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5 Attorneys for Defendant
CLEAR FINANCE TECHNOLOGY
6 CORPORATION

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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **WESTERN DIVISION**

14 STILLWATER DESIGN, INC., a
California corporation, on behalf of
15 itself and all others similarly situated,

16 Plaintiff,

17 v.

18 CLEAR FINANCE TECHNOLOGY
CORPORATION, a Canadian
19 corporation, and DOES 1 through 25,
inclusive,

20 Defendant.
21

Case No.:

CLASS ACTION

NOTICE OF REMOVAL

**Removed from Los Angeles County
Superior Court, Case No.
18STCV04227**

1 **NOTICE OF REMOVAL**

2 **PLEASE TAKE NOTICE** that Defendant Clear Finance Technology
3 Corporation (“Clear Finance” or “Defendant”) hereby removes the above-captioned
4 action, *Stillwater Design, Inc. v. Clear Finance Technology Corporation* (the
5 “Stillwater Action”), which is currently pending in California Superior Court, Los
6 Angeles County, Case No. 18STCV04227, to the United States District Court for the
7 Central District of California, Western Division pursuant to 28 U.S.C. §§ 1332, 1441,
8 1446, and 1453.¹ As grounds for removal, Defendant states as follows:

9 **INTRODUCTION**

10 This case is removable under 28 U.S.C. § 1441 and the Class Action Fairness
11 Act of 2005, P.L. 109-2, as codified at 28 U.S.C. § 1332(d) and 28 U.S.C. § 1453
12 (“CAFA”). Pursuant to CAFA, federal courts have original jurisdiction over class
13 actions where: 1) the putative class consists of at least 100 members (28 U.S.C.
14 § 1332(d)(5)(B)); 2) there is minimal diversity between the parties (28 U.S.C.
15 § 1332(d)(2)(C)); and 3) the aggregate classwide amount in controversy exceeds
16 \$5,000,000, exclusive of interest and costs (28 U.S.C. § 1332(d)(2) and (6)). Based
17 upon Plaintiff’s allegations (which Clear Finance expressly denies and intends to
18 demonstrate are without merit), removal here is proper because CAFA’s requirements
19 are met, no exception to CAFA jurisdiction applies, and Clear Finance has timely
20 removed.

21 **BACKGROUND**

22 1. On November 8, 2018, Plaintiff Stillwater Design, Inc. (“Stillwater” or
23 “Plaintiff”) filed a putative class action Complaint for (1) Violations of California
24 Financial Code § 22000, *et seq.*, (2) Violations of the California Unfair Competition
25

26 ¹ Defendant sets forth the allegations in Plaintiff’s Complaint solely to establish the
27 prerequisites for jurisdiction and removal of this action. By filing this Notice of
28 Removal, Defendant does not waive any objections it may have as to lack of
jurisdiction over Defendant, or venue, or any other defenses or objections to the
Stillwater Action, including but not limited to the viability of class certification.
Defendant intends no admission of fact, law, or liability by this Notice, and reserves
all defenses, motions and pleas.

1 Law (Bus. & Prof. Code § 17200, *et seq.*) (“UCL”), (3) Violations of the California
2 Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750-1784, *et seq.* (“CLRA”), and
3 (4) Violations of California Usury Laws (the “Complaint”) against Defendant in
4 California Superior Court, Los Angeles County. *See* **Exhibit A**.

5 2. Defendant was served with the Summons and Complaint on December
6 13, 2018.

7 3. Plaintiff alleges that Defendant solicits consumers to accept cash
8 advances that are secured by an interest in all of the consumer’s personal property.
9 Plaintiff further alleges that the purported cash advances are actually loans with
10 deceptively high interest rates that must be repaid in a short amount of time, and that
11 these loans violate California’s usury, lending, and unfair competition laws. Finally,
12 Plaintiff alleges that Defendant failed to obtain a license authorizing it to conduct a
13 lending business within the State of California.

14 4. Plaintiff seeks civil penalties, restitution, disgorgement, an injunction, the
15 freezing of Defendant’s assets, an accounting, prejudgment interest, attorney’s fees
16 and costs, and punitive damages.

17 **REMOVAL IS PROPER UNDER 28 U.S.C. § 1332(d) and 1453**
18 **(CAFA JURISDICTION)**

19 5. This Court has original jurisdiction under 28 U.S.C. §§ 1332(d) and 1453
20 on the basis of CAFA jurisdiction because (1) “the matter in controversy exceeds the
21 sum or value of \$5,000,000, exclusive of interest and costs,” (2) the citizenship of at
22 least one putative class member is different from that of Defendant, and (3) the
23 putative class consists of more than 100 proposed class members. *See* 28 U.S.C.
24 §§ 1332(d)(2), (d)(2)(C) and (d)(5)(B).

25 **Citizenship of the Parties (28 U.S.C. § 1332(d)(2)(C)).**

26 6. For purposes of diversity of citizenship, Plaintiff is a citizen of California
27 because, as alleged in the Complaint, Plaintiff “is, and at all times herein was, a
28

1 resident of Los Angeles County, California with its principle [sic] place of business
2 [in] California.” Compl. ¶ 2.

3 7. For purposes of diversity of citizenship, Defendant is a citizen of Canada
4 because, as alleged in the Complaint, Defendant “is, and at all times mentioned in this
5 complaint was, a resident of Canada operating under the Canada Business
6 Corporations Act, with its principle [sic] place of business [in] Canada.” Compl. ¶ 3.
7 Accordingly, the Stillwater Action satisfies the diversity of citizenship requirement.
8 28 U.S.C. § 1332(d)(2)(C).

9 Putative Class Size (28 U.S.C. §§ 1332(d)(5)(B)).

10 8. Removal is proper under 28 U.S.C. § 1332(d)(5)(B) because the number
11 of members of the proposed class exceeds 100.

12 9. Plaintiff defines the proposed class as:

13 All persons who were solicited, offered to purchase,
14 purchased, received monies from, or otherwise engaged in
15 accepting an “investment”, loan, cash advance, or monies
16 from the Defendant.

17 Compl. ¶ 12.

18 10. Plaintiff also defines proposed subclasses of:

19 (i) all [class] members who are “consumers” within the definition of
20 California Civil Code § 1761(d) (“The CLRA Subclass”) (Compl. ¶ 13);

21 (ii) all [class] members who were solicited, offered, accepted, received,
22 and/or repaid or are in the act of repaying a loan from the Defendant
23 which is a “consumer loan” within the definition of California Financial
24 Code §22203 and §22204 (“The Consumer Loan Subclass”) (Compl.
25 ¶ 14); and

26 (iii) all [class] members who were solicited, offered, accepted, received,
27 and/or repaid or are in the act of repaying a loan from the Defendant
28 which is a “commercial loan” within the definition of California
Financial Code §22502 (“The Commercial Loan Subclass”) (Compl.
¶ 15).

1 11. Plaintiff itself contends that “[u]pon information and belief, there are tens
2 of thousands of class Plaintiff’s [sic],” and “upon information and belief, the
3 specifically defined subclasses . . . each comprises countless class Plaintiff’s [sic] who
4 have been solicited, offered to purchase, purchased, received monies from, or
5 otherwise engaged in accepting an ‘investment’, loan, cash advance, or monies from
6 the Defendant.” Compl. ¶ 16.

7 12. Defendant’s records confirm that the putative class size is in excess of
8 100.

9 13. Accordingly, CAFA’s numerosity requirement is satisfied.

10 Amount in Controversy is Satisfied (28 U.S.C. §§ 1332(d)(2)).

11 14. For removal purposes, establishing the amount in controversy under
12 CAFA requires only that a defendant provide a short and plain statement of the basis
13 for jurisdiction—the equivalent of that required for a plaintiff filing a complaint. *Dart*
14 *Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014). This
15 means “a defendant’s notice of removal need only include a plausible allegation that
16 the amount in controversy exceeds the jurisdictional threshold.” *Id.*

17 15. While Defendant denies that Plaintiff is entitled to recover any amount,
18 and denies that certification of any class is proper, Plaintiff’s allegations, requests for
19 relief, and putative class definition plausibly place the amount in controversy in this
20 case above CAFA’s \$5,000,000 aggregate threshold for jurisdictional purposes.
21 28 U.S.C. §§ 1332(d)(2) and (6).

22 16. Plaintiff alleges that its claims “are typical of the claims of the members
23 of the class and subclass [sic]. Plaintiff and all members of the class and subclasses
24 sustained injuries and damages arising out of Defendant’s wrongful common course
25 of conduct complained of herein.” Compl. ¶ 18. Plaintiff further alleges that there are
26 “tens of thousands of class Plaintiff’s [sic].” Compl. ¶ 16.

27 17. Plaintiff seeks, on behalf of itself and the putative class “restitution . . . of
28 all monies [Defendant] wrongfully obtained” and “an order requiring [Defendant] . . .

1 to disgorge their ill-gotten gains” (Compl. ¶ 68). The request for restitution and
2 disgorgement in connection with Defendant’s merchant contracts places at least
3 \$5,000,000 in controversy even without consideration of the additional relief Plaintiff
4 seeks. Plaintiff also seeks: civil penalties of up to \$10,000 per violation of the
5 California Financial Code; civil penalties for each violation of the UCL and each
6 violation of the CLRA; an accounting and the imposition of an asset freeze and
7 constructive trust as well as injunctive relief to prevent Defendant’s practices;² and
8 attorneys’ fees.³ Although it is unclear from the Complaint whether Plaintiff seeks
9 punitive damages and, if so, under which claims, Plaintiff indicated in its Civil Case
10 Cover sheet that it is seeking punitive damages.⁴ Thus, the total amount in
11 controversy in this matter surpasses the \$5,000,000 jurisdictional threshold set by 28
12 U.S.C. § 1332(d)(2).

13 *No Exception to CAFA Jurisdiction Exists.*

14 18. Although Defendant denies that it bears the burden of showing that
15 CAFA’s exceptions to jurisdiction in 28 U.S.C. §§ 1332(d)(4), (5), and (9) are
16 inapplicable, none apply.

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20 ² “In actions seeking . . . injunctive relief, it is well established that the amount in
controversy is measured by the value of the object of the litigation.” *Hunt v.*
Washington State Apple Advertising Com’n, 432 U.S. 333, 347 (1997).

21 ³ *See Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155-56 (9th Cir. 1998) (attorneys’
22 fees properly considered in determining amount in controversy where legal claims
may support award of attorney’s fees); *see also* Cal Civ. Code § 1780(e) (prevailing
23 plaintiff may recover attorneys’ fees under CLRA); Cal. Code Civ. Pro. § 1021.5
(prevailing plaintiff may recover attorneys’ fees for UCL claim in certain
24 circumstances); Compl. at 18 (Plaintiff claims it is entitled to attorneys’ fees with
respect to UCL claim under section 1021.5).

25 ⁴ *See Gibson v. Chrysler Corp.*, 261 F.3d 927, 945-46 (9th Cir. 2001) (punitive
26 damages properly considered in determining amount in controversy where legal
claims may support award of punitive damages; even where a plaintiff does not
27 specifically request punitive damages, “the potential for such damages may still be
considered for purposes of amount in controversy”); *see also* Cal Civ. Code §
28 1780(a)(4) (punitive damages authorized under CLRA); *Harris v. Gallant*, 183 Cal.
App. 2d 94, 101 (1960) (punitive damages available for usury claims); *Miller & Starr*
§ 37:44 (4th ed.) (same).

