston, South Carolina 29401.

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

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

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

Complaint for Damages and Injunctive Relief

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

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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 one15 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.

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28. On or about October 31, 2019, Plaintiff paid the full amount agreed upon.
29. By email dated May 4, 2020, counsel for DEFENDANTS informed
Plaintiff's attorney of record in writing that Plaintiff had paid the agreed-upon amount in full.

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

Complaint for Damages and Injunctive Relief

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

32. However, it is factually false for DEFENDANTS to claim at any point
after the payment was made on or about October 31, 2019 that the account is still "in
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.

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

Upon information and belief, DEFENDANTS have undertaken similar
conduct against numerous individuals residing within the State of California, and has
submitted updates to the consumer credit reporting agencies that the consumers'
accounts are still "in collections" with an unpaid balance alleged to be owed, and such
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.

37. Upon information and belief, DEFENDANTS have agreed to understand,
utilize, and follow the policies and procedures implemented by the "big three" credit
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

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

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

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

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

Complaint for Damages and Injunctive Relief

brings Count I on behalf of himself as an individual and also on behalf of all others 1 similarly situated pursuant to Code of Civil Procedure § 382. The members of the Class 2 are defined as follows: 3 All residents of the State of California who, within the previous seven (7) 4 years from the date of filing the instant Complaint, have suffered 5 inaccurate reporting by DEFENDANTS whereby DEFENDANTS updated the account to show it as "in collections" with a negative balance 6 alleged to be owed, and such updating occurred on any date after the 7 account was closed with a \$0.00 balance owed. 8 Plaintiff reserves the right under California Rule of Court 3.765(b) and 9 44. other applicable law to amend or modify the class definition with respect to issues. 10 The term "Class" includes Plaintiff and all members of the Class. 45. 11 Plaintiff seeks class-wide recovery based on the class allegations only as 46. 12 set forth in this Complaint. 13 There is a well-defined community of interest in the litigation and the 14 47. proposed Class is easily ascertainable through the records Defendants are required to 15 16 keep. **CLASS ACTION ALLEGATIONS** 17 Numerosity. The members of the Class are so numerous that individual 48. 18 joinder of all of them as plaintiffs is impracticable. While the exact number of the Class 19 members is unknown to Plaintiff at this time, Plaintiff is informed and believes, and 20thereon alleges, that there are potentially hundreds, if not thousands of potential class 21 22 members. Upon information and belief, DEFENDANTS purchase and own hundreds (if not thousands) of accounts alleged to be owed by California residents, and files at least 23 hundreds of debt collection lawsuits each year in the state of California. As such, 24 DEFENDANTS are in possession of documents that Plaintiff anticipates will show the 25 true number of Class members, which necessitates discovery to reach such a 26 27 determination. Commonality. Common questions of law and fact exist as to all Class 28 49. **Complaint for Damages and Injunctive Relief**

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.							
ι1	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							
۱5	extent of damages and or penalties;							
۱6	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. <u>Typicality</u> . 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							
	9							
	Complaint for Damages and Injunctive Relief							

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

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

7 Superiority. A class action is superior to other available means for the fair 52. and efficient adjudication of the claims of the Class and would be beneficial for the 8 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.

<u>FIRST-CAUSE OF ACTION</u> VIOALTIONS OF CALIF. CCRAA Calif. Civ. Code §1785.25(a)

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

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

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Complaint for Damages and Injunctive Relief

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

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

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

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

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

14 The Ninth Circuit in Syed v. M-I, LLC 2017 U.S. App. LEXIS 1029, FN 6 59. 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 Plaintiff is informed and believes that DEFENDANTS' violations were **60**. 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 knowingly agreed to waive/release any claim against Plaintiff that he owes any further 22 23 obligations to DEFENDANTS upon the account.

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

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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

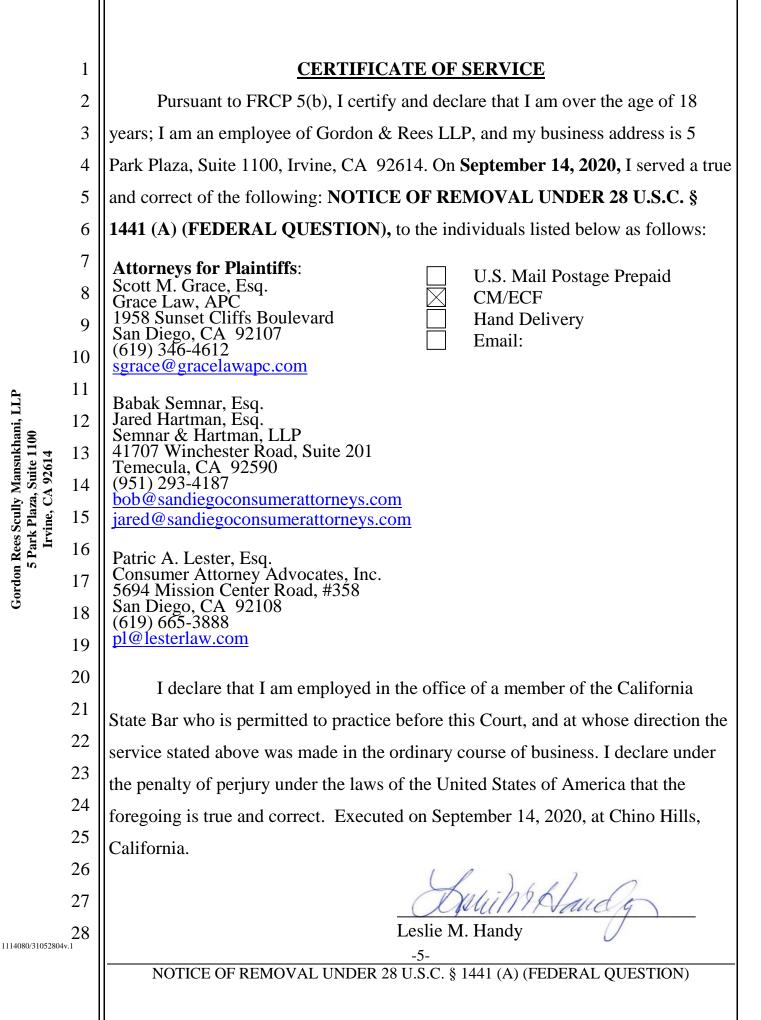
Complaint for Damages and Injunctive Relief

