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Attorney for Creditor
EDUARDO DE LA TORRE

UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

IN RE CASHCALL, INC., Debtor.	Case No. 26-03102-JBM11 Chapter 11 **DECLARATION OF ARTHUR D. LEVY IN SUPPORT OF JUDGMENT CREDITOR EDUARDO DE LA TORRE'S MOTION FOR RELIEF FROM STAY** **RS No.: ADL-1**

I, Arthur D. Levy, say:

1. I am an attorney and a member in good standing of the State Bar of California and admitted to practice before the United States District Court for the Southern District of California.

THE DE LA TORRE CLASS ACTION JUDGMENT AGAINST CASHCALL

2. I represent creditor Eduardo De La Torre and the certified Class he represents on a Judgment for $245,515,389 rendered in favor of the Class against CashCall, Inc. by the San Mateo County Superior Court on November 7, 2023 in *De La Torre v. CashCall, Inc.*, San Mateo Superior Court Case No.19CIV01235 [the "De La Torre Class Action"].

3. I have been counsel of record for Eduardo De La Torre and the Certified Class in the De La Torre Class Action from its filing on March 7, 2019 to the present. Exhibit 1 to my declaration is a true and correct copy of the De La Torre Class Action Complaint. The Complaint alleged that CashCall had made unconscionable 96% and 135% loans to California subprime borrowers between 2005 and 2011, in violation of Civil Code section 1670.5, Financial Code section 22302, and Business & Professions Code section 17200 (the "UCL").

4. Data produced by CashCall in that case showed that CashCall had made such loans to over 100,000 borrowers.

5. The Manatt Phelps firm was counsel of record for CashCall, Inc. throughout the De La Torre Class Action, including the trial, post-trial proceedings, and CashCall's subsequent appeal.

6. The court certified the De La Torre's Class by Order dated January 16, 2020.

7. The case proceeded to a bench trial that began on March 8, 2021. The trial extended over 13 days; testimony concluded on May 14, 2021. An extended delay in obtaining trial testimonial transcripts delayed post-trial briefing. On August 31, 2021, the court approved the parties' stipulation calling for simultaneous post-trial briefs to be filed on September 20 and October 4, with closing oral arguments to be held on November 1.

8. On September 14, 2021, CashCall received a large settlement payment in its legal malpractice case against the law firm of Katten Muchin Rosenman LLP for allegedly providing

negligent advice to CashCall in establishing a national lending program predicated on tribal immunity from state usury laws. See Exhibit 9 to my declaration (¶¶ 4, 6) and Dkt. 3 (¶ 30).

9. Six weeks later and five days before the November 1 closing arguments in the De La Torre Class Action—on October 26, 2021—CashCall CFO Delbert Meeks paid a $45 million distribution to Mr. Reddam out of the proceeds of the Katten settlement. See Exhibit 9 to my declaration (¶ 23) and Exhibit 20 (130:6-17; 131:1-25).

10. The court heard closing arguments in the Class Action on November 1, 2021.

11. On January 20, 2022, the court issued a Tentative Decision in favor of the Class and against CashCall. Exhibit 2 to my declaration is a true and correct copy of the court's Tentative Decision.

12. On November 7, 2023, after extended proceedings under California's Statement of Decision rules, the court issued its final "Amended Statement of Decision" and its final "Amended Judgment." Exhibits 3 and 4 to my declaration are true and correct copies of the Amended Judgment and Amended Statement of Decision After Court Trial, respectively.

13. The Amended Judgment awards a money judgment against CashCall in favor of the Class in the amount of $245,515,389, based on expert testimony during trial to the total payments made by Class members in excess of the $2,600 loan principal.

14. In the Amended Statement of Decision, the trial judge found CashCall's lending practices unconscionable, an "attempt to reap money through onerous loan contracts preying upon financially desperate people who were not creditworthy."

15. The beneficiaries of the Amended Judgment are the certified Class of CashCall borrowers. The Judgment requires CashCall to pay restitution to Class members who paid CashCall more than the principal amount of their loans.

16. On November 29, 2023, CashCall appealed the Class Judgment to the California First District Court of Appeal, Case No. A169205. On December 10, 2025, the Court of Appeal held closing arguments. On February 27, 2026, the Court of Appeal issued an unpublished opinion affirming the Amended Judgment against CashCall in full.

17. The Court of Appeal denied CashCall's Petition for Rehearing, and the California Supreme Court denied CashCall's Petition for Review. The Class Judgment became final on June 15, 2026.

18. Even though CashCall did not post an appeal bond to stay enforcement of the Judgment pending appeal or since then, the Class has been unable to collect any of the Judgment from CashCall.

DE LA TORRE'S FRAUDULENT TRANSFER (UVTA) CASE AGAINST MR. REDDAM AND CASHCALL

19. Class Counsel pursued post-judgment enforcement of judgment discovery from CashCall. Through that discovery, counsel discovered the October 2021 $45 million distribution to Mr. Reddam.

20. Based on the post-judgment discovery, on August 21, 2024 Mr. De La Torre filed his UVTA case in Orange County Superior Court, against CashCall and Mr. Reddam, *De La Torre v. Reddam et al*., Orange County Superior Court Case No. 30-2024-01421309. Exhibit 5 to my declaration is a true and correct copy of the Complaint in that case. The Complaint challenges the $45 million shareholder distribution CashCall made to Mr. Reddam in October 2021. The relief sought is recovery of the entire distribution from Mr. Reddam, with interest, in partial satisfaction of the De La Torre Class Judgment.

21. The UVTA claim is referenced in Mr. Reddam's Declaration in Support of CashCall's First Day Motions and is the "Fraudulent Transfer Action" referenced in the DIP Financing. Dkt. 3 (¶ 31); Dkt. 100-1 (p. 4).

22. The Manatt Phelps law firm jointly represented CashCall and Mr. Reddam as their counsel of record throughout the UVTA case, and continued to represent Mr. Reddam until he signed a substitution dated September 2, 2026 of the Marshak Hays Wood LLP in place of Manatt Phelps. Dkt. 161. Manatt Phelps remains counsel of record for CashCall.

23. The UVTA complaint states two Causes of Action. The central issue on the First Cause of Action for Actual Fraudulent Transfer is whether CashCall made the $45 million distribution to Reddam with "actual intent to hinder, delay, or defraud creditors," in violation of California Civil Code section 3439.04(a)(1). Ex. 5 (¶¶ 28-31). The central issue on the Second

Cause of Action for Constructive Fraudulent Transfer under sections 3439.04(a)(2) and 3439.05 is whether CashCall was insolvent at the time it made the distribution. *Id*. (¶¶ 32-35).

24. CashCall and Mr. Reddam jointly answered the UVTA complaint and jointly defended the UVTA case, represented by Manatt Phelps. Exhibit 6 to my declaration is a true and correct copy of their Answer.

25. On January 22, 2025, CashCall and Mr. Reddam filed a joint Case Management Conference Statement. Exhibit 7 to my declaration is a true and correct copy of their Case Management Conference Statement.

26. Manatt Phelps represented CashCall and Mr. Reddam in five depositions plaintiff has taken of the key witnesses in the UVTA case, including depositions of Mr. Reddam himself, CashCall's CFO (Delbert Meeks), CashCall's Controller (Shawna Parks), Mr. Reddam's personal financial professional (Elizabeth Emrick), and CashCall's and Mr. Reddam's tax accountant (Michael McGrath). Manatt Phelps produced over 7,200 pages of documents in response to plaintiff's document requests, including tax documents produced by Mr. Reddam.

27. On November 3, 2025, on behalf of both CashCall and Mr. Reddam, Manatt Phelps filed a Motion for Summary Judgment. Exhibit 8 to my declaration is a true and correct copy of their Notice of Motion and Motion for Summary Judgment or Summary Adjudication; Memorandum of Points and Authorities.

28. In support of the motion, on behalf of both CashCall and Mr. Reddam, Manatt Phelps prepared and filed the Declaration of Delbert O. Meeks, who was and remains CashCall's CFO. Exhibit 9 to my declaration is a true and correct copy of the public (redacted) version of that declaration.

29. In support of the motion, on behalf of both CashCall and Mr. Reddam, Manatt Phelps prepared and filed the Declaration of Mr. Reddam. Exhibit 10 to my declaration is a true and correct copy of the public (redacted) version of that declaration.