1 19. First, the exceptions in 28 U.S.C. § 1332(d)(4) do not apply because, as
2 already noted, Defendant is a citizen of Canada, so no defendant is a citizen of the
3 State in which the Complaint was originally filed—California.

4 20. Second, the exception in 28 U.S.C. § 1332(d)(5)(A) does not apply
5 because Defendant is not a State, State official, or other governmental entity.

6 21. Third, the exception in 28 U.S.C. § 1332(d)(5)(B) does not apply
7 because, as previously indicated, the number of putative class members is greater than
8 100.

9 22. Finally, the exception in 28 U.S.C. § 1332(d)(9) does not apply because
10 this case does not involve a claim under the securities laws and does not “relate[] to
11 the internal affairs or governance of a corporation or other form of business
12 enterprise” or “arise[] under or by virtue of the laws of the State in which such
13 corporation or business enterprise is incorporated or organized.” 28 U.S.C.
14 § 1332(d)(9)(B).

15 *Jurisdiction is Mandatory.*

16 23. Jurisdiction is mandatory, not discretionary, under CAFA because
17 Defendant is not a citizen of California, the “state in which th[is] action was originally
18 filed.” 28 U.S.C. § 1332(d)(3).

19 **OTHER PROCEDURAL REQUIREMENTS**

20 **FOR REMOVAL ARE SATISFIED.**

21 24. Removal is Timely. This removal is timely under 28 U.S.C. § 1446(b)(1)
22 because Defendant removed the Stillwater Action within 30 days of service of the
23 Complaint. *See* 28 U.S.C. § 1446(b)(1) (“The notice of removal of a civil action or
24 proceeding shall be filed within 30 days after the receipt by the defendant, through
25 service or otherwise, of a copy of the initial pleading setting forth the claim for relief
26 upon which such action or proceeding is based, or within 30 days after the service of
27 summons upon the defendant if such initial pleading has then been filed in court and is
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1 not required to be served on the defendant, whichever period is shorter.”). Defendant
2 was served the Complaint on December 13, 2018.

3 25. Removal to Proper Court. Pursuant to 28 U.S.C. §§ 1332(d), 1441(a),
4 and 1446(a), this Notice of Removal is being filed in the United States District Court
5 for the Central District of California, Western Division, which is the “district court”
6 embracing the place where the Stillwater Action was filed.

7 26. Signature. This Notice of Removal is signed pursuant to Rule 11 of the
8 Federal Rules of Civil Procedure, in compliance with 28 U.S.C. § 1446(a).

9 27. Pleadings and Process. Copies of all process, pleadings and orders
10 served upon Defendant in the Stillwater Action are attached hereto as **Exhibit A**, in
11 compliance with 28 U.S.C. § 1446(a).

12 28. Notice of Filing of Notice of Removal. Attached hereto as **Exhibit B** is a
13 copy of the Notice of Filing of Notice of Removal, without exhibits, which will be
14 promptly filed with the Clerk of the Los Angeles County Superior Court in Los
15 Angeles, California, pursuant to 28 U.S.C. § 1446(d).

16 29. Notice of Removal to All Adverse Parties. Attached hereto as **Exhibit C**
17 is a copy of the Notice of Removal to All Adverse Parties, which will be promptly
18 served upon Plaintiff’s counsel. *See* 28 U.S.C. § 1446(d).

19 30. Bond and Verification. Pursuant to Section 1016 of the Judicial
20 Improvements and Access to Justice Act of 1988, no bond is required in connection
21 with this Notice of Removal. Pursuant to Section 1016 of the Act, this Notice need
22 not be verified.

23 **CONCLUSION**

24 Based upon the foregoing, this Court has jurisdiction over this matter pursuant
25 to 28 U.S.C. §§ 1332(d), and 1453, and the claims may be removed to this Court
26 under 28 U.S.C. §§ 1441 and 1446.

1 Dated: January 11, 2019

Respectfully submitted,

2
3 By: /s/ Laura A. Stoll

LAURA A. STOLL

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7 Attorneys for Defendant CLEAR
8 FINANCE TECHNOLOGY CORP.

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PROOF OF SERVICE

I am employed in the County of Suffolk, Commonwealth of Massachusetts. At the time of service I was over 18 years of age and not a party to this action. My business address is: 100 Northern Avenue, Boston, Massachusetts 02210.

On **January 11, 2019**, I served the following document(s) on the person(s) below as follows:

NOTICE OF REMOVAL with EXHIBITS A-C; CIVIL COVER SHEET

Shane M. Popp (SBN 219668)
The Law Office of Shane M. Popp
3460 Barry Avenue
Los Angeles, California 90066

Counsel for Plaintiff
Tel.: (310) 930-6051
Fax: (310) 861-1780
shane_popp@hotmail.com

The document(s) were served by the following means:

- (OVERNIGHT DELIVERY). By overnight delivery. I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 11, 2019, at Boston, Massachusetts.

Allison H. Orpilla

(Type or print name)



(Signature)

EXHIBIT A

EXHIBIT A

U.S. Department of Justice
United States Marshals Service



REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

DEMANDE
AUX FINS DE SIGNIFICATION OU DE NOTIFICATION À L'ETRANGER
D'UN ACTE JUDICIAIRE OU EXTRAJUDICIAIRE

Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, November 15, 1965.

Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en matière civile ou commerciale, signée à La Haye, le 15 novembre 1965.

<p style="text-align: center;">Identity and address of the applicant <i>Identité et adresse du requérant</i></p> <p>Shane M. Popp, J.D., LL.M. The Law Office of Shane M. Popp 3460 Barry Avenue Los Angeles, CA 90066-2002 (p) 310-930-6051 (e) shane_popp@hotmail.com</p>	<p style="text-align: center;">Address of receiving authority <i>Adresse de l'autorité destinataire</i></p> <p>Ministry of the Attorney General Ontario Court of Justice 393 Main Street Haileybury, Ontario P0J 1K0 CANADA</p>
--	--

The undersigned applicant has the honour to transmit -- in duplicate-- the documents listed below and, in conformity with article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e., (identity and address)

Le requérant soussignée a l'honneur de faire parvenir--en double exemplaire--à l'autorité destinataire les documents ci-dessous énumérés, en la priant, conformément à l'article 5 de la Convention précitée, d'en faire remettre sans retard un exemplaire au destinataire, à savoir:
(identité et adresse)

Clear Finance Technology Corp., ATTN: CEO, 2 Saint Clair Avenue West, 9th Floor,
Toronto, Ontario M4V 1L5 CANADA

(a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the Convention.*
a) selon les formes légales (article 5 alinéa premier, lettre a).

(b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of article 5)*:
b) selon la forme particulière suivante (article 5, alinéa premier, lettre b) :

(c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of article 5)*:
c) le cas échéant, par remise simple (article 5, alinéa 2).

The authority is requested to return or to have returned to the applicant a copy of the documents and of the annexes with a certificate as provided on the reverse side.

Cette autorité est priée de renvoyer ou de faire renvoyer au requérant un exemplaire de l'acte - et de ses annexes - avec l'attestation figurant au verso.

List of documents
Énumération des pièces

Summons (1 Page)
Civil Cover Sheet w/ Addendum (5 Pages)
Complaint (21 Pages)
Notice of Case Assignment (2 Pages)
Vol. Efficient Litigation Stipulations (13 Pages)

Done at Los Angeles, California the 13-Nov-2018
Fait à _____, le _____

Signature and/or stamp
Signature et/ou cachet

*Delete if inappropriate
Rayer les mentions inutiles.

**CERTIFICATE
ATTESTATION**

The undersigned authority has the honour to certify, in conformity with article 6 of the Convention,
L'autorité soussignée a l'honneur d'attester conformément à l'article 6 de ladite Convention,

1) that the document has been served *

1) *que la demande a été exécutée*

-- the (date) -- *le (date)* _____

-- at (place, street, number) - *à (localité, rue, numéro)* _____

-- in one of the following methods authorized by article 5:

-- *dans une des formes suivantes prévues à l'article 5:*

(a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the Convention*.
a) selon les formes légales (article 5. alinéa premier, lettre a)

(b) in accordance with the following particular method:
b) selon la forme particulière suivante: _____

(c) ~~by delivery to the addressee, who accepted it voluntarily.*~~
~~*e) par remise simple.*~~

The documents referred to in the request have been delivered to:

Les documents mentionnés dans la demande ont été remis à:

- *(identity and description of person)*

- *(Identité et qualité de la personne)*

- *relationship to the addressee family, business or other*

- *liens de parenté de subordination ou autres avec le destinataire de l'acte:*

2) that the document has not been served, by reason of the following facts*:

2) *que la demande n'a pas été exécutée, en raison des faits suivants:*

In conformity with the second paragraph of article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement*

Conformément à l'article 12, alinéa 2, de ladite Convention, le requérant est prié de payer ou de rembourser les frais dont le détail figure au mémoire ci-joint.

ANNEXES

Annexes

Documents returned:

Pieces renvoyées

In appropriate cases, documents establishing the service:

Le cas échéant, les documents justificatifs de l'exécution:

Done at _____, the _____
Fait à _____, le _____

Signature and/or stamp
Signature et/ou cachet

SUMMARY OF THE DOCUMENT TO BE SERVED
ÉLÉMENTS ESSENTIELS DE L'ACTE

Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, November 15, 1965.

Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en matière civile ou commerciale, signée à La Haye, le 15 novembre 1965.

(article 5, fourth paragraph)
(article 5, alinéa quatre)

Name and address of the requesting authority:

Nom et adresse de l'autorité requérante:

Ministry of Attorney Gen., Ontario Ct. of Justice, 393 Main Street, Haileybury, Ontario, P0J 1K0 CANADA

Particulars of the parties:

Identité des parties:

Stillwater Design, Inc. (Plaintiff) v. Clear Finance Technology Corp. (Defendant)

JUDICIAL DOCUMENT
ACTE JUDICIAIRE

Nature and purpose of the document:

Nature et objet de l'acte:

Summons and Complaint for, inter alia, Unfair Business Practices

Nature and purpose of the proceedings and, where appropriate, the amount in dispute:

Nature et objet de l'instance, le cas échéant, le montant du litige:

A civil action for damages relating to violations of Cal. Finance Code, Bus. and Prof. Code, C.L.R.A., etc.