1	violation; actual damages; and attorneys' fees and costs of litigation.							
2	PRAYER FOR RELIEF							
3	WHEREFORE, Plaintiff prays, individually and on behalf of all others similarly							
4	situated, that judgment be entered against DEFENDANTS individually, and Plaintiff							
5	and the Cla	ss members be awarded damages as follows:						
6	1.	For certification of this action as a class action;						
7	2.	For appointment of Plaintiff as the representative of the Class;						
8	3.	For appointment of counsel for Plaintiff as Class counsel;						
9	4.	For actual damages, subject to proof at trial;						
10	5.	For general and special damages, subject to proof at trial;						
1	6.	For statutory punitive damages of \$5,000.00 for each Class member, for						
l2	each willfu	l violation of Calif. Civ. Code § 1785.25(a), pursuant to Calif. Civ. Code §						
l3	1785.31(a)	(2)(A)-(C);						
Ι4	7.	Injunctive relief to order Defendant to not engage in any such violations in						
ι5	the future, j	pursuant to Calif. Civ. Code § 1785.31(b);						
16	8.	Injunctive relief to order Defendant to remove false information from all						
17	consumer c	credit reports for each member of the Class, pursuant to Calif. Civ. Code §						
18	1785.31(b)							
19	9.	Any reasonable attorney's fees and costs to maintain the instant action;						
20-	10	-For-such-other relief-as-the-Court may-deem-just-and-proper.						
21		TRIAL BY JURY						
22	Pursu	ant to the Seventh Amendment to the Constitution of the United States of						
23	America, Plaintiff is entitled to, and demands, a trial by jury.							
24								
25		SEMNAR & HARTMAN, LLP						
26	DATED: A	ugust 11, 2020 Jared M. Hartman						
27		✓ JARED M. HARTMAN, ESQ.						
28		Attorneys for Plaintiff						
		12						
		Complaint for Damages and Injunctive Relief						
- 1	1							

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 OTHE 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 EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES which 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 the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference 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								
MALBIG ADDRESS: 300 M Readery DEVEX NOTE: Control DEFENDANT(S) / RESPONDENT(S): LVNV FUNDING LLC (E-FILE) MOTICE: CONFERENCE on MANDATORY OFLIC CASE MALBIG ADDRESS: Status Judge: GRESS VS LVNV FUNDING LLC (E-FILE) CONFERENCE on MANDATORY OFLIC CASE Department: C-71 CASE ASSIGNED FOR ALL PURPOSES TO: Judge: Judge: Gregory W Pollack Department: C-71 COMPLAINT/PETITION FILED: 0//11/2020 TIME DEPT TYPE OF HEARING SCHEDULED DATE TIME DEPT Judge: Gregory W Pollack Department: C-71 Gregory W Pollack Due to the COVID-10 pandemic all hearings will be conducted remolely until further notice. Absent an order of the court, personal elses 156 (300 process) Some approaches, context Court, personal elses 156 (300 process) Ac case management statement must be completed by coursel for all partices or self-cepresented litigants and timely field with the court at least 156 (300 sci) as for to the initigant and timely field with the court at least 156 (300 sci) as for to the initigant and timely fiel	-	Y OF SAN DIEGO						
enviceNume: Central TELEPORE NUMBER: 619 469-701 PLANTIFF(S) / PETITONER(S): Grady Shaughnessy DEFENDANT(S) / RESPONDENT(S): LVNV Funding LLC (E-FILE) NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE on MANDATORY FILE CASE SHAUGHNESSY VS LVNV FUNDING LLC (E-FILE) NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE on MANDATORY FILE CASE 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 lelephonic or video appearance, context CourCall at (689)826-267, or at www.courtal.com. Please make arrangement with CourCalle as son as possible. A case management statement must be completed by coursel 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 3.7.25). All coursel of read or parties in por ger 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. TT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT, NOR CORS-COMPLAINT, THE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM ACV-359), AND OTHE DEVISION II, AND CORSS-COMPLAINT, THE VIDERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND CORSS-COMPLAINT, THE VIDERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND CORSS-COMPLAINT, THE VIDERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND CORSS-COMPLAINT, THE VIDERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND CORSS-COMPLAINT, THE VIDERIOR COURT RULES WHICH HAVE BE								
Tubercone subsets: 699, 455701 PLAINTFF(S) / FETTIONER(S): Grady Shaughnessy DEFENDANT(S) / RESPONDENT(S): LVNV Funding LLC et.al. SHAUGHNESSY VS LVNV FUNDING LLC (E-FLE) CASE NUMBER: NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CASE NUMBER: COMPERENCE on MANDATORY OFILE CASE 37-2020-00028067-CU-MC-CTL CASE ASSIGNED FOR ALL PURPOSES TO: Judge: Gragory W Poliack COMPLAINT/PETITION FILED: DATE TIME DEPT JUDGE Civil Case Management Conference 03/05/2021 01:30 pm C-71 Gragory W Poliack 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 to be allowed, or information or arranging leighbonic or video appearances, contact CourCail at (845/862.8378, or at www.courcail.com. Please make arrangements with CourtCail as soon as possible. A case management statement must be completed by counsel for information on come, be parafrues, until the case, and be fully prepared to paritis in pro per shall appear at the Case Management Conference, et aniliar with the case, and be fully prepared to paritis in pro per shall appear at the Case Management Conference, be aniliar with the case, and be fully conference in the Court DeVID (DEVIDIN) (DECK) PLANTIF (AND CROSS-COMPLAINNT) THE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), ASTIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHE DOUTSPLATE	CITY AND ZIP CODE: San Diego, CA 92101-3827							
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 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 (680)652-6678, or at www.countcall.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. TI'S THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE CORN #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHE 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 APPERARANCE: Defendant must generally appear within 30 days of service of the complaint. (Pl	TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE			
 appearances at the hearing will not be allowed. For information on arranging telephonic or video appearances, contact CourtCall at (488)882-8878, or at 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) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO DE 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, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings. COMPLAINTS: Complaints and all other	Civil Case Management Conference	03/05/2021	01:30 pm	C-71	Gregory W Pollack			
 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 the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference 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. 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. *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 	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.							
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 the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference 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. 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. *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 	DEFENDANT'S APPEARANCE: Defendar stipulate to no more than 15 day e	t must generally a extension which ma	uppear within 30 d ust be in writing a	ays of service o nd filed with the	f the complaint. (Plaintiff may Court.) (SDSC Local Rule 2.1.6)			
be eFiled at 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. *ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION. PRIOR TO THE CASE MANAGEMENT CONFERENC	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.							
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ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENC				ases. See policy	regarding normal availability and			
PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).	ALTERNATIVES TO TRIAL, INCLUDING M	NEDIATION AND	ARBITRATION. P	RIOR TO THE (CASE MANAGEMENT CONFERENCE			