30. In support of the motion, on behalf of both CashCall and Mr. Reddam, Manatt Phelps prepared and filed the Declaration by Elizabeth Emrick, Mr. Reddam's personal tax and financial assistant. Exhibit 11 to my declaration is a true and correct copy of that declaration.

31. In support of the motion, on behalf of CashCall and Mr. Reddam, Manatt Phelps also prepared and filed a "Separate Statement of Undisputed Material Facts" in support of the motion, as required by California Code of Civil Procedure section 437c(b). Exhibit 12 to my declaration is a true and correct copy of public (redacted) version of their Separate Statement.

32. Mr. De La Torre's counsel filed opposition to CashCall's and Mr. Reddam's joint summary judgment motion. Exhibit 13 is a true and correct copy of the public (redacted) version of the Memorandum of Points and Authorities filed in opposition to the summary judgment motion.

33. Mr. De La Torre's counsel also filed a response to CashCall's Separate Statement with additional disputed facts. Exhibit 14 is a true and correct copy of the public (redacted) version of Plaintiff's Response to Separate Statement And Additional Facts in Opposition to Defendants' Motion for Summary Judgment.

34. Mr. De La Torre's counsel also filed a Declaration by Allen Pfeiffer, a valuation expert. Exhibit 15 is a true and correct copy of the public (redacted) version of Mr. Pfeiffer's Declaration.

35. On July 10, 2026, the court denied Cash Call's and Mr. Reddam's summary judgment motion. Exhibit 16 is a true and correct copy of the court's Order denying CashCall's and Mr. Reddam's summary judgment motion.

36. Ten days later, CashCall filed its Chapter 11 Petition, claiming that as debtor in possession it is entitled to pursue the same fraudulent transfer claim against Mr. Reddam that CashCall had jointly opposed with him in the UVTA case. Although subject to the automatic stay, the UVTA case remains pending.

37. At the time CashCall filed this case, the UVTA case was poised to go to jury trial in just three months, on October 12, 2026. A jury trial had been timely demanded. The case was substantially prepared for trial, except for expert discovery, some remaining fact discovery, and compliance with the court's pretrial requirements.

38. Over the past two years, De La Torre's counsel have invested heavily in the UVTA case, in both time and expense. De La Torre's counsel have invested over 500 hours and $125,000

in costs and expenses in the UVTA case to date. They have pursued document and other discovery, taken depositions from the five key witnesses, retained a valuation expert, successfully opposed CashCall's and Mr. Reddam's summary judgment motion, and nearly completed trial preparation.

39. De La Torre's counsel have no contingency fee or hourly fee arrangement for pursuing the UVTA case. Counsel has pursued all of this litigation—both the De La Torre Class Action and the UVTA case—based on the San Mateo trial judge's preliminary award of a 20% common fund fee based of collections for the Class. Exhibit 17 is a true and correct copy of the court's Order Granting Preliminary Approval of Award of Plaintiff's Attorneys' Fees, Expenses, and Service Award.

40. Counsel will seek fees and expense for all past and future services rendered and expenses incurred in the UVTA case exclusively from the court in the De La Torre Class Action, pursuant to the Order and to be paid out of collections. Counsel proposes to continue the UVTA litigation on this same basis and will not seek any fees from the estate.

41. I emailed a letter to Mr. Carroll on September 9, 2026 proposing that De La Torre's counsel be selected to pursue the fraudulent transfer claim against Mr. Reddam on the terms outlined above. Exhibit 18 to my declaration is a true and correct copy of that letter. The only reply received was an email directly from Ms. Gladstone stating that CashCall had already chosen counsel. Exhibit 19 to my declaration is a true and correct copy of that email chain.

42. De La Torre's counsel has already completed pre-filing investigation, discovery and depositions, expert witness retention, and successfully opposed the defendants' summary judgment motion in the UVTA case. This work required counsel to research the applicable law, develop and marshal evidence in support of the claim, and retain a valuation expert. As their opposition to the defendants' summary judgment motion shows, counsel is intimately familiar with the evidence and legal issues and need not devote time to duplicating that work, as new hourly counsel would have to.

43. De La Torre's counsel has already taken five depositions in the case, of Mr. Reddam himself, CashCall's CFO (Delbert Meeks), CashCall's Controller (Shawna Parks), Mr.

Reddam's personal financial professional (Elizabeth Emrick), and CashCall's and Mr. Reddam's tax accountant (Michael McGrath).

44. They obtained over 7,200 pages of documents in response to plaintiff's document requests, including tax documents produced by Mr. Reddam.

45. They retained valuation expert Allen Pfeiffer to opine on insolvency issues.

46. Exhibit 20 to my declaration are true and correct excerpts from the Deposition of CashCall CFO Delbert Meeks taken on October 10, 2025 in the UVTA Case.

47. At the Meeting of Creditors on August 28, 2026, Ms. Gladstone testified that the $4.5 million in accounts receivable asset reported in the Schedules (Dkt. 88 (p. 14) consists of CashCall's remaining $1.5 million loan portfolio and an approximately $3.0 million account receivable from Absolutely Zero relating to a bond that was required for the CFPB litigation. All accounts receivable are reported as being over 90 days old.

48. Counsel for the CFPB reported at the hearing of CashCall's post-petition financing motion on August 26 that the total outstanding amount of the CFPB's Judgment is approximately $180 million, including interest, and is covered in full, or almost in full, by assets and real estate Mr. Reddam pledged in July 2023 to stay execution pending appeal. CashCall concedes this. Dkt. 67 (10:6-11).

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49. CashCall lists the following as its unsecured creditors in its Schedules (Dkt. 88 (pp. 19-20); Dkt. 124 (pp. 10-11):

Unsecured Creditors	Amount listed	Basis	Percent of Total
Batavia Glen	$6,655.00	Storage unit fees	0.00%
Black Knight Technologies	$300.00	IT services	0.00%
CFPB	$157,050,978.00	Judgment	38.63%
De La Torre Class	$245,515,389.00	Judgment	60.38%
Experian	$367.09	Credit reporting services	0.00%
Ralis Services	$401,372.73	Insider--administrative support services	0.10%
LexisNexis	$2,279.23	Online research services	0.00%
Skadden LLP	$3,610,756.33	Unpaid legal fees	0.89%
TransUnion	$105.00	Credit reporting services	0.00%
Total	$406,588,202.38		100.00%

50. If the CFPB is eliminated based on its recovery from Reddam's pledged assets and real estate, the De La Torre Class percentage of claims rises to over 98%. The CFPB does not need to recover anything out of the fraudulent transfer claim. Unlike the *De la Torre* Class, it already has direct recourse against Reddam's assets.

51. Skadden defended both CashCall and Mr. Reddam jointly in the CFPB case. CashCall lists Skadden's claim as disputed. Skadden, like the CFPB, has direct claims against Mr. Reddam; it need not pursue CashCall, or even Mr. Reddam on a fraudulent transfer claim. If its claim is eliminated ,the De La Torre Class claim accounts for 99.8% of the unsecured creditor claims, excluding post-judgment interest. The only other claim of any size is by insider Ralis Services, which Mr. Reddam wholly owns.

52. Exhibit 21 is a true and correct copy of the Statement of Information filed on January 26, 2026 by Absolutely Zero Corporation. I obtained this document from the California Secretary of State website.

53. Exhibit 22 is a true and correct copy of the Statement of Information filed on September 29, 2025 by Ralis Services Corp. I obtained this document from the California Secretary of State website.

54. Exhibit 21 is a true and correct copy of the Statement of Information filed on December 2, 2025 by CashCall, Inc. I obtained this document from the California Secretary of State website.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 28th day of September 2026 at Oakland, California.



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Attorneys for Plaintiff
EDUARDO DE LA TORRE

Additional Counsel listed on signature page

ENDORSED FILED
SAN MATEO COUNTY

MAR 07 2019

Clerk of the Superior Court
By UNA FINAU
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

EDUARDO DE LA TORRE, on behalf of all others similarly situated and the general public,

Plaintiff,

v.

CASHCALL, INC., a California corporation; and DOE 1 through DOE 25, inclusive,

Defendants.