Date and place for entering appearance:

Date et lieu de la comparution:

Within thirty (30) calendar days of Service; Cal. Sup. Ct., 111 North Hill Street, Los Angeles, CA 90012

Court which has given judgment:**

Jurisdiction qui a rendu la décision:

N/A

Dale of judgment:**

Date de la décision:

N/A

Time limits stated in the document:**

Indication des délais figurant dans l'acte:

Within Thirty (30) Calendar Days of Service

EXTRAJUDICIAL DOCUMENT
ACTE EXTRAJUDICIAIRE

Nature and purpose of the document:

Nature et objet de l'acte:

N/A

Time limits stated in the document:**

Indication des délais figurant dans l'acte:

N/A

**SUMMONS
(CITACION JUDICIAL)**

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

**CONFIRMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

NOV 08 2018

Sherri R. Carter, Executive Officer/Clerk of Court
By: Steven Drew, Deputy

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

CLEAR FINANCE TECHNOLOGY ^{Corporation} ~~CORP.~~, a Canadian Corporation,
and DOES 1-25, inclusive

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

Stillwater Design, Inc., a California Corporation, on behalf of itself and
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. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), 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): Superior Court of California

CASE NUMBER:
(Número del Caso) **18STCV04227**

Stanley Mosk Courthouse
111 North Hill Street, Los Angeles, CA 90012

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Shane M. Popp, Esq., LOSMP, 3460 Barry Avenue, Los Angeles, CA 90066 (p) 310-930-6051

DATE: 08-Nov-2018
(Fecha)

Sherri R. Carter, Clerk

Clerk, by
(Secretario)

STEVEN DREW

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify): Clear Finance Technology Corp. (dba CLEARBANC)
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Shane M. Popp, Esq. (BN219668) The Law Office of Shane M. Popp 3460 Barry Avenue Los Angeles, CA 90066-2002 TELEPHONE NO.: 310-930-6051 FAX NO.: 310-861-1780 ATTORNEY FOR (Name): Stillwater Design, Inc.	FOR COURT USE ONLY CONFORMED COPY ORIGINAL FILED Superior Court of California County of Los Angeles NOV 08 2018 Sherri R. Carter, Executive Officer/Clerk of Court By: Steven Drew, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: Stanley Mosk Courthouse MAILING ADDRESS: 111 North Hill Street CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District	CASE NUMBER: 18STCV04227
CASE NAME: Stillwater Design, Inc., et. al., v. Clear Finance Technology Corp.	JUDGE: DEPT:
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

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

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

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

Date: 08-November-2018
 Shane M. Popp, Esq.

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

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

SHORT TITLE: Stillwater Design, Inc. v. Clear Finance Technology Corp.	CASE NUMBER
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**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

Applicable Reasons for Choosing Court Filing Location (Column C)

- | | |
|--|---|
| <ul style="list-style-type: none"> 1. Class actions must be filed in the Stanley Mosk Courthouse, Central District. 2. Permissive filing in central district. 3. Location where cause of action arose. 4. Mandatory personal injury filing in North District. 5. Location where performance required or defendant resides. 6. Location of property or permanently garaged vehicle. | <ul style="list-style-type: none"> 7. Location where petitioner resides. 8. Location wherein defendant/respondent functions wholly. 9. Location where one or more of the parties reside. 10. Location of Labor Commissioner Office. 11. Mandatory filing location (Hub Cases – unlawful detainer, limited non-collection, limited collection, or personal injury). |
|--|---|

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11
Other Personal Injury/ Property Damage/ Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	1, 11
		<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	1, 11
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1, 4, 11
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 4, 11
Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1, 4, 11	
	<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1, 4, 11	
	<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1, 4, 11	
	<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 4, 11	

SHORT TITLE:

Stillwater Design, Inc. v. Clear Finance Technology Corp.

CASE NUMBER

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input checked="" type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1, 2, 3
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1, 2, 3
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3
	Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1, 2, 3
		<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3
	Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3
Employment	Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1, 2, 3
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1, 2, 3
		<input type="checkbox"/> A6109 Labor Commissioner Appeals	10
Contract	Breach of Contract/ Warranty, (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2, 5
		<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2, 5
		<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1, 2, 5
		<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1, 2, 5
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	5, 6, 11
		<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	5, 11
	<input type="checkbox"/> A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11	
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1, 2, 5, 8	
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud	1, 2, 3, 5	
	<input type="checkbox"/> A6031 Tortious Interference	1, 2, 3, 5	
	<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 8, 9	
Real Property	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels_____	2, 6
	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2, 6
	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2, 6
<input type="checkbox"/> A6032 Quiet Title		2, 6	
<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)		2, 6	
Unlawful Detainer	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2, 6, 11

SHORT TITLE: Stillwater Design, Inc. v. Clear Finance Technology Corp.	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2, 3, 6
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus	2, 8
		<input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter	2
		<input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2, 8	
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1, 2, 8
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1, 2, 3
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1, 2, 8
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1, 2, 8
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1, 2, 3, 8
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment	2, 5, 11
		<input type="checkbox"/> A6160 Abstract of Judgment	2, 6
		<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)	2, 9
		<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)	2, 8
		<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2, 8
		<input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2, 8, 9
Miscellaneous Civil Complaints	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1, 2, 8
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1, 2, 8
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2, 8
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1, 2, 8
<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1, 2, 8		
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2, 8
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2, 3, 9
<input type="checkbox"/> A6123 Workplace Harassment		2, 3, 9	
<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case		2, 3, 9	
<input type="checkbox"/> A6190 Election Contest		2	
<input type="checkbox"/> A6110 Petition for Change of Name/Change of Gender		2, 7	
<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law		2, 3, 8	
<input type="checkbox"/> A6100 Other Civil Petition		2, 9	

1 Shane M. Popp (State Bar No. 219668)
2 **The Law Office of Shane M. Popp**
3 3460 Barry Avenue
4 Los Angeles, California 90066
5 Telephone: (310) 930-6051
6 Facsimile: (310) 861-1780
7 E-Mail: shane_popp@hotmail.com

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

NOV 08 2018

Sherri R. Carter, Executive Officer/Clerk of Court
By: Steven Drew, Deputy

8 Attorney for Plaintiff(s) Stillwater Design, Inc.

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

12 STILLWATER DESIGN, INC., a California
13 corporation, on behalf of itself and all others
14 similarly situated,

15 Plaintiff,

16 vs.

17 CLEAR FINANCE TECHNOLOGY
18 CORPORATION, a Canadian corporation, and
19 DOES 1 through 25, inclusive,

20 Defendant.

CASE NO.: **18STCV04227**

**COMPLAINT FOR VIOLATION OF
CALIFORNIA FINANCIAL CODE
§22000, et. seq., CALIFORNIA UNFAIR
BUSINESS PRACTICES (Bus. and Prof.
Code §17200), California Consumers Legal
Remedies Act ("CLRA") Cal. Civ. Code
§1750-1784, et. seq., and CALIFORNIA
USURY LAWS (Cal. Const., Art. XV, §1).**

Judge:
Dept.:

Complaint. Filed:
Trial Date: None Set

21 NOW COMES Stillwater Design, Inc. and on behalf of others similarly situated
22 ("Plaintiff(s)") by and through its counsel, and hereby alleges a Complaint as follows:

23 **PARTIES**

24 1) Plaintiff and proposed class representative, Stillwater Design, Inc. is a California
25 corporation, registered under the laws of the State of California.
26
27
28

1 2) Plaintiff is, and at all times herein was, a resident of Los Angeles County,
2 California with its principle place of business located at 719 South Los Angeles Street, Suite 328,
3 Los Angeles, CA 90014.
4

5 3) Defendant, Clear Finance Technology Corp. (“Defendant”) is, and at all times
6 mentioned in this complaint was, a resident of Canada operating under the Canada Business
7 Corporations Act, with its principle place of business located at 2 Saint Clair Avenue West, 9th
8 Floor, Toronto, Ontario, Canada and 5566 McFarren Blvd., Mississauga, Ontario, Canada.
9

10 4) The true names and capacities of Defendant(s) 1 through 25, inclusive, are
11 unknown to Plaintiff who therefore sues said Defendants by such fictitious names pursuant to
12 section 474 of the Code of Civil Procedure. Plaintiff will seek leave of court to amend this cross-
13 complaint when said true names and capacities have been ascertained.
14

15 5) At all times mentioned herein, each of the Defendants, sued as DOE herein, was the
16 agent, employee and or representative of each of the other Defendants, and in doing the acts
17 alleged in this complaint was acting within the course and scope of that agency, employment or
18 representation, with the knowledge, consent, and approval of each of the other Defendants.
19

20 6) When the true names, rights, interests, and capacities of DOES 1-25 are
21 ascertained, Plaintiff shall seek leave of court to amend the complaint to reflect this knowledge.
22

23 7) Defendants, and each of them, while not authorized to do business in California,
24 have sufficient minimum contacts with California, and/or have otherwise intentionally availed
25 themselves of the markets in California through the promotion, marketing, and sale of their
26 products and services in California, to render the exercise of jurisdiction by this Court permissible
27 under traditional notions of fair play and substantial justice.
28

VENUE

1
2 8) Venue is proper in this Court pursuant to California Code of Civil Procedure
3 §395(b) and California Civil Code §1780(c) in that this action arises from Defendants unlawful
4 conduct involving unfair methods of competition and unfair or deceptive acts undertaken against
5 consumers residing in California in violation of Civil Code §1770.

6 9) Further to, and in compliance with Cal. Civ. Code §1780(d), concurrently filed
7 herewith, as Exhibit A, is an affidavit stating facts showing the action has been commenced in a
8 county described in this section as a proper place for trial in this action.

9 ALLEGATIONS UNDER CAL. CODE CIV. PRO. §382

10 10) Plaintiff(s) bring this action pursuant to the provisions of California Code of Civil
11 Procedure §382 on behalf of itself and all other person's similarly situated.

12 11) Additionally, Plaintiff(s) bring this action pursuant to the provisions of California
13 Civil Code §1781 on behalf of itself and all other person's similarly situated.

14 12) The class Plaintiff seeks to represent is defined as follows: All persons who were
15 solicited, offered to purchase, purchased, received monies from, or otherwise engaged in
16 accepting an "investment", loan, cash advance, or monies from the Defendant.

17 13) The proposed class includes a subclass, comprising all members who are
18 "consumers" within the definition of California Civil Code §1761(d) ("The CLRA Subclass").

19 14) The proposed class includes a further subclass, comprising all members who were
20 solicited, offered, accepted, received, and/or repaid or are in the act of repaying a loan from the
21 Defendant which is a "consumer loan" within the definition of California Financial Code
22 §22203 and §22204 ("The Consumer Loan Subclass").

23 15) The proposed class includes a further subclass, comprising all members who were
24 solicited, offered, accepted, received, and/or repaid or are in the act of repaying a loan from the
25 Defendant which is a "commercial loan" within the definition of California Financial Code
26 §22502 ("The Commercial Loan Subclass").
27
28

1 16) Upon information and belief, there are tens of thousands of class Plaintiff's who
2 have been solicited, offered to purchase, purchased, received monies from, or otherwise engaged
3 in accepting an "investment", loan, cash advance, or monies from the Defendant. Additionally,
4 upon information and belief, the specifically defined subclasses (i.e. The CLRA Subclass, The
5 Consumer Loan Subclass, and the Commercial Loan Subclass) each comprises countless class
6 Plaintiff's who have been solicited, offered to purchase, purchased, received monies from, or
7 otherwise engaged in accepting an "investment", loan, cash advance, or monies from the
8 Defendant. The class is, therefore, so numerous and geographically dispersed that joinder of all
9 class members and subclass members is impractical. While the exact number of class members
10 is unknown to Plaintiff(s) at this time. Plaintiff asserts all class and subclass members can be
11 ascertained through appropriate discovery. In addition, class and subclass members can be
12 identified and notified of the pendency of this action using forms of notice similar to those
13 customarily used in similar actions.

14 17) Upon information and belief, Plaintiff asserts the Defendant(s) have acted with
15 respect to the Plaintiff and members of the proposed class and proposed subclasses in a manner
16 generally applicable to each of them. Accordingly, the interests in fact and law affect all class
17 and subclass members.

18 18) Plaintiff's claims are typical of the claims of the members of the class and subclass.
19 Plaintiff and all members of the class and subclasses sustained injuries and damages arising out
20 of Defendant's wrongful common course of conduct complained of herein. The injuries and
21 damages of each member of the class and subclasses were caused directly by Defendant's
22 wrongful common course of conduct in violation of the laws alleged herein.