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Gordon Rees Scully Mansukhani, LLP

5 Park Plaza, Suite 1100

Case 3:20-cv-01809-BEN-WVG, Document 1-1 Filed 09/14/20 PageID.27 Page 1 of 2 CIVIL COVER SHEET

JS 44 (Rev. 09/19)

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			DEFENDANTS	DEFENDANTS LVNV Funding, LLC; Resurgent Capital Services, LP		
Grady Shaughnessy			LVINV Fullallig, Li	LC, Resurgent Capital S	ervices, Lr	
(b) County of Residence of	f First Listed Plaintiff S	an Diego	County of Residence	County of Residence of First Listed Defendant Ormsby County, NV		
(Ez	XCEPT IN U.S. PLAINTIFF CA	SES)	NOTE: IN LAND CO	(IN U.S. PLAINTIFF CASES O ONDEMNATION CASES, USE TH		
				OF LAND INVOLVED.	CV1809 BEN WVG	
(c) Attorneys (Firm Name, A			Attorneys (If Known)		Iansukhani, LLP, 5 Park	
Scott M. Grace, Esq., Gr 1958 Sunset Cliffs Blvd.					n@grsm.com; (702) 577-	
sgrace@gracelawapc.com	n		9317	, , <u>,</u>	6 , , ,	
II. BASIS OF JURISDI	CTION (Place an "X" in C	One Box Only)	I. CITIZENSHIP OF PE (For Diversity Cases Only)	RINCIPAL PARTIES	(Place an "X" in One Box for Plaintiff and One Box for Defendant)	
1 U.S. Government Plaintiff	3 Federal Question (U.S. Government 1	Not a Party)	Citizen of This State		PTF DEF	
2 U.S. Government Defendant	4 Diversity (Indicate Citizenshi	p of Parties in Item III)	Citizen of Another State	2 2 2 Incorporated and P of Business In A		
			Citizen or Subject of a Foreign Country	3 3 Foreign Nation	6 6	
IV. NATURE OF SUIT				1	f Suit Code Descriptions.	
CONTRACT 110 Insurance	TO PERSONAL INJURY	RTS PERSONAL INJURY	FORFEITURE/PENALTY	BANKRUPTCY 422 Appeal 28 USC 158	OTHER STATUTES 375 False Claims Act	
120 Marine 130 Miller Act	☐ 310 Airplane ☐ 315 Airplane Product	365 Personal Injury -	of Property 21 USC 881	423 Withdrawal	376 Qui Tam (31 USC 3729(a))	
140 Negotiable Instrument	Liability 320 Assault, Libel &	Product Liability 367 Health Care/	690 Other	28 USC 157 PROPERTY RIGHTS	400 State Reapportionment 410 Antitrust	
150 Recovery of Overpayment & Enforcement of Judgment	Slander	Pharmaceutical Personal Injury		820 Copyrights 830 Patent	430 Banks and Banking	
 151 Medicare Act 152 Recovery of Defaulted 	330 Federal Employers' Liability	Product Liability 368 Asbestos Personal		835 Patent - Abbreviated	450 Commerce 460 Deportation	
Student Loans (Excludes Veterans)	☐ 340 Marine ☐ 345 Marine Product	Injury Product Liability		New Drug Application 840 Trademark	470 Racketeer Influenced and Corrupt Organizations	
153 Recovery of Overpayment of Veteran's Benefits	Liability 350 Motor Vehicle	PERSONAL PROPERTY 370 Other Fraud	LABOR 710 Fair Labor Standards	SOCIAL SECURITY 861 HIA (1395ff)	480 Consumer Credit	
160 Stockholders' Suits	355 Motor Vehicle	371 Truth in Lending	Act 720 Labor/Management	862 Black Lung (923)	(15 USC 1681 or 1692) 485 Telephone Consumer	
 190 Other Contract 195 Contract Product Liability 	Product Liability 360 Other Personal	380 Other Personal Property Damage	Relations	□ 863 DIWC/DIWW (405(g)) □ 864 SSID Title XVI	Protection Act 490 Cable/Sat TV	
196 Franchise	Injury 362 Personal Injury -	385 Property Damage Product Liability	740 Railway Labor Act 751 Family and Medical	865 RSI (405(g))	850 Securities/Commodities/ Exchange	
REAL PROPERTY	Medical Malpractice CIVIL RIGHTS	PRISONER PETITIONS	Leave Act 790 Other Labor Litigation	FEDERAL TAX SUITS	890 Other Statutory Actions 891 Agricultural Acts	
210 Land Condemnation 220 Foreclosure	440 Other Civil Rights	Habeas Corpus: 463 Alien Detainee	791 Employee Retirement Income Security Act	870 Taxes (U.S. Plaintiff or Defendant)	893 Environmental Matters	
230 Rent Lease & Ejectment	441 Voting 442 Employment	510 Motions to Vacate		871 IRS—Third Party	895 Freedom of Information Act	
 240 Torts to Land 245 Tort Product Liability 	443 Housing/ Accommodations	Sentence 530 General	IMMIGRATION	26 USC 7609	 896 Arbitration 899 Administrative Procedure 	
290 All Other Real Property	445 Amer. w/Disabilities- Employment	535 Death Penalty Other:	462 Naturalization Application 465 Other Immigration		Act/Review or Appeal of Agency Decision	
	446 Amer. w/Disabilities-	540 Mandamus & Other	Actions		950 Constitutionality of	
	Other 448 Education	550 Civil Rights 555 Prison Condition			State Statutes	
		560 Civil Detainee - Conditions of				
V. ORIGIN (Place an "X" i	n One Box Only)	Confinement				
\Box 1 Original \Box 2 Ref	moved from $\Box 3$	Remanded from Appellate Court	4 Reinstated or Reopened Anothe (specify)	red from 6 Multidistrict r District Litigation- Transfer	8 Multidistrict Litigation - Direct File	
VI. CAUSE OF ACTIO	28 LISC 88 1332(d) &		filing (Do not cite jurisdictional sta	tutes unless diversity):		
VI. CAUSE OF ACTIO	Brief description of ca		Act, California Civil Code, § 1	785 25(a)		
VII. REQUESTED IN COMPLAINT:	<u> </u>	IS A CLASS ACTION	DEMAND \$		if demanded in complaint:	
VIII. RELATED CASE IF ANY	(S) (See instructions)	: JUDGE		DOCKET NUMBER		
DATE September 14 2020 FOR OFFICE USE ONLY						
	OR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE					
				American Leg	alNet, Inc. orkFlow.com	