CASE NO. 19CIV01285

CLASS ACTION COMPLAINT

COMPLAINT FOR VIOLATIONS OF UNFAIR COMPETITION LAW, CAL. BUS. & PROF. CODE § 17200 *ET SEQ.*; DEMAND FOR JURY TRIAL

FAXED

COPY

INTRODUCTION

1. Plaintiff Eduardo De La Torre brings this case for himself, on behalf of the proposed 135,000-member Class of CashCall borrowers, and on behalf of the general public, challenging defendant CashCall, Inc.'s 96% and 135% $2500 installment loan product during the Class Period as unconscionable, and therefore in violation of California Civil Code § 1670.5, California Financial Code § 22302, and California Business & Professions Code § 17200 (the "UCL").

2. This is the successor case to *De La Torre v. CashCall, Inc.*, Case No. 3:08-cv-03174-TSH in the United States District Court for the Northern District of California. Plaintiff (together with another plaintiff who is not a party to this action) filed that case on July 1, 2008, and the parties actively litigated it for over ten years.

3. During the federal lawsuit, the district court certified a class for Plaintiff's loan unconscionability claim under the UCL, and at first denied CashCall's motion for summary judgment, finding triable issues of fact whether CashCall's loan product was unconscionable. On reconsideration, the court reversed and granted summary judgment to CashCall on the ground that the relief sought under the UCL would require the court to engage in impermissible "economic policymaking."

4. Plaintiff appealed the grant of summary judgment Order to the Ninth Circuit (Case Nos. 14-17571 & 15-15042). The Ninth Circuit certified a question of state law to the California Supreme Court. The Supreme Court, among other things, held that California's unconscionability laws (Civil Code § 1670.5 and Financial Code § 23302) apply to CashCall's loans; that these statutes may serve as a predicate for an action under the UCL; and that judicial application of California's unconscionability statutes to loan interest rates in particular is not impermissible "economic policymaking" and does not require the courts to ascertain an "appropriate interest rate." *De La Torre v. CashCall, Inc.* (2018) 5 Cal. 5th 966.

5. Based on the California Supreme Court opinion, the Ninth Circuit reversed the grant of summary judgment in favor of CashCall and remanded the case to the District Court.

6. After the remand, the newly assigned federal judge, Magistrate Judge Thomas S. Hixson, asked the parties to brief whether the court should continue to exercise federal jurisdiction in light of the fact that all federal claims in the case had been resolved and there was no diversity of citizenship between the certified class and CashCall. Plaintiff and CashCall jointly requested that the federal court exercise its discretion to continue to exercise supplemental jurisdiction over the remaining state-law loan unconscionability claim.

7. However, on February 5, 2019, the district court issued an Order declining to continue exercise supplemental jurisdiction and dismissed the federal case pursuant to 28 U.S.C. §1367, without prejudice to its filing in state court.

8. Pursuant to that Order, Plaintiff is filing this action within 30 days after the dismissal of the federal case. Pursuant to 28 U.S.C. § 1367, subd. (d), all applicable statutes of limitations are tolled back to the filing of the federal case on July 1, 2008.

JURISDICTION AND VENUE

9. This Court has jurisdiction over all causes of action asserted herein pursuant to the California Constitution, Article VI, Section 10, which grants the Superior Court original jurisdiction in all cases except those given to other trial courts.

10. This is a class action in which plaintiff seeks monetary and injunctive relief in an amount within this Court's unlimited jurisdiction. This Court also has jurisdiction over this case pursuant to Business and Professions Code section 17203, which provides for jurisdiction for enforcement of this statute in any court of competent jurisdiction.

11. Venue in San Mateo County is proper pursuant to California Code of Civil Procedure § 395(b) because Plaintiff is currently a resident of San Mateo County. This action arises from CashCall's loan to Plaintiff, which was "a loan or extension of credit intended primarily for personal, family or household use." Under § 395(b), this action may accordingly be brought and tried in the county where the borrower resides at the commencement of the action. *Fontaine v. Superior Court* (2009) 175 Cal. App. 4th 830, 838.

PARTIES

12. Plaintiff Eduardo De La Torre ("Plaintiff" or "De La Torre") is a natural person who currently resides in East Palo Alto, California, in the County of San Mateo. On or about February 16, 2006, he borrowed $2,525 from Defendant CashCall, Inc., for personal, family or household purposes. For ease of reference, CashCall's installment loans in principal amounts varying in minor amounts between $2500 and $2600 (*e.g.*, Plaintiff's $2,525 loan) are referred throughout this complaint to as CashCall's "$2500 installment loan product."

13. Defendant CashCall, Inc. ("CashCall"), is a California corporation and has its principal place of business located in California.

14. CashCall was at all relevant times was engaged in making consumer loans throughout California and licensed as a California Finance Lender subject to the California Financing Law, California Financial Code sections 22000 *et seq*.

15. Defendants Does 1 through 25 are persons or entities whose true names and identities and liability to Plaintiff and the proposed Class are now unknown to Plaintiff, who therefore are sued by such fictitious names. Plaintiff will amend this complaint to allege the true names and liabilities of these fictitiously named Defendants when they are ascertained. Each of the fictitiously named Defendants is liable for the conduct alleged in this complaint.

FACTUAL ALLEGATIONS

16. On or about February 16, 2006, Plaintiff obtained a loan for $2,525 from CashCall at an interest rate of 96% and an APR of 98.95% over a prescribed 42-month loan term. A true and correct copy of the CashCall Promissory Note and Disclosure Statement containing the terms and conditions of this loan is attached as Exhibit 1. This loan was "a loan or extension of credit intended primarily for personal, family or household use" within the meaning of Code of Civil Procedure § 395(b). To pay off this loan on CashCall's terms, Plaintiff was required to pay CashCall more than $9,000, or 3.5 times the actual amount he borrowed. Plaintiff became unable to make the payments and defaulted, subjecting him to aggressive and

intrusive collection measures by CashCall. Plaintiff continued to make payments, primarily interest, to CashCall on this loan through June 2008.

17. For the reasons alleged below, the loan as a whole—including but not limited to the interest rate, the length of the loan, and monthly payments—was unconscionable at the time and under the circumstances it was made, in violation of Civil Code § 1670.5, Financial Code § 22302, subd. (a), and the UCL.

CLASS ACTION ALLEGATIONS

18. Pursuant to California Code of Civil Procedure § 382, Plaintiff brings this action as a class action for himself and on behalf of all others similarly situated as members of a proposed Class and on behalf of the general public.

19. This proposed class (hereinafter the "Class") is defined as follows:

> All individuals who, while residing in California, borrowed from $2,500 to $2,600 from CashCall, Inc., for personal, family or household use at any time from August 1, 2005 to July 10, 2011.

This action is brought as a class action under California Code of Civil Procedure § 382. This action satisfies the numerosity, ascertainability, commonality, typicality, adequacy, and superiority requirements of California Code of Civil Procedure § 382.

a. Numerosity. In response to the federal court's Order certifying substantially the same class as proposed here, CashCall identified 135,288 class member loans. This demonstrates that Class membership in this case is likely to number well in excess of 100,000, such that the Class is so numerous that joinder of their individual claims is impracticable.

b. Ascertainability. The identities of the members of the Class are reasonably ascertainable from the business records of CashCall. CashCall provided a class list for class notice purposes after the federal court certified a class substantially the same as the Class proposed here.

c. Commonality. Questions of law and fact common to the Class exist and predominate over questions affecting only individual class members. These common legal and factual questions include, but are not limited to the following:

i. Whether CashCall's uniform loan agreements, uniform loan modeling and underwriting practices, uniform business and profitability model, and uniform marketing practices, alleged below, in offering its $2500 installment loan product to California consumers during the Class Period were, taken as a whole, procedurally and substantively unconscionable and therefore violate Civil Code §1670.5, Financial Code § 22302, and the UCL; and

ii. The nature and extent of statutory relief to Plaintiff and the Class, including restitution and injunctive relief under Business & Professions Code §17203, recovery under Financial Code §§22750-52, restitution of interest paid, declaratory relief, cancellation of outstanding interest, and other remedies to which Plaintiff and the other members of the Class are entitled.

d. Typicality. Plaintiff's claims are typical of the claims of the Class. Each of the members of the Class borrowed money from CashCall and was issued a Promissory Note and Disclosure Statement on forms that are the same or substantially similar to the Promissory Note and Disclosure Statement form issued to Plaintiff, and each of the members of the Class was subject to the same or substantially similar uniform lending practices followed by CashCall. Accordingly, each of the members of the Class has the same or substantially similar claims to Plaintiff for relief against these practices. As described above and below, the claims arise from the same course of conduct by CashCall, and the relief sought is common.

e. Adequacy of Representation. Plaintiff is an adequate representative of the Class because: (a) his interests do not conflict with the interests of the individual members of the Class he seeks to represent; (b) he has retained counsel who are competent and experienced in complex class action litigation; and (c) he intends to prosecute this action vigorously. The interests of the members of the Class will be fairly and adequately protected by Plaintiff and his counsel. Moreover, both Plaintiff and his counsel were appointed class representative and class counsel in the federal case and represented the Class effectively for more than seven years in the federal case. *See O'Donovan v. CashCall, Inc.* (N.D. Cal. 2011) 278 F.R.D. 479,

492.

f. Superiority. The class action device is superior to other available means for the fair and efficient adjudication of the claims of Plaintiff and the Class. Because the economic damages suffered by the individual class members may be relatively modest, albeit significant to each of them, compared to the expense and burden of individual litigation, it would be impracticable for members of the Class to seek redress individually for the wrongful conduct alleged herein. There will be no undue difficulty in the management of this litigation as a class action. Plaintiff's and the Class members' common claims can be economically adjudicated only in a class action proceeding, thus promoting judicial efficiency and avoiding multiple trials and inconsistent judgments.