23 19) Plaintiff(s) will fairly and adequately represent and protect the interests of the class
24 and subclass, and Plaintiff(s) have no interests which are antagonistic to or in conflict with the
25 interests of the class of subclass members that they seek to protect. Plaintiff(s) have retained
26 competent counsel experienced in the prosecution of similar actions and complex litigation.

27 20) The questions of law and fact common to the class predominate over the questions
28 that may affect individual class and subclass members including, but not limited to the
following:

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- a. Whether Clear Finance Technology Corp’s cash advance contracts are in fact disguised loan transactions;
- b. Whether such loan transactions violate California’s usury laws;
- c. Whether, by engaging in the “investment” / cash advance business, Clear Finance Technology Corp. is violating California laws that require it to be qualified and licensed to conduct its lending business in this State;
- d. Whether Clear Finance Technology Corp. is a “finance lender” under California law;
- e. Whether Clear Finance Technology Corp. has engaged in a “commercial banking business” under California law;
- f. Whether, by engaging in the “investment” business, Clear Finance Technology Corp. has engaged, and is engaging, in unlawful, unfair or fraudulent business acts or practices, in violation of the UCL;
- g. The nature and extent of injuries sustained by plaintiffs and members of the Class and the proper measure of damages applicable thereto;
- h. The amount of revenues and profits obtained by Clear Finance Technology Corp. attributable to these unlawful acts;
- i. The equitable relief which plaintiffs and the Class are entitled to obtain; and
- j. Whether Clear Finance Technology Corp. has or is continuing to misrepresent the affiliation, connection, or association with, or certification by, another;
- k. Whether Clear Finance Technology Corp. has misrepresented or is continuing to misrepresent that its acts and practices constitute misrepresenting that a transaction confers or involves rights, remedies, or obligations that it does not have or involve, or that are prohibited by law; and
- l. Whether Clear Finance Technology Corp. is in partnership with Uber, Airbnb, Homeaway, Shopify, Harbortouch, and/or Facebook.

STATEMENT OF FACTS

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21) At all times herein, Defendant did and does conduct business in California. Defendant sometimes does business under different name(s), such as Clearbanc.

22) Upon information and belief, Defendant is not authorized to conduct business in California. On the Defendant’s webpage, there is a phone number based in California, however, no physical address is listed for its business office(s).

23) Upon information and belief, Defendant has never sought nor, has it been granted approval to conduct business as a lender in California. Nor does Defendant conduct itself in accordance with the State of California’s laws and regulations pertaining to lenders.

24) Defendant Clear Finance Technology Corp., has devised a scheme and executed a plan based on that scheme to which it preys on individual consumers and small businesses that have difficulty obtaining financing from banks and other traditional financial institutions. Upon information and belief, Defendant targets the following consumers and/or small businesses, including but not limited to:

- a. Uber drivers: Defendant provides cash advances to individual Uber drivers touting a “partnership” and/or affiliation with Uber. In addition, Defendant provides “Instant Pay” whereby Defendant provides advances loaded onto a Defendant issued debit card.
- b. Airbnb: Defendant provides cash advances to individual or corporate entities who lease out their dwellings using the Airbnb platform. Defendant touts a “partnership” and/or affiliation with Airbnb.

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- c. Homeaway: Defendant provides cash advances to individual or corporate entities who lease out their dwellings using the Homeaway platform. Defendant touts a “partnership” and/or affiliation with Homeaway.
- d. eCommerce businesses: Defendant provides cash advances to individual or corporate entities who utilize ecommerce (online shopping) platforms such as Shopify to sell products. Defendant touts a “partnership” and/or affiliation with Shopify.
- e. POS (Point-of-Sale) Retail and Restaurant businesses: Defendant provides cash advances to individual or corporate entities who utilize POS (Point-of-Sale) platforms such as Harbortouch to sell products. Defendant touts a “partnership” and/or affiliation with Harbortouch.
- f. Facebook: Defendant provides cash advances to individual or corporate entities who utilize the Facebook advertising platform to advertise and sell products. Defendant touts a “partnership” and/or affiliation with Facebook.

25) In exchange for an “investment” from Defendant, in the form of a cash advance, the consumer and/or small business, as the case may be, enters into an Agreement (pre-determined non-negotiable) which obligates the consumers and/or small businesses to repay the full amount of the “investment”, plus an additional sum (in realty, interest on the amount advanced), typically calculated by Defendant to be paid back within six (6) to twelve (12) months. This promise to pay the Defendant is unconditionally guaranteed by the consumer and/or small business and is collateralized by a security interest in all of the consumers and/or small business current and after-acquired tangible and intangible personal property.

1 26) Defendant is repaid through the equivalent of a credit card “lock box”. Defendant
2 highjacks the consumers and/or small businesses banking information by requiring consumers to
3 use a Defendant issued debit card from a bank located outside the United States and also requires
4 consumers and/or small businesses to use a Defendant issued e-mail address.
5

6 27) The effective annual interest rates on these “investment” products sold by the
7 Defendant are deceptively high, often exceeding the legal limit for unlicensed brokers, especially
8 due to the exceedingly short time in which the Defendant designs its loans to be repaid.
9

10 28) Upon information and belief, Defendant believes that it is not subject to
11 California’s usury and lending laws because it is not making loans to consumers and/or small
12 businesses but is instead making an “investment” into the consumers and/or small businesses
13 income earning endeavors. Notwithstanding Defendant’s mischaracterization of the transactions,
14 the following factors, among others, establish that these “investment” arrangements are in fact
15 loans:
16

- 17 a. Defendant requires the consumer and/or small business to undergo a pre-
18 qualification creditworthiness background examination. Defendant connects
19 and interfaces with the accounts used to run the consumer and/or small business
20 income earning endeavor (e.g. Airbnb, Shopify, Facebook, Uber, Harbortouch,
21 etc.) to analyze the health of the consumer’s and/or small businesses income
22 earning endeavors.
23
- 24 b. Defendant then analyzes the dollar volume of the consumer and/or small
25 businesses previous earned monthly income to determine how much it will
26 advance and what the consumer and/or small business will be required to pay
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out of its future earnings in order to be paid the full amount within approximately twelve (12) months.

- c. The consumer and/or small business is also required to submit EIN's, Social Security Numbers, banking information, and Driver's License information so Defendant can assess the creditworthiness of consumer's and/or small businesses.
- d. Defendant allows for more than one "investment" to be made after an initial repayment of at least fifty (50%) of the prior loan. Thus, at any given time, a consumer and/or small business may have more than one loan in repayment.
- e. Defendant obtains a security interest in the consumer's and/or small businesses' present and after-acquired tangible and intangible personal property, including but not limited to, future receivables.

29) In an effort to evade California's usury, lending, and unfair competition laws, Defendant has included in its standard-form Agreements unfair waivers of rights by consumers and small businesses, including, at various times, in contravention of fundamental policies of the law of California that seek to immunize Defendant from liability for usury and lending law violations solely to the benefit of Defendant.

30) The Agreements at issue in this case are contracts of adhesion. Defendant, which drafted the contracts, exercises unequal bargaining power over the Plaintiff and other consumers and small businesses.

31) The Agreement waivers are unfair, unconscionable, and otherwise unenforceable. These provisions are oppressive, and otherwise unenforceable. The provisions are oppressive and

1 unreasonably seek to favor Defendant, facilitate Defendant's violations of the laws of California,
2 and violate California's fundamental public policy. They are for these reasons unenforceable.

3
4 **STATEMENT OF FACTS SPECIFICALLY RELATING TO PLAINTIFF**

5 32) On or about August 20, 2018, Defendant solicited via a "cold call" e-mail
6 solicitation an interest in providing an "investment" in Plaintiff's business. The solicitation came
7 without any prospectus of the "investment" product.
8

9 33) On or about August 21, 2018, Plaintiff and Defendant engaged in a telephone call
10 whereby Plaintiff was actively solicited by Defendant to accept an "investment" into Plaintiff's
11 business.
12

13 34) Defendant requested access to Plaintiff's Shopify account and other banking
14 records, as well as, business documents, EIN's and Social Security numbers.
15

16 35) Defendant then stated to Plaintiff that the "investment" was actually a fixed fee
17 cash advance and the payment options and amount varied depending on the revenue from the
18 Plaintiff's Shopify Platform.
19

20 36) Defendant stated that it was in partnership with Shopify.

21 **FIRST CAUSE OF ACTION**

22 **(Violations of California Financial Code §22000, et. seq.)**

23 37) Plaintiff re-alleges paragraph(s) 1-36 of the Complaint and incorporates by
24 reference the allegation(s) herein.
25

26 38) The California Finance Lenders Law (Ca. Fin. Code §22000-22780, et. seq.) shall
27 be liberally construed and applied to promote its underlying purposes and policies, which are:
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- a. "To protect borrowers against unfair practices by some lenders, having due regard for the interests of legitimate and scrupulous lenders" Ca. Fin. Code §22001(4); and
- b. "To permit and encourage the development of fair and economically sound lending practices." Ca. Fin. Code §22001(5).

39) Upon information and belief, Defendant is a "finance lender" as defined by Ca. Fin. Code §22009.

40) By illegally operating outside the confines of the California Finance Lenders Law, Defendant has engaged and continues to engage in the following harmful and illegal acts, among others:

- a. Failing to obtain a license from the California Department of Business Oversight authorizing it to conduct its lending business in the State;
- b. Failing to post in its place of business a license from the California Department of Business Oversight;
- c. Failing to maintain only one place of business under a duplicate or original license issued pursuant to Ca. Fin. Code §22101 or §22102;
- d. Failing to file with the California Department of Business Oversight, and provide for public inspection, information concerning Defendant's business within the State;
- e. Advertising, publishing, and broadcasting false, misleading, incomplete, and deceptive information concerning the interest rates, terms, and conditions of its

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loans, or permitting such information to be disseminated; and

f. Failing to give adequate, clear, and full information concerning its rates of interest, charges, or costs of loans to its customers in advertisements and solicitations.

41) Defendant's willful violations of the law further subject it to penalties under Ca. Fin. Code §22780.

42) Defendant's violations of the Finance Lenders Law constitute unlawful, unfair and fraudulent business acts or practices within the meaning of the unfair competition laws.

43) Defendant has been unjustly enriched as a result of its wrongful conduct as herein alleged.

SECOND CAUSE OF ACTION

(Violation of Unfair Business Practices (Bus. & Prof. Code §17200))

44) Plaintiff re-alleges paragraph(s) 1-43 of the Complaint and incorporates by reference the allegation(s) herein.

45) Upon information and belief, Defendant committed, and continues to commit and engage in, unlawful, unfair or fraudulent business acts or practices within the meaning of the unfair competition laws by operating and implementing the cash advance business.

- 46) Defendant's unlawful practices include, but are not limited to:
 - a. Soliciting and entering into loans with California citizens without a license;
 - b. Misrepresenting the type of loan products offered by Defendant;
 - c. Misrepresenting the sponsorship, affiliation, and characteristics of the loans offered and sold by Defendant;

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- d. Advertising, publishing, and broadcasting false, misleading, incomplete, and deceptive information concerning the interest rates, terms, and conditions of its loans;
- e. Violation of state and federal banking laws for engaging in a “commercial banking business” as defined in Section 105.2 of the California Financial Code by issuing non-exempt loans to consumers, small businesses, and other merchants in California without being authorized to do so by the California Department of Financial Institutions or any other state or federal agency.
- f. Violation of California’s usury laws under Section 1 of Article XV of the California Constitution, for charging interest on money loans that exceeds California’s legal interest limits.