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: <u>Nature of Suit Code Descriptions</u>.
- 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.

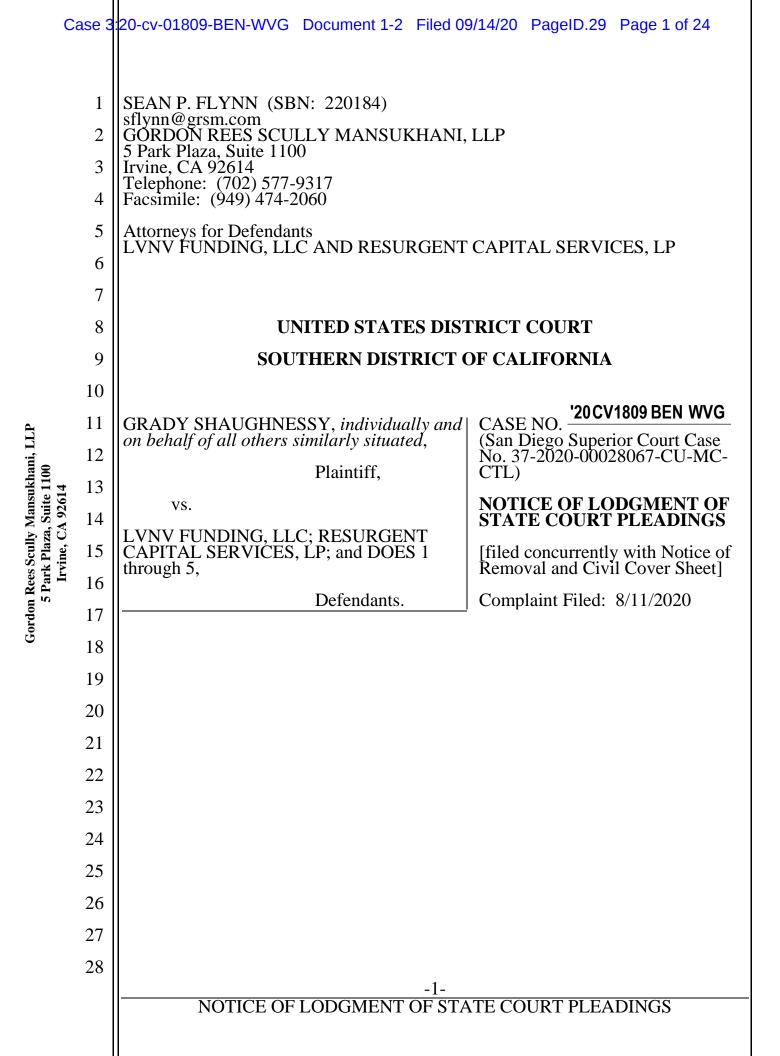
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.

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 statue.

- 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.





TO THIS HONORABLE COURT:

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Gordon Rees Scully Mansukhani, LLP 5 Park Plaza, Suite 1100 Irvine, CA 92614 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. 37-2020-00028067CU-MC-CTL.

	8	Exhibit	Ti	tle		Party
		1.	Com	plaint		Plaintiff
	9 10 11	Dated: So	eptember 14, 2020	GOF MAI	RDON R NSUKH	EES SCULLY ANI, LLP
	12			By:		P. Flynn
	13					Flynn (SBN: 220184)
	14					ys for Defendants Funding, LLC; Resurgent
() 	15					Services, LP
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		י –	NOTICE OF LODGM	-2- FNT OF STA	TECOU	RT PLEADINGS

Case 3:20-cv-01809-BEN-WVG Document 1-2 Filed 09/14/20 PageID.31 Page 3 of 24

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 Stemann 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