FIRST CAUSE OF ACTION
Violation of Cal. Bus. & Prof. Code § 17200
AGAINST ALL DEFENDANTS

20. Plaintiff individually, and on behalf of the Class and the general public, realleges each allegation above as if fully set forth in this cause of action.

21. CashCall marketed its $2500 installment loan product during the Class Period to California consumers under uniform loan agreements substantially identical to the Promissory Note and Disclosure Statement issued to Plaintiff (except for the interest rate and APR as explained below), using uniform loan design, modeling, and underwriting practices, and based on the same, uniform business and profitability model alleged below.

22. CashCall's $2500 installment loan product during the Class Period constituted an unlawful business practice in violation of Business & Professions Code § 17200. CashCall's $2500 installment product violated Civil Code § 1670.5 and Financial Code § 22302, which prohibit unconscionable loans made under the California Financing Law.

23. CashCall's $2500 installment loan product was procedurally oppressive during the Class Period.

24. CashCall's loan agreements during the Class Period were consumer adhesion contracts CashCall imposed on Class Members on a take-it-or-leave it basis, without any opportunity for negotiation.

25. Class Members did not have any meaningful choice of reasonably available alternative sources to CashCall's $2500 installment loan product, free of its unconscionable terms, during the Class Period. CashCall faced no significant competitors or competition for its $2500 installment loan product during the Class Period, and $2500 subprime installment loans were not reasonably available from any source other than CashCall. The market for $2500 subprime installment loan products was not competitive during the Class Period. CashCall's loan terms, including but not limited to the interest rate, length of the loan repayment period, and the amount of monthly payments, were not determined by competitive market conditions, but instead by CashCall's unchallenged market dominance and monopolization during the Class Period.

26. Other "alternative loan products" available to subprime borrowers, including but not limited to payday loans, tax refund anticipation loans, auto title loans, and pawn loans, were not comparable financial products to CashCall's $2500 installment loan product during the Class Period.

27. CashCall dominated and saturated the market for $2500 subprime installment loans through constant and pervasive advertising on television and the internet during the Class Period. Subprime borrowers did not shop for and compare loans for the best loan terms. Instead, they impulsively responded to CashCall's pervasive advertising messaging, urging consumers to "call us" to "get cash fast."

28. CashCall's $2500 installment loan product during the Class Period, taken as a whole and in the business context in which CashCall offered the product, was substantively unconscionable at the time the loans were made.

29. CashCall began making $2500 loans at 96% based on a 42-month loan term in August 2005. CashCall increased the interest rate from 96% to 135% based on a 35-month loan

term in July 2009. CashCall added a forced arbitration provision and class action waiver to its loan agreements in July 2011. The federal court ruled that the inclusion of arbitration provisions disabled borrowers from participating in a classwide adjudication based on loans obtained after July 10, 2011.

30. Because of the combination of loan interest rate, length of the loan repayment schedule, and the amount of monthly payments, a borrower had to pay 3.6 to 4.3 times the principal amount over the life of the loan in order to repay it, $9,184 for a $2,525 loan at 96% and $10,918 at135%:

	96% Loan (42 month term)		135% Loan (35 month term)	
APR	99.07%	Times Loan Principal Amount	138.43%	Times Loan Principal Amount
Loan Principal Amount	$2,525	1.00 x loan principal	$2,525	1.00 x loan principal
Total Interest & Fees	$6,659	2.64 x loan principal	$8,393	3.33 x loan principal
Total Payments	$9,184	3.64 x loan principal	$10,918	4.32 x loan principal

31. The cost of this credit was unconscionably high, 3.6-4.3 times the amount borrowed. California caps interest at 28% on a loan of $2,499 under Financial Code § 22303. By evading California's rate ceiling by increasing the loan principal amount to a small amount over $2500 ($2525 in Plaintiff's case), CashCall increased the borrower's interest burden over the life of the loan by $5,000 to $7,000, four to six times the amount that would be due on a $2,499 loan.

32. CashCall targeted and made these loans to subprime borrowers. Subprime borrowers are often identified as individuals having a FICO credit score below 640. The FICO scores for CashCall borrowers during the Class Period ranged as low as 500 and averaged barely above 600, with about ¾ below 640. Borrower FICO scores are the primary predictor of loan defaults.

33. CashCall strategically lent to create massive loan defaults but made its $2500 loans profitable by charging 96% and 135% interest during the Class period to the borrowers who paid—and even those who eventually defaulted, but whom CashCall's collectors hounded to pay for as much as they could, for as long as they could.

34. During the Class Period, CashCall engaged in intentional, systematic, irresponsible, and predatory lending by modeling its $2500 installment loan product by building in an expected 35-40% "acceptable default rate." By designing the product so that approximately 4-in-10 borrowers of the $2500 installment loan product would default, CashCall knew at the time it made the loans that nearly half of the individuals and families who accepted its $2500 installment loan product would be unable to repay the loan according to its terms, would suffer increased personal, financial, and family stress, would be subjected to CashCall's aggressive collection process, and would be set back even further in establishing their worthiness for future credit.

35. During the Class Period, 45%—or nearly half—of the Class Members defaulted, and CashCall's dollar write-offs were astoundingly high. "Default" means that a loan is delinquent for at least 150 days, at which point CashCall writes a loan off as uncollectible. CashCall measures the default rate in terms of the total dollars written off as a ratio of the total amount loaned. Thus, during the Class Period, CashCall wrote off as uncollectible 45% of the $2500 installment loan products it loaned, or $1,125 on average out of every $2500 it loaned. In class-wide dollar terms, CashCall wrote off more than $170,000,000 on 135,288 Class Member loans. By comparison, credit card charge-off rates historically average less than 5% and never reached 10% even during the Great Recession.

36. During the Class Period, CashCall attracted loan prospects through massive saturation television advertising. CashCall designed its ads to capitalize on individual's need to get money fast to deal with one or more problems and on the financial distress and desperation of borrowers. In its ads, CashCall highlighted low monthly payments and the ease of obtaining ready cash, concealing the high interest rate and high repayment cost from viewers, or unfairly and inconspicuously displaying them so the average viewer could not see or understand them, only the ease of obtaining ready cash.

37. CashCall was a "direct response" television advertiser, whose advertising objective was to get television viewers to pick up the telephone and immediately call for a loan. CashCall's focused its television ad campaigns on "low-involvement programming," where the viewer would have little reluctance to abandon the program in mid-stream and go to the phone to call. CashCall coordinated its ad campaigns with call center staffing so that CashCall could adequately staff its call centers to field incoming calls in the immediate wake of the ad broadcasts. The tag line of CashCall's television advertising was "Just make the CashCall."

38. CashCall's $2500 installment loan product harmed consumers. The product inflicted inordinately high repayment costs, subjected delinquent borrowers to the stresses of CashCall's aggressive collection process, and harmed future creditworthiness. The harms inflicted by the $2500 installment loan product included personal and family stress, humiliation, life disruption, and invasion of privacy. CashCall's adverse credit reporting further damaged the delinquent and defaulting borrowers' credit standing and made it even harder for them to obtain credit.

39. As a result of these violations and unlawful business practices, Plaintiff suffered injury in fact and lost money and property, including but not limited to payments of interest and other charges collected by CashCall on loans made in violation of these laws.