47) Upon information and belief, Plaintiff’s harm and damage caused by Defendant’s conduct outweighs any benefits that the conduct may have given to Defendant.

48) By reason of Defendant’s deceptive, unfair, and other wrongful conduct as herein alleged, said Defendant has violated and continues to violate California Business and Professions Code §17200, *et. seq.* by consummating an unlawful, unfair, and fraudulent business practice, designed to deprive Plaintiff of its property and monies. Plaintiff asks the Court for leave to amend this Complaint when facts pertinent to the dealings to this cause of action are further known.

49) By reason of the foregoing, Plaintiff has suffered and continues to suffer damages in a sum which is, as yet unascertained. Plaintiff will ask leave of court to amend this Complaint when the true nature and extent of the damages have been ascertained.

THIRD CAUSE OF ACTION

1 (Violation(s) of the California Consumers Legal Remedies Act (“CLRA”) Cal. Civ. Code
2 §1750-1784, *et. seq.*)

3 50) Plaintiff re-alleges paragraph(s) 1-49 of the Complaint and incorporates by
4 reference the allegation(s) herein.
5

6 51) The CLRA provides protection for California consumers against unfair, deceptive
7 and unlawful practices, and unconscionable commercial practices in connection with the
8 solicitation or sale of any goods or services. Further to Cal. Civ. Code §1760, “This title should
9 be liberally construed and applied to promote its underlying purposes, which are to protect
10 consumers against unfair and deceptive business practices and to provide efficient and economic
11 procedures to secure such protection.”
12

13 52) Plaintiff CLRA Subclass is a consumer as defined by Cal. Civ. Code §1761(d).
14 The “investments” solicited and sold by Defendant are “goods” and “services” as defined by Cal.
15 Civ. Code §1761(a) and (b).
16

17 53) Defendant’s ongoing solicitation, sale, and imposition of other deceptive
18 transactions relating to “investments” into Plaintiff’s small business violates the following
19 subsections of Cal. Civ. Code §1770 in these respects:
20

- 21 a. Defendant’s acts and practices constitute misrepresenting the affiliation,
22 connection, or association with, or certification by, another;
- 23
- 24 b. Defendant’s acts and practices constitute misrepresenting that the goods or
25 services have sponsorship, approval, characteristics, ingredients, uses, benefits,
26 or quantities that they do not have or that a person has sponsorship, approval,
27 status, affiliation, or connection that he or she does not have;
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- c. Defendant's acts and practices constitute misrepresenting that a transaction confers or involves rights, remedies, or obligations that it does not have or involve, or that are prohibited by law;
- d. Defendant's acts and practices constitute misrepresenting that the subject of a transaction has been supplied in accordance with a previous representation when it has not; and
- e. Defendant's acts and practices constitute inserting an unconscionable provision in the contract.

54) By reason of the foregoing, Plaintiff has been irreparably harmed entitling it to injunctive relief.

55) Pursuant to Cal. Civ. Code §1782(d), an action may be commenced without compliance to Cal. Civ. Code §1782(a).

FOURTH CAUSE OF ACTION
(Violation(s) of the California Usury Laws)

56) Plaintiff re-alleges paragraph(s) 1-55 of the Complaint and incorporates by reference the allegation(s) herein.

57) Clear Finance Technology Corp. has devised and engaged in a scheme pursuant to which it solicits and issues usurious loans to persons or entities owning or operating small businesses in California under their merchant advance / "investment" business. Clear Finance Technology Corp. has disguised and masked the true nature of such transactions by mischaracterizing them as "investments" and purchases of receivables in an attempt to evade California's usury laws.

1 58) Each of the Class members has taken or been solicited a usurious loan from Clear
2 Finance Technology Corp. and each of the Class members has executed or been solicited a
3 personal guarantee guarantying the full amount of the debt allegedly owed to Clear Finance
4 Technology Corp.
5

6 59) Notwithstanding the misrepresentations made by Clear Finance Technology Corp.,
7 the cash advances / “investments” are, in reality, loans.
8

9 60) Clear Finance Technology Corp. is not a lender exempt from the prohibitions os
10 usury laws in California, nor are the transactions that are subject to this action exempt under
11 California’s usury laws.
12

13 61) The interest charged by Clear Finance Technology Corp. in connection with these
14 loan transactions is in excess of the statutory maximum rates of interest permitted in California for
15 these transactions, and Plaintiff’s and Class members’ obligation to repay such interest, is in fact
16 and in practice, unconditional.
17

18 62) Clear Finance Technology Corp. willfully intended to enter into each of the
19 described usurious transactions with the Class members.
20

21 63) The parties to the cash advance arrangements intended and considered the
22 transactions to be loans.
23

24 64) As a direct and proximate result of the foregoing, members of the Class have been
25 damaged in an amount t be proven at trial.
26

27 65) Class members seek and are entitled to damages in the amount of interest paid
28 during two years immediately prior to the filing of this action and for a judgment cancelling all
allegedly future payment obligations that will become due for the remainder of the term of the

1 contracts.

2
3 66) In addition, Class members are entitled to damages equal to three times the interest
4 paid by the members of the Class in the twelve months preceding the filing of this action and
5 continuing to the time of judgment therein.

6
7 67) Clear Finance Technology Corp. intended to injure Class members by its willful
8 acts and Clear Finance Technology Corp. conduct was oppressive, fraudulent and malicious,
9 entitling the Class members an award of punitive damages.

10
11 68) Further, Class members seek and are entitled to an order of restitution from Clear
12 Finance Technology Corp. to all Class members of all monies Clear Finance Technology Corp.
13 wrongfully obtained, as well as an order enjoining Clear Finance Technology Corp. wrongful acts
14 and practices, including, but not limited to, an order requiring Clear Finance Technology Corp. to
15 give notice to the Class and Sub-Classes of the true nature of the transactions, and to disgorge
16 their ill-gotten gains, as well as such other relief that the Court deems just and proper.

17
18
19 WHEREFORE, Plaintiff prays for judgment as follows:

20
21 **ON THE FIRST CAUSE OF ACTION**

- 22 1. An injunction preventing the Defendant from unlawfully soliciting loans to citizens
- 23 within the State of California;
- 24 2. For an order certifying that the action may be maintained as a class action;
- 25 3. Civil penalties not to exceed \$10,000.00 per occurrence;
- 26 4. For costs of suit incurred herein;
- 27 5. For reasonable attorney's fees; and
- 28 6. For any such other and further relief as the Court deems just and proper.

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ON THE SECOND CAUSE OF ACTION

1. Injunctive relief as may be necessary to prevent the use or employment by the Defendant of any practice which constitutes unfair competition;
2. For an order certifying that the action may be maintained as a class action;
3. Civil penalties per occurrence as the Court deems proper;
4. Restitution pursuant to Bus. & Prof. Code §17200;
5. Prejudgment interest at the legal rate;
6. Attorneys fees of the Plaintiff under Cal. Code of Civ. Pro. §1021.5;
7. Costs of this action; and
8. Any other and further relief that the court considers proper.

ON THE THIRD CAUSE OF ACTION

1. Injunctive relief as may be necessary to prevent the use or employment by the Defendant of any practice which constitutes unfair competition, false advertising, or false affiliation;
2. For an order certifying that the action may be maintained as a class action;
3. Civil penalties per occurrence as the Court deems proper;
4. Restitution under the statutory provisions of the CLRA;
5. Prejudgment interest at the legal rate;
6. Attorney's fees;
7. Costs of this action; and
8. Any other and further relief that the court considers proper.

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ON THE FOURTH CAUSE OF ACTION

1. Injunctive relief as may be necessary to prevent the use or employment by the Defendant of any practice which constitutes a violation under California law;
2. For an order certifying that the action may be maintained as a class action;
3. For an accounting and the imposition of an asset freeze and constructive trust over all interest and other monies that Defendant obtained through its illegal, unfair, and deceptive practices;
4. For equitable relief in the form of an order requiring Defendant to disgorge all interest and profits earned as a result of engaging in its illegal and unfair scheme(s) as alleged above;
5. For equitable relief in the form of an order voiding Defendant's outstanding loans;
6. Attorney's fees;
7. Costs of this action; and
8. Any other and further relief that the court considers proper.

//

DATED: November 8, 2018

The Law Office of Shane M. Popp

By: _____

Shane M. Popp, Esq.

Attorney for Plaintiff(s), Stillwater Design, Inc.

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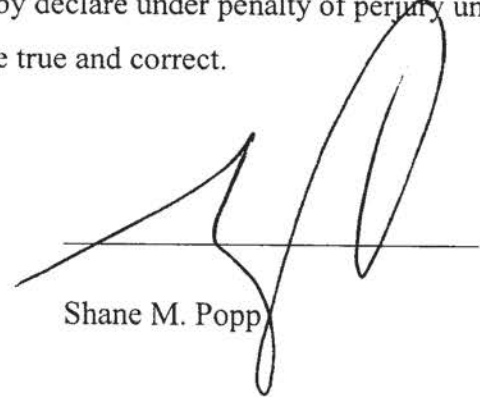
EXHIBIT A

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AFFIDAVIT PURSUANT TO CIVIL CODE SECTION 1780(d)

I, Shane M. Popp, acting as the attorney of record for the Plaintiff Stillwater Design, Inc. in the above, commenced action, act now with agency and authority to execute this Affidavit on its behalf. This action is brought in the County of Los Angeles, in which the Plaintiff has a principle place of business, and in which Defendant, Clear Technology Finance Corp. and DOES 1-25 is doing business or otherwise operating its business, and in which the underlying transaction relating to the actions under C.L.R.A. occurred. I hereby declare under penalty of perjury under the laws of the State of California that the foregoing are true and correct.

Executed this 8th day of November 2018



Shane M. Popp

<p>SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES</p>	<p><small>Reserved for Clerk's File Stamp</small></p> <p>FILED Superior Court of California County of Los Angeles 11/08/2018 Sherri R. Carter, Executive Officer / Clerk of Court By: <u>Steve Drew</u> Deputy</p>
<p><small>COURTHOUSE ADDRESS:</small> Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012</p>	
<p>NOTICE OF CASE ASSIGNMENT UNLIMITED CIVIL CASE</p>	
<p>Your case is assigned for all purposes to the judicial officer indicated below.</p>	<p><small>CASE NUMBER:</small> 18STCV04227</p>

COPY

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

	ASSIGNED JUDGE	DEPT	ROOM		ASSIGNED JUDGE	DEPT	ROOM
✓	Ann I. Jones	11					

Given to the Plaintiff/Cross-Complainant/Attorney of Record Sherri R. Carter, Executive Officer / Clerk of Court
 on 11/08/2018 (Date) By Steve Drew, Deputy Clerk

INSTRUCTIONS FOR HANDLING UNLIMITED CIVIL CASES

The following critical provisions of the California Rules of Court, Title 3, Division 7, as applicable in the Superior Court, are summarized for your assistance.

APPLICATION

The Division 7 Rules were effective January 1, 2007. They apply to all general civil cases.

PRIORITY OVER OTHER RULES

The Division 7 Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE

A challenge under Code of Civil Procedure Section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

TIME STANDARDS

Cases assigned to the Independent Calendaring Courts will be subject to processing under the following time standards:

COMPLAINTS

All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days.