Case 3:20-cv-01809-BEN-WVG Document 1-2 Filed 09/14/20 PageID-33 Page 5 05 24

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	JMMONS CION JUDICIAL)	FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE)
NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):	1/	ELECTRONICALLY FILED Superior Court of California, County of San Diego
LVNV FUNDING, LLC; RESU and DOES 1 through 5,	JRGENT CAPITAL SERVICES, LP;	08/11/2020 at 09:07:56 AM
YOU ARE BEING SUED BY PLAI (LO ESTÁ DEMANDANDO EL DE		Clerk of the Superior Court By Linda Sheffa,Deputy Clerk
•	dividually and on behalf of all others	
	may decide against you without your being heard unless	you respond within 30 days. Read the information
served on the plaintiff. A letter or phone ca case. There may be a court form that you Online Self-Help Center (<i>www.courtinfo.ca</i> the court clerk for a fee waiver form. If you may be taken without further warning from There are other legal requirements. Yo referral service. If you cannot afford an att these nonprofit groups at the California Le (<i>www.courtinfo.ca.gov/selfhelp</i>), or by con costs on any settlement or arbitration awar JAVISOI Lo han demandado. Si no respon continuación. Tiene 30 DÍAS DE CALENDARIO despi corte y hacer que se entregue una copia a en formato legal correcto si desea que pro Puede encontrar estos formularios de la ca biblioteca de leyes de su condado o en la que le dé un formulario de exención de pa podrá quitar su sueldo, dinero y bienes sin Hay otros requisitos legales. Es recomer remisión a abogados. Si no puede pagar a programa de servicios legales sin fines de (www.lawhelpcalifornia.org), en el Centro	u may want to call an attorney right away. If you do not kn orney, you may be eligible for free legal services from a n gal Services Web site (www.lawhelpcalifornia.org), the C tacting your local court or county bar association. NOTE: rd of \$10,000 or more in a civil case. The court's lien mus nde dentro de 30 días, la corte puede decidir en su contro ués de que le entreguen esta citación y papeles legales p al demandante. Una carta o una llamada telefónica no lo p poses su caso en la corte. Es posible que haya un formu orte y más información en el Centro de Ayuda de las Con corte que le quede más cerca. Si no puede pagar la cuot go de cuotas. Si no presenta su respuesta a tiempo, pue n más advertencia. Indable que llame a un abogado inmediatamente. Si no co a un abogado, es posible que cumpla con los requisitos p lucro. Puede encontrar estos grupos sin fines de lucro el de Ayuda de las Cortes de California, (www.sucorte.ca.go ley, la corte tiene derecho a reclamar las cuotas y los cos de valor recibida mediante un acuerdo o una concesión (roper legal form if you want the court to hear your s and more information at the California Courts nearest you. If you cannot pay the filing fee, ask e by default, and your wages, money, and property now an attorney, you may want to call an attorney ionprofit legal services program. You can locate alifornia Courts Online Self-Help Center The court has a statutory lien for waived fees and t be paid before the court will dismiss the case. a sin escuchar su versión. Lea la información a para presentar una respuesta por escrito en esta protegen. Su respuesta por escrito tiene que estar lario que usted pueda usar para su respuesta. tes de California (www.sucorte.ca.gov), en la a de presentación, pida al secretario de la corte de perder el caso por incumplimiento y la corte le ponoce a un abogado, puede llamar a un servicio de ara obtener servicios legales gratuitos de un n el sitio web de California Legal Services, so) o poniéndose en contacto con la corte o el stos exentos por imponer un gravamen sobre
The name and address of the court is: (El nombre y dirección de la corte es):	San Diego County Superior Court	CASE NUMBER: (Número del Caso):
330 West Broadway		37-2020-00028067-CU-MC-CTL
San Diego, CA 92101		
_(El nombre, la dirección_y_el número_de	nber of plaintiff's attorney, or plaintiff without an atte teléfono del abogado del demandante, o del dema	andante que no tiene abogado, es):
Jared M. Hartman, Esq.; 41707	Winchester Road, Suite 201, Temecula, C	CA 92590; 951-293-4187
DATE: 08/11/2020 (Fecha)	Clerk, by (Secretario)	L. Sheffa Deputy (Adjunto)
/For proof of convince of this pummone i	up Proof of Conving of Summone (form DOS 010)	1

(Para prueba de entrega de el	 sta citatión use el formulario Proof of Service of Summons, (POS-010)). 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: CCP 416.10 (corporation) CCP 416.20 (defunct corporation) CCP 416.70 (conservatee) CCP 416.40 (association or partnership) CCP 416.90 (authorized person) other (specify): the personal delivery on (date):

Form Adopted for Mandatory Use Judicial Council of California SUM-100 [Rev. July 1, 2009]

SUMMONS

Page 1 of 1 Code of Civil Procedure §§ 412.20, 465 www.courtinfo.ca.gov ۰.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SA	N DIEGO FOR COURT USE ONLY
TREET ADDRESS: 330 West Broadway	
IAILING ADDRESS: 330 West Broadway	
ITY, STATE, & ZIP CODE: San Diego, CA 92101-3827	
RANCH NAME: Central	
LAINTIFF(S): Grady Shaughnessy	······································
EFENDANT(S): LVNV Funding LLC et.al.	
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SHORT TITLE: SHAUGHNESSY VS LVNV FUNDING I	
DISPUTE RESOLUTIO	
udge: Gregory W Pollack	Department: C-71
he parties and their attorneys stipulate that the ma Iternative dispute resolution (ADR) process. Select	atter is at issue and the claims in this action shall be submitted to the following ction 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)
	e, etc.):
t is also stipulated that the following shall serve as arbitra	ator, mediator or other neutral: (Name)
Alternate neutral (for court Civil Mediation Program and a	rbitration only):
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Alternate neutral (for court Civil Mediation Program and a	rbitration only): Date:
It is also stipulated that the following shall serve as arbitra Alternate neutral (for court Civil Mediation Program and a Date:	rbitration only): Date:
Alternate neutral (for court Civil Mediation Program and a Date:	rbitration only): Date: Name of Defendant
Alternate neutral (for court Civil Mediation Program and a Date:	rbitration only): Date: Date: Name of Defendant Signature
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Alternate neutral (for court Civil Mediation Program and a Date:	rbitration only): Date: Date: Name of Defendant Signature Name of Defendant's Attorney Signature Signature additional completed and fully executed sheets.