40. Pursuant to California Business and Professions Code § 17203, Plaintiff, for himself and on behalf of the Class and the general public, seeks private and public injunctive relief, restitution of interest paid, cancellation of outstanding interest, and other and further

ancillary relief as may be necessary and appropriate, as more particularly requested below.

41. The equitable discretion of the Court in awarding restitution should be guided by discretion the Legislature has given the courts under Civil Code § 1670.5, subd. (a), and the remedial provisions Financial Code §§ 22750-52.

RELIEF SOUGHT

Plaintiff requests the following relief for himself, on behalf of the Class, and on behalf of the General Public:

1. An Order certifying the Class under California Code of Civil Procedure § 382 and appointing Plaintiff and his counsel to represent the Class;

2. A Judgment directing Defendants to make restitution to Plaintiff and the Class of all interest paid under the $2500 installment loan products issued during the Class Period or, in the alternative, in such amounts as the Court may order in the exercise of its equitable discretion;

3. An Injunction permanently enjoining Defendants from collecting or assigning for collection any interest on the $2500 installment loans of Plaintiff and the Class;

4. Orders directing Defendants to adjust all loan accounts and credit reporting to conform with all monetary, injunctive, and relief granted;

5. Attorneys' fees, court costs, and expenses of litigation to the extent provided by law;

6. Costs of suit;

7. Prejudgment interest on all monetary amounts awarded; and

//

//

8. Such other and further legal and equitable relief as this Court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of each and every cause of action so triable.

DATED: March 7, 2019

By: 
Arthur D. Levy

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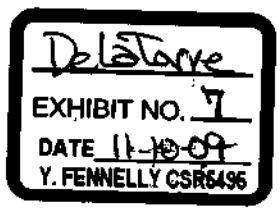
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Attorneys for Plaintiff
EDUARDO DE LA TORRE

EXHIBIT 1

EDUARDO DE LA TORRE
509 HAMPSHIRE AVE
REDWOOD CITY, CA 94063



Loan Document

CASHCALL PROMISSORY NOTE AND DISCLOSURE STATEMENT

Account No.: [redacted]
Lender: CashCall, Inc.
Address: 17360 Brookhurst Street
Fountain Valley, CA 92708

Date of Note: February 16, 2006
Borrower: EDUARDO DE LA TORRE

TRUTH IN LENDING DISCLOSURE

ANNUAL PERCENTAGE RATE *The cost of your credit as a yearly rate*	FINANCE CHARGE *The dollar amount the credit will cost YOU*	AMOUNT FINANCED *The amount of credit provided to YOU*	TOTAL OF PAYMENTS *The amount you will have paid after all payments are made as scheduled*
98.95 %	**$6,659.17**	**$2,525.00**	**$9,184.17**

PAYMENT SCHEDULE
You will make one payment of $306.68 on April 01, 2006.
You will make 41 monthly payments of $216.55 beginning on May 01, 2006.

Late Charge: If a payment is late, you will be charged $15.00.

Prepayment: If you pay off this loan early, you will not have to pay any penalty.

Please see the remainder of this document for additional information about nonpayment, default and any required repayment in full before the scheduled date.

ITEMIZATION OF AMOUNT FINANCED	
Amount Financed:	$2,525.00
Amount Paid to Borrower Directly:	$2,525.00
Prepaid Finance Charge/Origination Fee:	$75.00

In this Promissory Note & Disclosure Statement ("Note"), the words "I" and "me" mean the person signing as a

borrower. The boxed-in disclosures above are part of the terms and conditions of your agreement with us.

FOR VALUE RECEIVED, I promise to pay to the order of CashCall, Inc., or any subsequent holder of this Note (the "Holder"), the sum of **$2,600.00**, together with interest calculated at **96.00 %** and any outstanding charges or late fees, until the full amount of this Note is paid.

I understand that my payments will be applied first to any outstanding charges or late fees, then to earned interest and finally to principal. The payment schedule described above is only an estimate and may change in the event I do not make all payments as scheduled.

I understand that I may prepay all or any part of the principal without penalty.

I understand that I will be subject to a fee not to exceed the legally permitted amount if any payment I make is returned for non-sufficient funds.

I understand that if I fail to make any payment due hereunder, the Holder of this Note shall have the right, after a 30-day grace period, to declare this Note to be immediately due and payable. I further understand that if I file for an assignment for the benefit of creditors, bankruptcy, or for relief under any provisions of the United States Bankruptcy Code, the Holder of this Note shall have the right to declare this Note to be immediately due and payable.

I understand that in the event that Holder is required to employ an attorney at law to collect any amounts due under this Note, I will be required to pay the reasonable fees of such attorney to protect the interest of Holder or to take any other action required to collect the amounts due hereunder.

I agree that all payments not made within fifteen (15) days of the due date shall be subject to a late fee of $15. Any late fee assessed shall be collected by the Holder on behalf of the Holder and shall inure to the exclusive benefit of the Holder.

The origination fee included in the prepaid finance charge/origination fee disclosed above is fully earned upon loan origination, is not subject to rebate upon prepayment or acceleration of this Note and is not considered interest.

The Holder of this Note may delay or forgo enforcing any of its rights or remedies under this Note without losing them. I hereby, to the extent allowed by law, waive any applicable statute of limitations, presentment, demand for payment, or protest and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability.

The rights of Holder hereof shall be cumulative and not necessarily successive. This Note shall take effect as a sealed instrument and shall be construed, governed and enforced in accordance with the laws of the State of California.

This Note is in original format an electronic document fully compliant with the Electronic Signatures in Global and National Commerce Act (E-SIGN) and other applicable laws and regulations, and that the one, true original Note is retained electronically by Holder on behalf of Holder. All other versions hereof, whether electronic or in tangible format, constitute facsimiles or reproductions only.

I understand that I have previously consented to receive all communications from the Holder, including but not limited to, all required disclosures via electronic mail.

I understand and agree that CashCall, Inc. may obtain credit reports on me an ongoing basis as long as this loan remains in effect. I also authorize CashCall, Inc. to report information concerning my account to credit bureaus and anyone else it believes in good faith has a legitimate need for such information.

NOTE TO CALIFORNIA BORROWERS: A married or registered domestic partner applicant may apply for a separate account. As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations. If Holder takes any adverse action as defined by Section 1785.3 of the California Civil Code and the

adverse action is based, in whole or in part, on any information contained in a consumer credit report, you have the right to obtain within 60 days a free copy of your consumer credit report from the consumer reporting agency who furnished us your consumer credit report and from any other consumer credit reporting agency which compiles and maintains files on consumers on a nationwide basis. You have the right as described by Section 1785.16 of the California Civil Code to dispute the accuracy or completeness of any information in a consumer credit report furnished by the consumer credit reporting agency.

THIS LOAN CARRIES A VERY HIGH INTEREST RATE. YOU MAY BE ABLE TO OBTAIN CREDIT UNDER MORE FAVORABLE TERMS ELSEWHERE. EVEN THOUGH THE TERM OF THE LOAN IS 42 MONTHS, WE STRONGLY ENCOURAGE YOU TO PAY OFF THE LOAN AS SOON AS POSSIBLE. YOU HAVE THE RIGHT TO PAY OFF ALL OR ANY PORTION OF THE LOAN AT ANY TIME WITHOUT INCURRING ANY PENALTY. YOU WILL, HOWEVER, BE REQUIRED TO PAY ANY AND ALL INTEREST THAT HAS ACCRUED FROM THE FUNDING DATE UNTIL THE PAYOFF DATE.