CROSS-COMPLAINTS

Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

STATUS CONFERENCE

A status conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

FINAL STATUS CONFERENCE

The Court will require the parties to attend a final status conference not more than 10 days before the scheduled trial date. All parties shall have motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested form jury instructions, special jury instructions, and special jury verdicts timely filed and served prior to the conference. These matters may be heard and resolved at this conference. At least five days before this conference, counsel must also have exchanged lists of exhibits and witnesses, and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Three of the Los Angeles Superior Court Rules.

SANCTIONS

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Three Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Three Rules. Such sanctions may be on a party, or if appropriate, on counsel for a party.

This is not a complete delineation of the Division 7 or Chapter Three Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is imperative.

Class Actions

Pursuant to Local Rule 2.3, all class actions shall be filed at the Stanley Mosk Courthouse and are randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be a class action it will be returned to an Independent Calendar Courtroom for all purposes.

***Provisionally Complex Cases**

Cases filed as provisionally complex are initially assigned to the Supervising Judge of complex litigation for determination of complex status. If the case is deemed to be complex within the meaning of California Rules of Court 3.400 et seq., it will be randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be complex, it will be returned to an Independent Calendar Courtroom for all purposes.

COPY

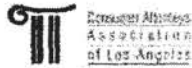


Superior Court of California
County of Los Angeles



Los Angeles County
Bar Association
Litigation Section

Los Angeles County
Bar Association Labor and
Employment Law Section



Consumer Attorneys
Association of Los Angeles



Southern California
Defense Counsel



Association of
Business Trial Lawyers



California Employment
Lawyers Association

VOLUNTARY EFFICIENT LITIGATION STIPULATIONS

The Early Organizational Meeting Stipulation, Discovery Resolution Stipulation, and Motions in Limine Stipulation are voluntary stipulations entered into by the parties. The parties may enter into one, two, or all three of the stipulations; however, they may not alter the stipulations as written, because the Court wants to ensure uniformity of application. These stipulations are meant to encourage cooperation between the parties and to assist in resolving issues in a manner that promotes economic case resolution and judicial efficiency.

The following organizations endorse the goal of promoting efficiency in litigation and ask that counsel consider using these stipulations as a voluntary way to promote communications and procedures among counsel and with the court to fairly resolve issues in their cases.

◆ Los Angeles County Bar Association Litigation Section ◆

◆ Los Angeles County Bar Association
Labor and Employment Law Section ◆

◆ Consumer Attorneys Association of Los Angeles ◆

◆ Southern California Defense Counsel ◆

◆ Association of Business Trial Lawyers ◆

◆ California Employment Lawyers Association ◆

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY: TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	STATE BAR NUMBER 	Reserved for Clerk's File Stamp
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES		
COURTHOUSE ADDRESS:		
PLAINTIFF:		
DEFENDANT:		
STIPULATION – EARLY ORGANIZATIONAL MEETING		CASE NUMBER:

This stipulation is intended to encourage cooperation among the parties at an early stage in the litigation and to assist the parties in efficient case resolution.

The parties agree that:

1. The parties commit to conduct an initial conference (in-person or via teleconference or via videoconference) within 15 days from the date this stipulation is signed, *to discuss and consider whether there can be agreement on the following:*
 - a. Are motions to challenge the pleadings necessary? If the issue can be resolved by amendment as of right, or if the Court would allow leave to amend, could an amended complaint resolve most or all of the issues a demurrer might otherwise raise? If so, the parties agree to work through pleading issues so that a demurrer need only raise issues they cannot resolve. Is the issue that the defendant seeks to raise amenable to resolution on demurrer, or would some other type of motion be preferable? Could a voluntary targeted exchange of documents or information by any party cure an uncertainty in the pleadings?
 - b. Initial mutual exchanges of documents at the "core" of the litigation. (For example, in an employment case, the employment records, personnel file and documents relating to the conduct in question could be considered "core." In a personal injury case, an incident or police report, medical records, and repair or maintenance records could be considered "core.");
 - c. Exchange of names and contact information of witnesses;
 - d. Any insurance agreement that may be available to satisfy part or all of a judgment, or to indemnify or reimburse for payments made to satisfy a judgment;
 - e. Exchange of any other information that might be helpful to facilitate understanding, handling, or resolution of the case in a manner that preserves objections or privileges by agreement;
 - f. Controlling issues of law that, if resolved early, will promote efficiency and economy in other phases of the case. Also, when and how such issues can be presented to the Court;
 - g. Whether or when the case should be scheduled with a settlement officer, what discovery or court ruling on legal issues is reasonably required to make settlement discussions meaningful, and whether the parties wish to use a sitting judge or a private mediator or other options as

SHORT TITLE:	CASE NUMBER:
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discussed in the "Alternative Dispute Resolution (ADR) Information Package" served with the complaint;

- h. Computation of damages, including documents, not privileged or protected from disclosure, on which such computation is based;
 - i. Whether the case is suitable for the Expedited Jury Trial procedures (see information at www.lacourt.org under "Civil" and then under "General Information").
2. The time for a defending party to respond to a complaint or cross-complaint will be extended to _____ (INSERT DATE) for the complaint, and _____ (INSERT DATE) for the cross-complaint, which is comprised of the 30 days to respond under Government Code § 68616(b), and the 30 days permitted by Code of Civil Procedure section 1054(a), good cause having been found by the Civil Supervising Judge due to the case management benefits provided by this Stipulation. A copy of the General Order can be found at www.lacourt.org under "Civil", click on "General Information", then click on "Voluntary Efficient Litigation Stipulations".
 3. The parties will prepare a joint report titled "Joint Status Report Pursuant to Initial Conference and Early Organizational Meeting Stipulation, and if desired, a proposed order summarizing results of their meet and confer and advising the Court of any way it may assist the parties' efficient conduct or resolution of the case. The parties shall attach the Joint Status Report to the Case Management Conference statement, and file the documents when the CMC statement is due.
 4. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day

The following parties stipulate:

Date:		
_____	>	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR PLAINTIFF)
Date:		
_____	>	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
Date:		
_____	>	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
Date:		
_____	>	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
Date:		
_____	>	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR _____)
Date:		
_____	>	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR _____)
Date:		
_____	>	_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION – DISCOVERY RESOLUTION			CASE NUMBER:

This stipulation is intended to provide a fast and informal resolution of discovery issues through limited paperwork and an informal conference with the Court to aid in the resolution of the issues.

The parties agree that:

1. Prior to the discovery cut-off in this action, no discovery motion shall be filed or heard unless the moving party first makes a written request for an Informal Discovery Conference pursuant to the terms of this stipulation.
2. At the Informal Discovery Conference the Court will consider the dispute presented by parties and determine whether it can be resolved informally. Nothing set forth herein will preclude a party from making a record at the conclusion of an Informal Discovery Conference, either orally or in writing.
3. Following a reasonable and good faith attempt at an informal resolution of each issue to be presented, a party may request an Informal Discovery Conference pursuant to the following procedures:
 - a. The party requesting the Informal Discovery Conference will:
 - i. File a Request for Informal Discovery Conference with the clerk's office on the approved form (copy attached) and deliver a courtesy, conformed copy to the assigned department;
 - ii. Include a brief summary of the dispute and specify the relief requested; and
 - iii. Serve the opposing party pursuant to any authorized or agreed method of service that ensures that the opposing party receives the Request for Informal Discovery Conference no later than the next court day following the filing.
 - b. Any Answer to a Request for Informal Discovery Conference must:
 - i. Also be filed on the approved form (copy attached);
 - ii. Include a brief summary of why the requested relief should be denied;

SHORT TITLE:	CASE NUMBER:
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- iii. Be filed within two (2) court days of receipt of the Request; and
 - iv. Be served on the opposing party pursuant to any authorized or agreed upon method of service that ensures that the opposing party receives the Answer no later than the next court day following the filing.
- c. No other pleadings, including but not limited to exhibits, declarations, or attachments, will be accepted.
- d. If the Court has not granted or denied the Request for Informal Discovery Conference within ten (10) days following the filing of the Request, then it shall be deemed to have been denied. If the Court acts on the Request, the parties will be notified whether the Request for Informal Discovery Conference has been granted or denied and, if granted, the date and time of the Informal Discovery Conference, which must be within twenty (20) days of the filing of the Request for Informal Discovery Conference.
- e. If the conference is not held within twenty (20) days of the filing of the Request for Informal Discovery Conference, unless extended by agreement of the parties and the Court, then the Request for the Informal Discovery Conference shall be deemed to have been denied at that time.
4. If (a) the Court has denied a conference or (b) one of the time deadlines above has expired without the Court having acted or (c) the Informal Discovery Conference is concluded without resolving the dispute, then a party may file a discovery motion to address unresolved issues.
5. The parties hereby further agree that the time for making a motion to compel or other discovery motion is tolled from the date of filing of the Request for Informal Discovery Conference until (a) the request is denied or deemed denied or (b) twenty (20) days after the filing of the Request for Informal Discovery Conference, whichever is earlier, unless extended by Order of the Court.
- It is the understanding and intent of the parties that this stipulation shall, for each discovery dispute to which it applies, constitute a writing memorializing a "specific later date to which the propounding [or demanding or requesting] party and the responding party have agreed in writing," within the meaning of Code Civil Procedure sections 2030.300(c), 2031.320(c), and 2033.290(c).
6. Nothing herein will preclude any party from applying *ex parte* for appropriate relief, including an order shortening time for a motion to be heard concerning discovery.
7. Any party may terminate this stipulation by giving twenty-one (21) days notice of intent to terminate the stipulation.
8. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day.

SHORT TITLE:	CASE NUMBER:
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The following parties stipulate:

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR PLAINTIFF)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR DEFENDANT)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR DEFENDANT)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR DEFENDANT)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR _____)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR _____)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:	STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES		
COURTHOUSE ADDRESS:		
PLAINTIFF:		
DEFENDANT:		
INFORMAL DISCOVERY CONFERENCE (pursuant to the Discovery Resolution Stipulation of the parties)		CASE NUMBER:

1. This document relates to:
 - Request for Informal Discovery Conference
 - Answer to Request for Informal Discovery Conference
2. Deadline for Court to decide on Request: _____ (insert date 10 calendar days following filing of the Request).
3. Deadline for Court to hold Informal Discovery Conference: _____ (insert date 20 calendar days following filing of the Request).
4. For a Request for Informal Discovery Conference, **briefly** describe the nature of the discovery dispute, including the facts and legal arguments at issue. For an Answer to Request for Informal Discovery Conference, **briefly** describe why the Court should deny the requested discovery, including the facts and legal arguments at issue.

LACIV 094 (new)
LASC Approved 04/11
For Optional Use

INFORMAL DISCOVERY CONFERENCE
(pursuant to the Discovery Resolution Stipulation of the parties)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:	STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES		
COURTHOUSE ADDRESS:		
PLAINTIFF:		
DEFENDANT:		CASE NUMBER:
STIPULATION AND ORDER – MOTIONS IN LIMINE		

This stipulation is intended to provide fast and informal resolution of evidentiary issues through diligent efforts to define and discuss such issues and limit paperwork.