Case 3:20-cv-01809-BEN-WVG Document 1-2 Filed 09/14/20 PageID.35 Page 7 of 24

(Amount demanded exceeds \$25,000) (Amount demanded is exceeds \$25,000) (Amount demanded is s25,000 or leas) (Amount least 1-6 back must be completed (see instructions on page 2). Check one box balow for the case type that best describes this case: Provisionally Complex CWI Litigation (Cal. Rules of Court, rule 3.402) Check one box balow for the case type that best describes this case: Provisionally Complex CWI Litigation (Cal. Rules of Court, rule 3.402) Other PVEDWD (Personal Injury/Property Damage/Wronghu Dasth) Tort Breach of contract/warranty (Dime rule) Tork rule 3.400 - 3.403) Abstections (04) Other rolications (09) Contract (07) Damage/Wronghu Dasth) Tort Base and contract (07) Becarits sitigation (28) Product liability (24) Real Property Environmental/Toxic tort (30) Madcal majoractic (45) Contract (07) Environmental/Toxic tort (30) Business truthaft business practice (07) Unterviron property (28) Enforcement of Judgment (20) Business truthaft business practice (15) Unterviron property (28) Enforcement of Judgment (20) Product liability (24) Real Property Enforcement of Judgment (20) Enforcement of Judgment (20) Busines truthaft business practice (75) Unterviron Property (28) Enforcement of Judgment (20) Enforcement of Judgment (20) <	•		CM-010			
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 Other employment (15) Other judicial review (39) This case		Petition re: arbitration award (11)				
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. Large number of separately represented parties d. Large number of witnesses b. Extensive motion practice raising difficult or novel e. Coordination with related actions pending in one or more court issues that will be time-consuming to resolve c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. f. Number of causes of action (specify): 1 This case is not a class action suit. ft there are any known related cases, file and serve a notice of related case. (You may use form CM-015.) ate: 08/11/2020 red M. Hartman, Esq. IVPE OR PRINT NAME) NOTICE SUGNATURE OF PARTY OR ATTORNEY FOR PARTY) • 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. • Plaintiff must file this cover sheet in addition to any cover sheet required by local count rule. If this case is complex under rule 3.400 et seq, of the California Rules of Court,	Wrongful termination (36)	Writ of mandate (02)				
factors requiring exceptional judicial management: a. Large number of separately represented parties d. ✓ Large number of witnesses b. ✓ Extensive motion practice raising difficult or novel e. Coordination with related actions pending in one or more count issues that will be time-consuming to resolve in other counties, states, or countries, or in a federal court c. ✓ Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision Remedies sought (check all that apply): a. ✓ monetary b. ✓ nonmonetary; declaratory or injunctive relief c. ✓ Number of causes of action (specify): 1 This case ✓ is in ot a class action suit. ff there are any known related cases, file and serve a notice of related case. (You may use form CM-015.) ate: 08/11/2020 VMAM Hartman, Esq. (SIGNATURE OF PRINT OR ATTORNEY FOR PARTY) 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 u						
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	Form Adopted for Mandatory Use Judicial Council of California CM-010 [Rev. July 1, 2007]	CIVIL CASE COVER SHEET	Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.740; Cal. Standards of Judicial Aoministration, std. 3.10 www.courtinfo.ca.gov			

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

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 plaintiffs 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**

Contract (not unlawful detainer

Breach of Contract/Warranty (06)

Breach of Rental/Lease

Contract

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)

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

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 (nondomestic 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 (nonharassment) 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

CM-010 [Rev. July 1, 2007]

Commissioner Appeals
CIVIL CASE COVER SHEET

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]

<u>NOTICE</u>: 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), <u>and</u> (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.

<u>On-line mediator search and selection</u>: Go to the court's ADR webpage at <u>www.sdcourt.ca.gov/adr</u> 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 <u>2.2.1</u> 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 <u>Division II, Chapter III</u> and Code Civ. Proc. <u>§ 1141.10 et seq</u> 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 <u>www.sdcourt.ca.gov/adr</u> 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 <u>www.ncrconline.com</u> or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at <u>www.nclifeline.org</u> 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 <u>www.courtinfo.ca.gov/selfhelp/lowcost</u>.

1 2	Scott M. Grace S.B.N. 236621 Grace Law, APC 1958 Sunset Cliffs Boulevard	ELECTRONICALLY FILED Superior Court of California, County of San Diego				
3	San Diego, CA 92107	08/11/2020 at 09:07:66 AM Clerk of the Superior Court				
4	sgrace@gracelawapc.com Phone: (619) 346-4612	By Linda Sheffa, Deputy Clerk				
5	Fax: (619) 501-8106					
6 7 8	SEMNAR & HARTMAN, LLP Babak Semnar (SBN 224890) bob@sandiegoconsumerattorneys.com Jared M. Hartman (SBN 254860)	· · · · · · · · · · · · · · · · · · ·				
9	jared@sandiegoconsumerattorneys.com 41707 Winchester Road, Suite 201 Temecula, CA 92590					
10	Telephone: (951) 293-4187 Fax: (888) 819-8230					
[1						
12	Patric A. Lester (SBN 220092) pl@lesterlaw.com					
٤3	Consumer Attorney Advocates, Inc. 5694 Mission Center Road, #358 San Diego, CA 92108 Phone: (619) 665-3888					
٤4	Phone: (619) 665-3888 Fax: (314) 241-5777					
۱5	1 ax. (517) 271-5777					
۱6	Attorneys for Plaintiff, GRADY SHAUC	GHNESSY				
17	IN THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA					
18	COUNTY	OF SAN DIEGO				
19	GRADY SHAUGHNESSY,	Case No.: 37-2020-00028067-CU-MC-CTL				
- 20-	individually and on behalf of all					
21	others similarly situated,	FOR DAMAGES AND				
22	Plaintiff,	INJUNCTIVE RELIEF FOR VIOLATIONS OF:				
23	VS.	1. CALIF. CONSUMER CREDIT				
24		REPORTING AGENCIES				
25	LVNV FUNDING, LLC; RESURGENT CAPITAL	ACT				
26	SERVICES, LP; and DOES 1 through					
27	5,					
28	Defendants.					
		1				
	Complaint for Dam	ages and Injunctive Relief				

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

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

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

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

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

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

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JURISDICTION & VENUE

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

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

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

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

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

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

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THE PARTIES

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).