☑	I CERTIFY THAT NO PERSON HAS PERFORMED ANY ACT AS A BROKER IN CONNECTION WITH THE MAKING OF THIS LOAN.
☑	I ATTEST THAT THE CHECK SUBMITTED FOR APPROVAL OF MY LOAN IS FROM A LEGAL, OPEN AND ACTIVE ACCOUNT. THE CHECK IS NOT ALTERED, FORGED, STOLEN OR OBTAINED THROUGH FRAUDULENT OR ILLEGAL MEANS.
☑	I ATTEST THAT (1) THE PAY STUB THAT I SUBMITTED FOR APPROVAL OF MY LOAN IS A VALID STUB FROM A JOB THAT I CURRENTLY HOLD AND THE STUB HAS NOT BEEN ALTERED OR FORGED IN ANY WAY; OR (2) I WAS NOT REQUIRED TO SUBMIT A PAY STUB TO OBTAIN MY LOAN.
☑	**I HAVE READ ALL OF THE TERMS AND CONDITIONS OF THIS PROMISSORY NOTE AND DISCLOSURE STATEMENT AND AGREE TO BE BOUND THERETO. I UNDERSTAND AND AGREE THAT MY EXECUTION OF THIS NOTE SHALL HAVE THE SAME LEGAL FORCE AND EFFECT AS A PAPER CONTRACT.**

THIS LOAN IS MADE PURSUANT TO THE CALIFORNIA FINANCE LENDER LAW. **FOR INFORMATION, CONTACT THE DEPARTMENT OF CORPORATIONS, STATE OF CALIFORNIA, LICENSE NO. 603-8780.**

ELECTRONIC FUNDS AUTHORIZATION AND DISCLOSURE

I hereby authorize CashCall to withdraw my scheduled loan payment from my checking account on or about the FIRST day of each month. I further authorize CashCall to adjust this withdrawal to reflect any additional fees, charges or credits to my account. I understand that CashCall will notify me 10 days prior to any given transfer if the amount to be transferred varies by more than $50 from my regular payment amount. I understand that this authorization and the services undertaken by CashCall in no way alters or lessens my obligations under the loan agreement. I understand that I can cancel this authorization at any time (including prior to my first payment due date) by sending written notification to CashCall. Cancellations must be received at least seven days prior to the applicable due date.

☑	I UNDERSTAND CASHCALL'S PAYMENT COLLECTION POLICY AND AUTHORIZE ELECTRONIC DEBITS FROM MY BANK ACCOUNT.

Click here to print out a copy of this document for your records.

Sign Document

FILED
SAN MATEO COUNTY
JAN 20 2022
Clerk of the Superior Court
By
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

COMPLEX CIVIL LITIGATION

EDUARDO DE LA TORRE, on behalf of all others similarly situated and the general public,

Plaintiffs,

vs.

CASHCALL, INC., a California corporation, and DOES 1 through 25 inclusive,

Defendants.

_____/

Case No. 19CIV01235
CLASS ACTION

Assigned for All Purposes to
Hon. Marie S. Weiner, Dept. 2

TENTATIVE RULING AFTER COURT TRIAL

Court Trial was held in Department 2 of this Court before the Honorable Marie S. Weiner, as the single-assigned judge. James Sturdevant of The Sturdevant Law Firm, Steven Tindall of Gibbs Law Group LLP, Arthur Levy, Esq., and Jessica Riggin of Rukin Hyland & Riggin LLP appeared on behalf of Plaintiff de la Torre and the Certified Class; and Brad Seiling, Donald Brown, and Justin Jones-Rodriguez of Manatt Phelps & Phillips LLP appeared on behalf of Defendant CashCall Inc.

This complex case and certified class action commenced Court Trial on March 8, 2021, the presentation of evidence concluded on May 14, 2021, written Closing Argument Briefs were filed concluding October 4, 2021, and oral Closing Arguments were conducted and concluded on November 1, 2021.

Upon due consideration of the briefs, evidence presented, the arguments of counsel, and having taken the matter under submission,

IT IS HEREBY ***TENTATIVELY*** DECIDED, ORDERED AND ADJUDGED, as the Court's Tentative Decision after Court Trial as follows:

The Court previously certified the following Plaintiff Class: "All individuals who, while residing in California, borrowed from $2,500 to $2,600 from CashCall for personal, family or household use at any time from August 1, 2005 to July 10, 2011." Plaintiff Eduardo De La Torre was appointed the Plaintiff Class Representative.

Plaintiff and the Class have alleged a single cause of action against Defendant CashCall Inc. for violation of California Business & Professions Code Section 17200 *et seq.* for unlawful business act(s) or practice(s), based upon alleged violation of Financial Code Section 22302 and Civil Code Section 1670.5, in that the consumer loan contracts between Plaintiff and the Class members and Defendant CashCall Inc. were unconscionable.

The Court tentatively decides that Plaintiff and the Class have proven their cause of action for violation of Business & Professions Code Section 17200 *et seq.* based upon violation of Financial Code Section 22302 (and related Civil Code section 1670.5), in that the Court finds that provision(s) of the loan contracts for the consumer loans to Plaintiff and the Class by Defendant CashCall Inc. during the Class Period were unconscionable. Plaintiff and the Class are entitled to restitution of any and all interest

payments made to Defendant CashCall Inc. on those consumer loans funded during the Class Period; offset by any and all loan principal amounts (including the $75 fees) on the consumer loans made by Defendant to Plaintiff and the Class on those same consumer loans. No prejudgment interest is awarded. Plaintiff and the Class are the prevailing parties entitled to statutory costs upon timely filing and service of a Memorandum of Costs.

Plaintiff's evidentiary objections to Trial Exhibits Nos. 362, 363 and 365 are SUSTAINED.

The Court is in receipt of the parties' requests for statement of decision, and this Court will be issuing a subsequent Proposed Statement of Decision without further need for request by the parties.

DATED: January 20, 2022

HON. MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

FILED
SAN MATEO COUNTY
NOV 07 2023
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

COMPLEX CIVIL LITIGATION

EDUARDO DE LA TORRE, on behalf of all others similarly situated and the general public,

Plaintiffs,

vs.

CASHCALL, INC., a California corporation, and DOES 1 through 25 inclusive,

Defendants.

_____/

Case No. 19CIV01235
CLASS ACTION

Assigned for All Purposes to
Hon. Marie S. Weiner, Dept. 2

***AMENDED* JUDGMENT AFTER COURT TRIAL**

Court Trial was held in Department 2 of this Court before the Honorable Marie S. Weiner, as the single-assigned judge. James Sturdevant of The Sturdevant Law Firm, Steven Tindall of Gibbs Law Group LLP, Arthur Levy, Esq., and Jessica Riggin of Rukin Hyland & Riggin LLP appeared on behalf of Plaintiff de la Torre and the Certified Class; and Brad Seiling, Donald Brown, and Justin Jones-Rodriguez of Manatt Phelps & Phillips LLP appeared on behalf of Defendant CashCall Inc.

This complex case and certified class action commenced Court Trial on March 8, 2021, the presentation of evidence concluded on May 14, 2021, written Closing

Argument Briefs were filed concluding October 4, 2021, and oral Closing Arguments were conducted and concluded on November 1, 2021. A Tentative Decision was issued. A Proposed Statement of Decision was issued. Objections to the Proposed Statement of Decision were filed by the parties. A Final Statement of Decision after Court Trial was issued. Judgment was entered, and post-trial motions filed – in response to which this Court decided to issue an Amended Final Statement of Decision and this Amended Judgment.

IT IS HEREBY DECIDED, ORDERED AND ADJUDGED that Judgment shall be and is entered in favor of Plaintiff Eduardo de la Torre and the Certified Class and against Defendant CashCall Inc.

The Certified Class was previously certified and defined as follows: "All individuals who, while residing in California, borrowed from $2,500 to $2,600 from CashCall for personal, family or household use at any time from August 1, 2005 to July 10, 2011." Plaintiff Eduardo De La Torre was previously appointed the Plaintiff Class Representative.

The Amended Final Statement of Decision after Court Trial entered November 7, 2023 is incorporated herein by reference. Plaintiff and the Certified Class have proven, by a preponderance of the evidence, their cause of action for violation of Business & Professions Code Section 17200 *et seq.* based upon violation of Financial Code Section 22302 (and related Civil Code Section 1670.5).

Plaintiff and the Class are entitled to monetary restitution of any and all interest payments made to Defendant CashCall Inc. on those $2600 consumer loans funded during the Class Period. Accordingly, Plaintiff Eduardo de la Torre and the Certified Class are awarded monetary restitution under Business & Professions Code Section

17200 *et seq.* for the total amount of **$245,515,389,** against Defendant CashCall Inc. This reflects the return (restitution) of all interest paid by those Class members who have paid to Defendant more than the amount of their principal on their 101,564 loans. No monetary restitution is awarded on the 32,284 loans to those Class members who have paid to Defendant less than the amount of the principal of their loans.