The parties agree that:

1. At least ____ days before the final status conference, each party will provide all other parties with a list containing a one paragraph explanation of each proposed motion in limine. Each one paragraph explanation must identify the substance of a single proposed motion in limine and the grounds for the proposed motion.
2. The parties thereafter will meet and confer, either in person or via teleconference or videoconference, concerning all proposed motions in limine. In that meet and confer, the parties will determine:
 - a. Whether the parties can stipulate to any of the proposed motions. If the parties so stipulate, they may file a stipulation and proposed order with the Court.
 - b. Whether any of the proposed motions can be briefed and submitted by means of a short joint statement of issues. For each motion which can be addressed by a short joint statement of issues, a short joint statement of issues must be filed with the Court 10 days prior to the final status conference. Each side's portion of the short joint statement of issues may not exceed three pages. The parties will meet and confer to agree on a date and manner for exchanging the parties' respective portions of the short joint statement of issues and the process for filing the short joint statement of issues.
3. All proposed motions in limine that are not either the subject of a stipulation or briefed via a short joint statement of issues will be briefed and filed in accordance with the California Rules of Court and the Los Angeles Superior Court Rules.

SHORT TITLE:	CASE NUMBER:
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The following parties stipulate:

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR PLAINTIFF)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR DEFENDANT)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR DEFENDANT)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR DEFENDANT)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR _____)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR _____)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR _____)

THE COURT SO ORDERS.

Date: _____

JUDICIAL OFFICER

Superior Court of California County of Los Angeles



ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKET

The person who files a civil lawsuit (plaintiff) must include the ADR information Packet with the complaint when serving the defendant. Cross-complainants must serve the ADR Information Packet on any new parties named to the action together with the cross-complaint.

There are a number of ways to resolve civil disputes without having to sue someone. These alternatives to a lawsuit are known as alternative dispute resolution (ADR).

In ADR, trained, impartial persons decide disputes or help parties decide disputes themselves. These persons are called neutrals. For example, in mediations, the neutral is the mediator. Neutrals normally are chosen by the disputing parties or by the court. Neutrals can help resolve disputes without having to go to court.

Advantages of ADR

- Often faster than going to trial
- Often less expensive, saving the litigants court costs, attorney's fees and expert fees.
- May permit more participation, allowing parties to have more control over the outcome.
- Allows for flexibility in choice of ADR processes and resolution of the dispute.
- Fosters cooperation by allowing parties to work together with the neutral to resolve the dispute and mutually agree to remedy.
- There are fewer, if any, court appearances. Because ADR can be faster and save money, it can reduce stress.

Disadvantages of ADR - ADR may not be suitable for every dispute.

- If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.
- ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.
- The neutral may charge a fee for his or her services.
- If the dispute is not resolved through ADR, the parties may then have to face the usual and traditional costs of trial, such as attorney's fees and expert fees.

The Most Common Types of ADR

- **Mediation**

In mediation, a neutral (the mediator) assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike lawsuits or some other types of ADR, the parties, rather than the mediator, decide how the dispute is to be resolved.

- **Mediation is particularly effective** when the parties have a continuing relationship, like neighbors or business people. Mediation is also very effective where personal feelings are getting in the way of a resolution. This is because mediation normally gives the parties a chance to express their feelings and find out how the other sees things.
- **Mediation may not be effective** when one party is unwilling to cooperate or compromise or when one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

- **Arbitration**

In arbitration, a neutral person called an “arbitrator” hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is typically less formal than a trial, and the rules of evidence may be relaxed. Arbitration may be either “binding” or “non-binding.” Binding arbitration means the parties waive their right to a trial and agree to accept the arbitrator’s decision as final. Non-binding arbitration means that the parties are free to request a trial if they reject the arbitrator’s decision.

Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

- **Mandatory Settlement Conference (MSC)**

Settlement Conferences are appropriate in any case where settlement is an option.

Mandatory Settlement Conferences are ordered by the Court and are often held near the date a case is set for trial. The parties and their attorneys meet with a judge who devotes his or her time exclusively to preside over the MSC. The judge does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement.

The Los Angeles Superior Court Mandatory Settlement Conference (MSC) program is free of charge and staffed by experienced sitting civil judges who devote their time exclusively to presiding over MSCs. The judges participating in the judicial MSC program and their locations are identified in the List of Settlement Officers found on the Los Angeles Superior Court website at <http://www.lacourt.org/>. This program is available in general jurisdiction cases with represented parties from independent calendar (IC) and Central Civil West (CCW) courtrooms. In addition, on an ad hoc basis, personal injury cases may be referred to the program on the eve of trial by the personal injury master calendar courts in the Stanley Mosk Courthouse or the asbestos calendar court in CCW.

In order to access the Los Angeles Superior Court MSC Program the judge in the IC courtroom, the CCW Courtroom or the personal injury master calendar courtroom must refer the parties to the program. Further, all parties must complete the information requested in the Settlement Conference Intake Form and email the completed form to mscdept18@lacourt.org.

Additional Information

To locate a dispute resolution program or neutral in your community:

- Contact the California Department of Consumer Affairs (www.dca.ca.gov) Consumer Information Center toll free at 800-952-5210, or;
- Contact the local bar association (<http://www.lacba.org/>) or;
- Look in a telephone directory or search online for “mediators; or “arbitrators.”

There may be a charge for services provided by private arbitrators and mediators.

A list of approved State Bar Approved Mandatory Fee Arbitration programs is available at <http://calbar.ca.gov/Attorneys/MemberServices/FeeArbitration/ApprovedPrograms.aspx#19>

To request information about, or assistance with, dispute resolution, call the number listed below. Or you may call a Contract Provider agency directly. A list of current Contract Provider agencies in Los Angeles County is available at the link below.

<http://css.lacounty.gov/programs/dispute-resolution-program-drp/>

County of Los Angeles Dispute Resolution Program
3175 West 6th Street, Room 406
Los Angeles, CA 90020-1798
TEL: (213) 738-2621
FAX: (213) 386-3995

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 11

18STCV04227

November 30, 2018

STILLWATER DESIGN, INC. vs CLEAR FINANCE

10:18 AM

TECHNOLOGY CORPORATION

Judge: Honorable Ann I. Jones
Judicial Assistant: D. Wortham
Courtroom Assistant: C. Concepcion

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Court Order

By this order, the Court determines this case to be Complex according to Rule 3.400 of the California Rules of Court. The Clerk's Office has randomly assigned this case to this department for all purposes.

By this order, the Court stays the case, except for service of the Summons and Complaint. The stay continues at least until the Initial Status Conference. Initial Status Conference is set for 02/26/19 at 09:00 AM in this department. At least 10 days prior to the Initial Status Conference, counsel for all parties must discuss the issues set forth in the Initial Status Conference Order issued this date. The Initial Status Conference Order is to help the Court and the parties manage this complex case by developing an orderly schedule for briefing, discovery, and court hearings. The parties are informally encouraged to exchange documents and information as may be useful for case evaluation.

Responsive pleadings shall not be filed until further Order of the Court. Parties must file a Notice of Appearance in lieu of an Answer or other responsive pleading. The filing of a Notice of Appearance shall not constitute a waiver of any substantive or procedural challenge to the Complaint. Nothing in this order stays the time for filing an Affidavit of Prejudice pursuant to Code of Civil Procedure Section 170.6.

Counsel are directed to access the following link for information on procedures in the Complex litigation Program courtrooms: <http://www.lacourt.org/division/civil/CI0037.aspx>

According to Government Code section 70616 subdivisions (a) and (b), each party shall pay a fee of \$1,000.00 to the Los Angeles Superior Court within 10 calendar days from this date.

The plaintiff must serve a copy of this minute order and the attached Initial Status Conference

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 11

18STCV04227

November 30, 2018

STILLWATER DESIGN, INC. vs CLEAR FINANCE

10:18 AM

TECHNOLOGY CORPORATION

Judge: Honorable Ann I. Jones

CSR: None

Judicial Assistant: D. Wortham

ERM: None

Courtroom Assistant: C. Concepcion

Deputy Sheriff: None

Order on all parties forthwith and file a Proof of Service in this department within 7 days of service.

Certificate of Mailing is attached.

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012	FILED Superior Court of California County of Los Angeles 11/30/2018
PLAINTIFF/PETITIONER: Stillwater Design, Inc.	Sherri R. Carter, Executive Officer / Clerk of Court By: <u>Dejane Wortham</u> Deputy
DEFENDANT/RESPONDENT: Clear Finance Technology Corporation	
CERTIFICATE OF MAILING	CASE NUMBER: 18STCV04227

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Minute Order, Initial Status Conference Order upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Shane M Popp
3460 Barry Ave
Los Angeles, CA 90066

Sherri R. Carter, Executive Officer / Clerk of Court

Dated: 11/30/2018

By: Dejane Wortham
Deputy Clerk

FILED
Superior Court of California
County of Los Angeles

NOV 30 2018

Sherri R. Carter, Executive Officer/Clerk of Court

By Dejane Wortham, Deputy
Dejane Wortham

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

STILLWATER DESIGN, INC.,

Plaintiff,

v.

CLEAR FINANCE TECHNOLOGY CORP.,

Defendant.

Case No. 18STCV04227

INITIAL STATUS CONFERENCE ORDER
(COMPLEX LITIGATION PROGRAM)

Case Assigned for All Purposes to
Judge Ann I. Jones

Department: SS11
Date: February 26, 2019
Time: 9:00 a.m.

This case has been assigned for all purposes to Judge Ann I. Jones in the Complex Litigation Program. An Initial Status Conference is set for February 26, 2019 at 9:00 a.m. in Department SS11 located in the Spring Street Superior Courthouse at 312 N. Spring Street, Los Angeles, California 90012. Counsel for all parties are ordered to attend.

The court orders counsel to prepare for the Initial Status Conference by identifying and discussing the central legal and factual issues in the case. Counsel for plaintiff is ordered to initiate contact with counsel for defense to begin this process. Counsel then must negotiate and agree, as much as possible, on a case management plan. To this end, counsel must file a Joint Initial Status Conference Class Action Response Statement five court days before the Initial Status Conference. The Joint Response Statement must be filed on line-numbered pleading paper and must specifically answer each

1 of the below-numbered questions. Do not use the Judicial Council Form CM-110 (Case Management
2 Statement).

- 3 **1. PARTIES AND COUNSEL:** Please list all presently-named class representatives and presently-
4 named defendants, together with all counsel of record, including counsel's contact and email
5 information.
- 6 **2. STATUS OF PLEADINGS:** Please indicate whether defendant has filed a Notice of Appearance
7 or an Answer to the Complaint, and, if so, indicate the filing date(s).
- 8 **3. POTENTIAL ADDITIONAL PARTIES:** Indicate whether any plaintiff presently intends to add
9 additional class representatives, and, if so, the name(s) and date by which these class representatives
10 will be added. Indicate whether any plaintiff presently intends to name additional defendants, and, if
11 so, the name(s) and date by which the defendant(s) will be added. Indicate whether any appearing
12 defendant presently intends to file a cross-complaint and, if so, the names of cross-defendants and
13 the date by which the cross-complaint will be filed.
- 14 **4. IMPROPERLY NAMED DEFENDANT(S):** If the complaint names the wrong person or entity,
15 please explain why the named defendant is improperly named and the proposed procedure to correct
16 this error.
- 17 **5. ADEQUACY OF PROPOSED CLASS REPRESENTATIVE(S):** If any party believes one or
18 more named plaintiffs might not be an adequate class representative, including reasons of conflict of
19 interest as described in Apple Computer v. The Superior Court of Los Angeles County (2005) 126
20 Cal.App.4th 1253, please explain. No prejudice will attach to these responses.
- 21 **6. ESTIMATED CLASS SIZE:** Please discuss and indicate the estimated class size.
- 22 **7. OTHER ACTIONS WITH OVERLAPPING CLASS DEFINITIONS:** Please list other cases
23 with overlapping class definitions. Please identify the court, the short caption title, the docket
24 number, and the case status.
- 25
26
27
28

1 **8. POTENTIALLY RELEVANT ARBITRATION AND/OR CLASS ACTION WAIVER**

2 **CLAUSES:** Please state whether arbitration is an issue in this case and attach a sample of any
3 relevant clause of this sort. Opposing parties must summarize their views on this issue.