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

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

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

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

1016.RESURGENT is a limited partnership entity organized under Delaware11law, with offices at 200 Meeting Street, Suite 206, Charleston, South Carolina 29401.

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

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

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

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

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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 one15 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.

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28. On or about October 31, 2019, Plaintiff paid the full amount agreed upon.
29. By email dated May 4, 2020, counsel for DEFENDANTS informed
Plaintiff's attorney of record in writing that Plaintiff had paid the agreed-upon amount in full.

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

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

32. However, it is factually false for DEFENDANTS to claim at any point
after the payment was made on or about October 31, 2019 that the account is still "in
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.

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

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

36. Therefore, DEFENDANTS have knowingly and willfully furnished
inaccurate credit-reporting information that DEFENDANTS knew or should have
known was inaccurate with respect to all such consumers residing within the State of
California with whom it has settled a debt collection account within the previous seven
(7) years.

37. Upon information and belief, DEFENDANTS have agreed to understand,
utilize, and follow the policies and procedures implemented by the "big three" credit
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

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

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

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

14 Upon information and belief, DEFENDANTS acted with reckless 41. 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 creditor, potential employer, and potential landlord/lessor) will now have the false 20 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

brings Count I on behalf of himself as an individual and also on behalf of all others 1 similarly situated pursuant to Code of Civil Procedure § 382. The members of the Class 2 are defined as follows: 3 All residents of the State of California who, within the previous seven (7) 4 years from the date of filing the instant Complaint, have suffered 5 inaccurate reporting by DEFENDANTS whereby DEFENDANTS updated the account to show it as "in collections" with a negative balance 6 alleged to be owed, and such updating occurred on any date after the 7 account was closed with a \$0.00 balance owed. 8 Plaintiff reserves the right under California Rule of Court 3.765(b) and 9 44. other applicable law to amend or modify the class definition with respect to issues. 10 The term "Class" includes Plaintiff and all members of the Class. 45. 11 Plaintiff seeks class-wide recovery based on the class allegations only as 46. 12 set forth in this Complaint. 13 There is a well-defined community of interest in the litigation and the 14 47. proposed Class is easily ascertainable through the records Defendants are required to 15 16 keep. **CLASS ACTION ALLEGATIONS** 17 Numerosity. The members of the Class are so numerous that individual 48. 18 joinder of all of them as plaintiffs is impracticable. While the exact number of the Class 19 members is unknown to Plaintiff at this time, Plaintiff is informed and believes, and 20thereon alleges, that there are potentially hundreds, if not thousands of potential class 21 members. Upon information and belief, DEFENDANTS purchase and own hundreds (if 22 not thousands) of accounts alleged to be owed by California residents, and files at least 23 hundreds of debt collection lawsuits each year in the state of California. As such, 24 DEFENDANTS are in possession of documents that Plaintiff anticipates will show the 25 true number of Class members, which necessitates discovery to reach such a 26 determination. 27 Commonality. Common questions of law and fact exist as to all Class 28 49. **Complaint for Damages and Injunctive Relief**

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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.			
ι1	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. <u>Typicality</u> . 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			
	9			
	Complaint for Damages and Injunctive Relief			

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

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

7 Superiority. A class action is superior to other available means for the fair 52. and efficient adjudication of the claims of the Class and would be beneficial for the 8 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.

<u>FIRST-CAUSE OF ACTION</u> VIOALTIONS OF CALIF. CCRAA Calif. Civ. Code §1785.25(a)

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

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

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

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

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

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

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

14 The Ninth Circuit in Syed v. M-I, LLC 2017 U.S. App. LEXIS 1029, FN 6 59. recently stated, with respect to credit reporting violations, "[W]here a party's action 15 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 Plaintiff is informed and believes that DEFENDANTS' violations were **60**. 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 knowingly agreed to waive/release any claim against Plaintiff that he owes any further 22 23 obligations to DEFENDANTS upon the account.

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

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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