Injunctive relief is granted to Plaintiff and the Class, as follows: Defendant CashCall Inc., and any and all of its parents, subsidiaries, assignees, transferees, loan portfolio purchasers, representatives, agents, officers, directors, employees, and/or trustees, are enjoined from and shall not collect, receive, charge, take, or obtain payments of any *interest* on any consumer loans entered into at any time from August 1, 2005 to July 10, 2011 between any Plaintiff or any member of the Certified Class on the one hand, and Defendant CashCall Inc. on the other hand, with an initial principal amount of $2,500 to $2,600. This is not a prohibition against collection of any principal still due and owing only on the 32,284 loans to those Class members whose net payments to Defendant are less than the amount of the principal of their loans.

No prejudgment interest is awarded.

Plaintiff and the Certified Class are the prevailing parties entitled to statutory costs upon timely filing and service of a Memorandum of Costs.

The Plan of Distribution of the Amended Judgment proceeds to the Plaintiff and members of the Certified Class shall be proposed and considered by the Court after entry of the Amended Judgment.

Plaintiff shall immediately file and serve formal Notice of Entry of Amended Judgment.

DATED: November 7, 2023

HON. MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

FILED
SAN MATEO COUNTY
NOV 07 2023
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

COMPLEX CIVIL LITIGATION

EDUARDO DE LA TORRE, on behalf of all others similarly situated and the general public,

Plaintiffs,

vs.

CASHCALL, INC., a California corporation, and DOES 1 through 25 inclusive,

Defendants.
_____/

Case No. 19CIV01235
CLASS ACTION

Assigned for All Purposes to
Hon. Marie S. Weiner, Dept. 2

***AMENDED* FINAL STATEMENT OF DECISION AFTER COURT TRIAL**

Court Trial was held in Department 2 of this Court before the Honorable Marie S. Weiner, as the single-assigned judge. James Sturdevant of The Sturdevant Law Firm, Steven Tindall of Gibbs Law Group LLP, Arthur Levy, Esq., and Jessica Riggin of Rukin Hyland & Riggin LLP appeared on behalf of Plaintiff de la Torre and the Certified Class; and Brad Seiling, Donald Brown, and Justin Jones-Rodriguez of Manatt Phelps & Phillips LLP appeared on behalf of Defendant CashCall Inc.

This complex case and certified class action commenced Court Trial on March 8, 2021, the presentation of evidence concluded on May 14, 2021, written Closing Argument Briefs were filed concluding October 4, 2021, and oral Closing Arguments were conducted and concluded on November 1, 2021. A Tentative Decision was issued. A Proposed Statement of Decision was issued. Objections to the Proposed Statement of Decision were filed by the parties. A Final Statement of Decision was filed, and Judgment entered. Defendant filed a motion for new trial and motion to vacate the judgment, which were denied; but the Court is exercising its discretion to amend the Final Statement of Decision and Amend the Judgment.

`Upon due consideration of the briefs, evidence presented, the arguments of counsel, and the Objections to the Proposed Statement of Decision, and matters raised in the prior post-judgment motions,

IT IS HEREBY DECIDED, ORDERED AND ADJUDGED, as the Court's *Amended* Final Statement of Decision after Court Trial as follows:

The Court previously certified the following Plaintiff Class: "All individuals who, while residing in California, borrowed from $2,500 to $2,600 from CashCall for personal, family or household use at any time from August 1, 2005 to July 10, 2011."[1] Plaintiff Eduardo De La Torre was appointed the Plaintiff Class Representative.

Plaintiff and the Class have alleged a single cause of action against Defendant CashCall Inc. for violation of California Business & Professions Code Section 17200 *et seq.* for unlawful business act(s) or practice(s), based upon violation of Financial Code Section 22302 and Civil Code Section 1670.5, in that the consumer loan contracts

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1 By April 2006, CashCall was doing business in five states, but 93% of its consumer loans were in California.

between Plaintiff and the Class members and Defendant CashCall Inc. were unconscionable.

Plaintiff and the Class have proven, by a preponderance of the evidence, their cause of action for violation of Business & Professions Code Section 17200 *et seq.* based upon violation of Financial Code Section 22302 (and related Civil Code Section 1670.5), in that the Court finds that the *contracts* for the $2600 consumer loans to Plaintiff and the Class by Defendant CashCall Inc. during the Class Period were *procedurally and substantively unconscionable* at the time the agreements were entered into. The loan agreements are unconscionable under Civil Code Section 1670.5, AND are unconscionable under Finance Code Section 22302, and such statutes are subject to enforcement as their violation constitutes unlawful business acts or practices under Business & Professions Code Section 17200, *et seq*.

Plaintiff and the Class are entitled to monetary restitution of any and all interest payments made to Defendant CashCall Inc. on those $2600 consumer loans funded during the Class Period. Accordingly, Plaintiff Eduardo de la Torre and the Certified Class are awarded monetary restitution under Business & Professions Code Section 17200 *et seq.* for the total amount of **$245,515,389,** against Defendant CashCall Inc. This reflects the return (restitution) of all interest paid by those Class members who have paid to Defendant more than the amount of their principal on their 101,564 loans, and minus the $75 origination fee charged by Defendant (which is not illegal). No monetary restitution is awarded on the 32,284 loans to those Class members who have paid to Defendant less than the amount of the principal of their loans.

Injunctive relief is granted to Plaintiff and the Class, as follows: Defendant CashCall Inc., and any and all of its parents, subsidiaries, assignees, transferees, loan

portfolio purchasers, representatives, agents, officers, directors, employees, and/or trustees, are enjoined from and shall not collect, receive, charge, take, or obtain payments of any *interest* on any consumer loans entered into at any time from August 1, 2005 to July 10, 2011 between any Plaintiff or any member of the Certified Class on the one hand, and Defendant CashCall Inc. on the other hand, with an initial principal amount of $2,500 to $2,600. This is not a prohibition against collection of any principal still due and owing only on the 32,284 loans to those Class members whose net payments to Defendant are less than the amount of the principal of their loans.

No prejudgment interest is awarded.

Plaintiff and the Class are the prevailing parties entitled to statutory costs upon timely filing and service of a Memorandum of Costs.

Plaintiff's evidentiary objections to Trial Exhibits Nos. 362, 363 and 365 are SUSTAINED.

Class Counsel shall prepare and submit a proposed Amended Plan of Distribution of the judgment award to Plaintiff and the Class members.

THE COURT FINDS as follows, as its Final Statement of Decision:

Applicable Law and Legal Standards

At all relevant times, CashCall Inc. was a California licensed finance lender. (Finance Code §22009, §22100.) With some limitations, California licensed finance lenders are statutorily exempt from the Constitutional provision barring usury – specifically they can charge more than 10% simple interest per year on contractual debt. The Finance Code sets specific maximum amounts for interest charges where the principal owed is *less than $2500*. (Finance Code §22303 and §22304.)

Until the enactment of Section 22304.5 in 2019, no limit was set on the amount of interest that could be charged by a California licensed finance lender on a contractual consumer loan over $2500. That statute now requires that a loan for a principal amount of $2500 but less than $10,000 be subject to interest rates no higher than 36% simple interest per year plus the Federal Funds Rate. Plaintiff and the Class have alleged that their consumer loans through CashCall Inc. during the time period 2005 to 2011 were unconscionable, including the high interest rates – which occurred during the Class Period, before the setting of limits by Section 22304.5.

Finance Code Section 22302 is a catch-all provision barring unconscionable loan transactions by California licensed finance lenders, regardless:

(a) Section 1670.5 of the Civil Code applies to the provisions of a loan contract that is subject to this division.

(b) A loan found to be unconscionable pursuant to Section 1670.5 of the Civil Code shall be deemed to be in violation of this division and subject to the remedies specified in this division.

Civil Code Section 1670.5 states:

(a) If the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(b) When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable the parties shall be afforded

a reasonable opportunity to present evidence as to its commercial setting, purpose, and effect to aid the court in making the determination.

California Business & Professions Code Section 17203 give the court authority to grant injunctive relief and monetary relief, and make orders "as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition." See also Cortez v. Purolator Air Filtration Products Co. (2000) 23 Cal.4th 163, 176. "A UCL action is an equitable action by means of which a plaintiff may recover money or property obtained from the plaintiff or persons represented by the plaintiff through unfair or unlawful business practices." Cortez, at p. 173. Such equitable remedies can include restitution. Caro v. Procter & Gamble Co. (1993) 18 Cal.App.4th 644, 661; Cortez, 23 Cal.4th at pp. 177-178.