4 **9. POTENTIAL EARLY CRUCIAL MOTIONS:** Opposing counsel should identify and describe
5 the significant core issues in the case, and then identify efficient ways to resolve those issues,
6 including one or more of the following:

- 7 ■ Motion to Compel Arbitration,
- 8 ■ Early motions in limine,
- 9 ■ Early motions about particular jury instructions and verdict forms,
- 10 ■ Demurrers,
- 11 ■ Motions to strike,
- 12 ■ Motions for judgment on the pleadings, and
- 13 ■ Motions for summary judgment and summary adjudication.

14 **10. CLASS CONTACT INFORMATION:** Counsel should discuss whether obtaining class contact
15 information from defendant's records is necessary in this case and, if so, whether the parties
16 consent to an "opt-out" notice process (as approved in *Belaire-West Landscape, Inc. v. Superior*
17 *Court* (2007) 149 Cal.App.4th 554, 561). Counsel should address timing and procedure, including
18 allocation of cost and the necessity of a third party administrator.

19 **11. PROTECTIVE ORDERS:** Parties considering an order to protect confidential information from
20 general disclosure should begin with the model protective orders found on the Los Angeles Superior
21 Court Website under "Civil Tools for Litigators."

22 **12. DISCOVERY:** Please discuss a discovery plan. If the parties cannot agree on a plan, summarize
23 each side's views on discovery. The court generally allows discovery on matters relevant to class
24 certification, which (depending on circumstances) may include factual issues also touching the
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1 merits. The court generally does not permit extensive or expensive discovery relevant only to the
2 merits (for example, detailed damages discovery) at the initial stage unless a persuasive showing
3 establishes early need. If any party seeks discovery from absent class members, please estimate how
4 many, and also state the kind of discovery you propose¹.

5 **13. INSURANCE COVERAGE:** Please state if (1) there is insurance for indemnity or reimbursement,
6 and (2) whether there are any insurance coverage issues which might affect settlement.

7 **14. ALTERNATIVE DISPUTE RESOLUTION:** Please discuss ADR and state each party's position
8 about it. If pertinent, how can the court help identify the correct neutral and prepare the case for a
9 successful settlement negotiation?
10

11 **15. TIMELINE FOR CASE MANAGEMENT:** Please recommend dates and times for the following:

- 12 ■ The next status conference,
- 13 ■ A schedule for alternative dispute resolution, if it is relevant,
- 14 ■ A filing deadline for the motion for class certification, and
- 15 ■ Filing deadlines and descriptions for other anticipated non-discovery motions.

16 **16. ELECTRONIC SERVICE OF PAPERS:** For efficiency the complex program requires the parties
17 in every new case to use a third-party cloud service. Please agree on one and submit the parties'
18 choice when filing the Joint Initial Status Conference Class Action Response Statement. If there is
19 agreement, please identify the vendor. If parties cannot agree, the court will select the vendor at the
20 Initial Status Conference. Electronic service is not the same as electronic filing. Only traditional
21 methods of filing by physical delivery of original papers or by fax filing are presently acceptable.
22

23 **Reminder When Seeking To Dismiss Or To Obtain Settlement Approval:**
24

25 "A dismissal of an entire class action, or of any party or cause of action in a class action, requires
26

27 _____
28 ¹ See California Rule of Court, Rule 3.768.

1 court approval. . . . Requests for dismissal must be accompanied by a declaration setting forth the facts
2 on which the party relies. The declaration must clearly state whether consideration, direct or indirect, is
3 being given for the dismissal and must describe the consideration in detail.”² If the parties have settled
4 the class action, that too will require judicial approval based on a noticed motion (although it may be
5 possible to shorten time by consent for good cause shown).

6 **Reminder When Seeking Approval of a Settlement:**

7 Plaintiff(s) must address the issue of any fee splitting agreement in their motion for preliminary
8 approval and demonstrate compliance with California Rule of Court 3.769, and the Rules of
9 Professional Conduct 2-200(a) as required by Mark v. Spencer (2008) 166 Cal.App. 4th 219.

10 Pending further order of this Court, and except as otherwise provided in this Initial Status
11 Conference Order, these proceedings are stayed in their entirety. This stay precludes the filing of any
12 answer, demurrer, motion to strike, or motions challenging the jurisdiction of the Court; however, any
13 defendant may file a Notice of Appearance for purposes of identification of counsel and preparation of a
14 service list. The filing of such a Notice of Appearance is without prejudice to any challenge to the
15 jurisdiction of the Court, substantive or procedural challenges to the Complaint, without prejudice to any
16 affirmative defense, and without prejudice to the filing of any cross-complaint in this action. This stay is
17 issued to assist the Court and the parties in managing this “complex” case through the development of
18 an orderly schedule for briefing and hearings on procedural and substantive challenges to the complaint
19 and other issues that may assist in the orderly management of these cases. This stay does not preclude
20 the parties from informally exchanging documents that may assist in their initial evaluation of the issues
21 presented in this case, however it stays all outstanding discovery requests.
22
23
24

25 Plaintiff’s counsel is directed to serve a copy of this Initial Status Conference Order along with a
26

27 _____
28 ² California Rule of Court, Rule 3.770(a)

1 copy of the attached Guidelines for Motions for Preliminary and Final Approval of Class Settlement on
2 counsel for all parties, or if counsel has not been identified, on all parties, within five (5) days of service
3 of this order. If any defendant has not been served in this action, service is to be completed within
4 twenty (20) days of the date of this order.

5 If all parties have been served, have conducted the required meet and confer, and are ready to
6 fully participate in the status conference prior to the assigned date, counsel may contact the clerk of
7 Department SS11 and request an earlier date for the Initial Status Conference.
8

9
10 Dated: November 30, 2018



11 ANN I. JONES
12 ANN I. JONES

13 Judge of the Los Angeles Superior Court
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EXHIBIT B

EXHIBIT B

1 LAURA A. STOLL (SBN 255023)
2 *lstoll@goodwinlaw.com*
3 **GOODWIN PROCTER LLP**
4 601 S Figueroa Street, 41st Floor
5 Los Angeles, California 90017
6 Tel.: +1 213 426 2500
7 Fax.: +1 213 623 1673

8
9
10 Attorney for Defendant
11 CLEAR FINANANCE TECHNOLOGY
12 CORPORATION

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

STILLWATER DESIGN, INC., a California corporation, on behalf of itself and all others similarly situated,

Plaintiff,

v.

CLEAR FINANCE TECHNOLOGY CORPORATION, a Canadian corporation, and DOES 1 through 25, inclusive,

Defendant.

Case No.: 18STCV04227

CLASS ACTION

NOTICE OF FILING OF NOTICE OF REMOVAL

Complaint Filed: November 8, 2018

1 **To: Los Angeles County Superior Court**
2 **Civil Clerk's Office**
3 **111 North Hill Street**
4 **Los Angeles, California 90012**

5 **PLEASE TAKE NOTICE** that on January 11, 2019, Defendant Clear Finance Technology
6 Corporation ("Clear Finance" or "Defendant") filed a Notice of Removal of this action to the United
7 States District Court for the Central District of California, Western Division. A true and correct
8 copy of the Notice of Removal is attached hereto. The Notice of Removal and all exhibits will be
9 served on all counsel of record. Furthermore, pursuant to 28 U.S.C. § 1446(d), this matter shall
10 proceed no further unless and until the case is remanded to this Court by the United States District
11 Court.

12
13 Dated: January 11, 2019

Respectfully submitted,

14
15 By: /s/ Laura A. Stoll

LAURA A. STOLL

lstoll@goodwinlaw.com

GOODWIN PROCTER LLP

601 S Figueroa Street, 41st Floor

Los Angeles, California 90017

Tel.: +1 213 426 2500

Fax.: +1 213 623 1673

16
17
18
19 Attorneys for Defendant CLEAR FINANCE
20 TECHNOLOGY CORPORATION

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PROOF OF SERVICE

I am employed in the County of Suffolk, Commonwealth of Massachusetts. At the time of service I was over 18 years of age and not a party to this action. My business address is: 100 Northern Avenue, Boston, Massachusetts 02210.

On **January 11, 2019**, I served the following document(s) on the person(s) below as follows:

NOTICE OF FILING NOTICE OF REMOVAL

Shane M. Popp (SBN 219668)
The Law Office of Shane M. Popp
3460 Barry Avenue
Los Angeles, California 90066

Counsel for Plaintiff
Tel.: (310) 930-6051
Fax: (310) 861-1780
shane_popp@hotmail.com

The document(s) were served by the following means:

- (OVERNIGHT DELIVERY). By overnight delivery. I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 11, 2019, at Boston, Massachusetts.

Allison H. Orpilla



(Type or print name)

(Signature)

EXHIBIT C

EXHIBIT C

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LAURA A. STOLL (SBN 255023)
lstoll@goodwinlaw.com
GOODWIN PROCTER LLP
601 S Figueroa Street, 41st Floor
Los Angeles, California 90017
Tel.: +1 213 426 2500
Fax.: +1 213 623 1673

Attorney for Defendant
CLEAR FINANANCE TECHNOLOGY
CORPORATION

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

STILLWATER DESIGN, INC., a California
corporation, on behalf of itself and all others
similarly situated,

Plaintiff,

v.

CLEAR FINANCE TECHNOLOGY
CORPORATION, a Canadian corporation, and
DOES 1 through 25, inclusive,

Defendant.

Case No.: 18STCV04227

CLASS ACTION

**NOTICE OF REMOVAL TO ALL
ADVERSE PARTIES**

Complaint Filed: November 8, 2018

1 **To: Shane M. Popp**
2 **The Law Office of Shane M. Popp**
3 **3460 Barry Avenue**
4 **Los Angeles, California 90066-2002**

5 **PLEASE TAKE NOTICE** that on January 11, 2019, Defendant Clear Finance Technology
6 Corporation (“Clear Finance” or “Defendant”) filed a Notice of Removal of this action to the United
7 States District Court for the Central District of California, Western Division. A true and correct
8 copy of the Notice of Removal is attached hereto. This Notice is served upon you as counsel of
9 record for Plaintiff in compliance with 28 U.S.C. § 1446.

10 Dated: January 11, 2019

Respectfully submitted,

11 By: /s/ Laura A. Stoll

12 LAURA A. STOLL

13 *lstoll@goodwinlaw.com*

14 **GOODWIN PROCTER LLP**

15 601 S Figueroa Street, 41st Floor

16 Los Angeles, California 90017

17 Tel.: +1 213 426 2500

18 Fax.: +1 213 623 1673

19 Attorneys for Defendant CLEAR FINANCE
20 TECHNOLOGY CORPORATION

PROOF OF SERVICE

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The Law Office of Shane M. Popp
3460 Barry Avenue
Los Angeles, California 90066

Counsel for Plaintiff
Tel.: (310) 930-6051
Fax: (310) 861-1780
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Executed on January 11, 2019, at Boston, Massachusetts.

Allison H. Orpilla

(Type or print name)

(Signature)

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Clearbanc Engages in Unlicensed Loan Activity, Lawsuit Alleges](#)