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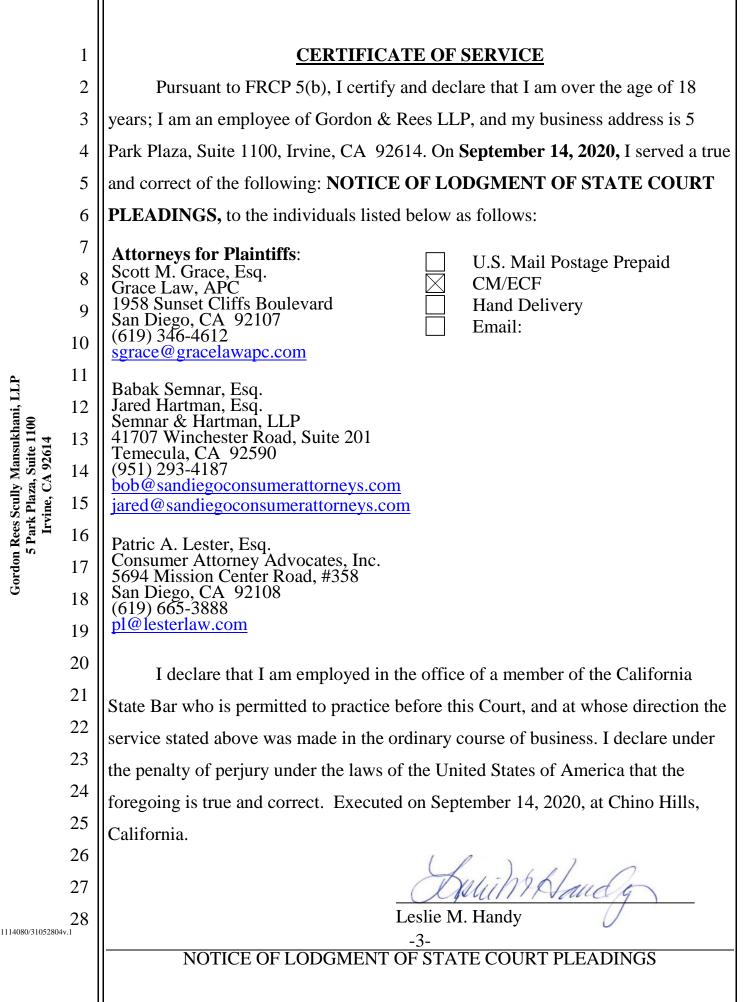
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1	violation;	violation; actual damages; and attorneys' fees and costs of litigation.					
2	PRAYER FOR RELIEF						
3	WHEREFORE, Plaintiff prays, individually and on behalf of all others similarly						
4	situated, that judgment be entered against DEFENDANTS individually, and Plaintiff						
5	and the Class members be awarded damages as follows:						
6	1.	For certification of this action as a class action;					
7	2.	For appointment of Plaintiff as the representative of the Class;					
8	3.	3. For appointment of counsel for Plaintiff as Class counsel;					
9	4.	4. For actual damages, subject to proof at trial;					
10	5.	For general and special damages, subject to proof at trial;					
1	6.	For statutory punitive damages of \$5,000.00 for each Class member, for					
ι2	each willful violation of Calif. Civ. Code § 1785.25(a), pursuant to Calif. Civ. Code §						
13	1785.31(a)(2)(A)-(C);						
14	7.	Injunctive relief to order Defendant to not engage in any such violations in					
ι5	the future, pursuant to Calif. Civ. Code § 1785.31(b);						
16	8.	8. Injunctive relief to order Defendant to remove false information from all					
17	consumer credit reports for each member of the Class, pursuant to Calif. Civ. Code §						
18	1785.31(b);					
19	9.	Any reasonable attorney's fees and costs to maintain the instant action;					
-20-	10.	For such other relief as the Court may deem just and proper.					
21	TRIAL BY JURY						
22	Pursuant to the Seventh Amendment to the Constitution of the United States of						
23	America, Plaintiff is entitled to, and demands, a trial by jury.						
24							
25		SEMNAR & HARTMAN, LLP					
26	DATED:	August 11, 2020 Jared M. Hartman					
27		JARED M. HARTMAN, ESQ.					
28		Attorneys for Plaintiff					
		12					
		Complaint for Damages and Injunctive Relief					
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SUPERIOR COURT OF CALIFORNIA, COUN	TY OF SAN DIEGO							
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								
	Shaughnessy							
DEFENDANT(S) / RESPONDENT(S): LVNV F	unding LLC et.al.	<u>.</u>		· · · · · · · · · · · · · · · · · · ·				
SHAUGHNESSY VS LVNV FUNDING LLC [E	-FILE]			· · · · · · · · · · · · · · · · · · ·				
NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT				CASE NUMBER: 37-2020-00028067-CU-MC-CTL				
CONFERENCE on MANDATORY eF								
CASE ASSIGNED FOR ALL PURPO	SES TO:							
Judge: Gregory W Pollack			Departme	ent: C-71				
COMPLAINT/PETITION FILED: 08/11	1/2020							
TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE				
Civil Case Management Conference	03/05/2021	01:30 pm	C-71	Gregory W Pollack				
A case management statement must be c at least 15 days prior to the initial case ma All counsel of record or parties in pro per s prepared to participate effectively in the he IT IS THE DUTY OF EACH PLAINTIFF (A COMPLAINT (AND CROSS-COMPLAINT FORM #CIV-730), A STIPULATION TO U DOCUMENTS AS SET OUT IN SDSC LO ALL COUNSEL WILL BE EXPECTED TO DIVISION II, AND WILL BE STRICTLY EN TIME STANDARDS: The following timefra been granted an extension of tim civil petitions, unlawful detainer p appeals, and family law proceedi	Inagement conferer shall appear at the (caring, including dis with the constraints of the with the constraints with the constraints wi	Acce. (San Diego L Case Managemer Acussions of ADR* PLAINANT) TO SI IVE DISPUTE RE DISPUTE RESO H SUPERIOR CO ral civil cases and ses consist of all o	ocal Rules, Divis t Conference, be options. ERVE A COPY C SOLUTION (AD LUTION (ADR) (DURT RULES W d must be adhered civil cases exception	sion II, CRC Rule 3.725). e familiar with the case, and be fully DF THIS NOTICE WITH THE R) INFORMATION FORM (SDSC SDSC FORM #CIV-359), AND OTHER HICH HAVE BEEN PUBLISHED AS ed to unless you have requested and t: small claims proceedings.				
COMPLAINTS: Complaints and all other of	documents listed in	SDSC Local Rule	e 2.1.5 must be s	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 righ the amount of one hundred fifty d the action.	t to a jury trial, one Iollars (\$150) on or	party for each sid before the date s	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. 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.								
be eFiled at www.onelegal.com.	Refer to General O	order in re procedu	ures regarding el	lectronically imaged court records,				
be eFiled at www.onelegal.com.	Refer to General O ectronic court record e not provided by th	order in re proced ds in civil and pro ne Court in Civil ca	ures regarding el bate cases or gu	lectronically imaged court records, idelines and procedures.				

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Gordon Rees Scully Mansukhani, LLP 5 Park Plaza, Suite 1100

ClassAction.org

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