This is a class action for violation of Business & Professions Code Section 17200, challenging Defendant CashCall, Inc.'s 96% and 135% $2600 installment sub-prime loan product as unconscionable and unlawful pursuant to Civil Code Section 1670.5 and Financial Code Section 22302. Plaintiff and the Class claim that the interest rate and other aspects of the loan contract together were unconscionable pursuant to Civil Code Section 1670.5, Financial Code Section 22302, and Business & Professions Code Section 17200.

In the context of this case, while it was procedurally in the federal district court and on certified question to the California Supreme Court, the California Supreme Court held that determination of whether terms of the loan contracts between Plaintiff and the Certified Class and Defendant CashCall Inc. are unconscionable is an intensively factual question and involves judicial weighing and balancing:

As long established under California law, the doctrine of unconscionability reaches contract terms relating to the price of goods or services exchanged. [Citations.] Whether the price of a bargain is "unreasonably and unexpectedly harsh" depends on more than just a single printed number, so we examine not only the price term itself but other provisions and circumstances affecting a transaction's benefits and burdens. [Citations.]

An interest rate is the price charged for lending a particular amount of money to a given individual or entity. [Citations.] As with any other price term in an agreement governed by California law, an interest rate may be deemed unconscionable. [Citations.]

* * *

Unconscionability is a flexible doctrine. It is meant to ensure that in circumstances indicating an absence of meaningful choice, contracts do not specify terms that are "overly harsh," "unduly oppressive," or "so one-sided as to shock the conscience." [Citations.] Nonetheless, at least one thing about the doctrine is clear: it requires more than just looking at one particular term in a contract, comparing it to a fixed benchmark, and declaring the term unconscionable.

Instead, unconscionability requires oppression **or** surprise – that is, procedural unconscionability – along with the overly harsh or one-sided results that epitomize substantive unconscionability. [Citations.] Some measure of both procedural and substantive unconscionability must be present – although given the sliding scale nature of the doctrine, more of

one kind mitigates how much of the other kind is needed. [Citation.] Even where a party complains of a single contract clause, the court usually must still examine the bargaining process for any procedural unfairness. [Citations.] The court must consider whether there was (1) undue oppression arising from "an inequality of bargaining power," including the various factors tending to show relative bargaining power such as the parties' sophistication, their cognitive limitations, and the availability of alternatives; and (2) surprise owing to, for example, the "terms of the bargain [being] hidden in a prolix printed form" or pressure to hurry and sign. [Citations.] In short, a determination of procedural unconscionability may well be "highly dependent on context," very much different than deciding whether a certain rate cap applies. [Citations.]

In assessing the presence of substantive unconscionability, a court may also need to consider context. [Citation.] When a price term is alleged to be substantively unconscionable, we have explained that it is not sufficient for a court to consider only whether "the price exceeds cost or fair value." [Citations.] The court must also "look to the basis and justification for the price." [Citations.] If, for example, the interest rate is high because the borrowers of the loan are credit-impaired or default-prone, then this is a justification that tends to push away from a finding of substantive unconscionability. [Citation.] Finally, a court may consider whether there are market imperfections that make it less likely that the price was set by a "freely competitive market and therefore more susceptible to the unconscionability. [Citation.]

De La Torre v. CashCall Inc. (2018) 5 Cal.5th 966, 975-976, 982-983. "An unconscionability determination does not generally depend on a single factor, and tends to be 'highly dependent on context.' [Citation.]" Id., at p. 984.

> [W]hile unconscionability is ultimately a question of law, numerous factual inquiries bear upon that question. [Citations.] The business conditions under which the contract was formed directly affect the parties' relative bargaining power, reasonable expectations, and the commercial reasonableness of the risk allocation as provided in the written agreement.

A & M Produce Co. v. FMC Corp. (1982) 135 Cal.App.3d 473, 489 see also, Perdue v. Crocker National Bank (1985) 38 Cal.3d 913, 925-928.

> An evaluation of unconscionability is highly dependent on context. [Citation.] The doctrine often requires inquiry into the "commercial setting, purpose, and effect of the contract or contract provision. [Citations.] . . . The ultimate issue in every case is whether the terms of the contract are sufficiently unfair, in view of all relevant circumstances, that a court should withhold enforcement.

Sanchez v. Valencia Holding Co., LLC (2015) 61 Cal.4th 899, 911-912; see also OTO LLC v. Kho (2019) 8 Cal.5th 111, 125-126.

The claim in this Class Action lawsuit seeks determination of whether the terms of the loan agreements between CashCall and its borrowers are unconscionable in violation of California law. As established under California law, a determination of unconscionability of a contract, or its terms, requires consideration of whether there is procedural unconscionability *and* substantive unconscionability. In regard to

procedurally unconscionability, Plaintiff has explicitly stated that he is claiming "oppression" and *not* "surprise" – only one of which must be shown.

Given the "sliding scale" analysis of unconscionability, where "a procedure is demonstrably oppressive", "even a low degree of substantive unconscionability may suffice to render the agreement unenforceable". OTO, at p. 130.

That Plaintiff and the members of the Class voluntarily agreed to a high interest loan does not vitiate their right to claim "usury" or voidability of the contract after the fact. Public policy protects against illegal contracts regardless:

> An illegal contract cannot have the vital spark of legality infused into it by the mere hand of the man who subsequently asserts its nullity. The voice of him who induces an unlawful transaction has never attained to such virtue as will validate an unlawful contract; nor will the application of his hand to the preparation of an instrument evidencing an agreement effect the interference of divinity.

Martin v. Ajax Construction Co. (1954) 124 Cal.App.2d 425, 431. For example, a usury claim is not negated and "an estoppel does not arise simply because the borrower knew of the usurious nature of the transaction, took the initiative in seeking the loan, and paid usurious interests without protest." Janisse v. Winston Investment Co. (1957) 154 Cal.App.2d 580, 587.

Defendant asserts that its interest rates of 96% and 135% are not excessive or unconscionable given the First Appellate District's decision holding that a 100 percent markup "may be a generous profit, but it is wholly within the range of commonly accepted notions of fair profitability." California Grocers Assn. v. Bank of America (1994) 22 Cal.App.4th 205, 216. That is cherry-picking language out of the opinion

without putting it in the contexts of the facts of that case. In California Grocers, plaintiffs asserted that an NSF fee of $3 by Bank of America, which was double the actual costs to the bank, was unconscionable. The Court of Appeal held that there was an adhesion contract but acknowledged that the $3 NSF fee was openly disclosed in pamphlets regarding the terms of opening accounts. The Court of Appeal did not consider any other facts or elements of procedural unconscionability. The analysis of the Court of Appeal is inconsistent with the standards set by the California Supreme Court in De La Torre v. CashCall, as set forth above, that the availability of alternatives is part of the consideration for *procedural* unconscionability. In California Grocers, the Court of Appeal acknowledged that customers had multiple options to have their checking accounts at other financial institutions instead, when it considered the NSF fees charged by other institutions, as part of its *substantive unconscionability* analysis. Id., at p. 215. The Court of Appeal then found that a $3 did not "shock the conscience" given its low amount, given that it was only double, and given that other banks charged $4 to $10 NSF fees. It thus held there was no substantive unconscionability.

In making the above-quoted statement in California Grocers at page 216, the First Appellate District expressly compared and contrasted it with the situation in Perdue and in Carboni. In Perdue, 38 Cal.3d 913, Crocker National Bank charged a $6 NSF fee, but its costs were only 30 cents, thus a profit of 2000%, which might be the basis for substantive unconscionability. Id., at p. 928. In addition, the Court of Appeal found that initial disclosure of the fee was not upfront in a clear contract, but rather was in "a document which serves at least in part as a handwriting exemplar, and whose contractual character is not obvious. The contractual language appears in print so small that many could not read it." Id. This also went to the determination of procedural

unconscionability – facts not present in California Grocers. Accordingly, the Supreme Court overruled the demurrer.

In Carboni v. Arrospide (1991) 2 Cal.App.4th 76, the First Appellate District held that a 200% interest rate on a secured loan was substantive unconscionable. Id., at p. 83 ("We have little trouble concluding that an interest rate of 200 percent on a secured $99,000 loan is substantively unconscionable; i.e, that it imposes a cost on the borrower which is overly harsh and was not justified by the circumstances in which the contract was made.") The rate was 10 times that charged in the marketplace. The Court of Appeal also considered the evidence on defendant's "justification" for the higher rate, but determined that it was substantively unconscionable and not justified under the circumstances. Id., at pp. 84-85. The Court of Appeal also found procedural unconscionability, although the terms were clearly disclosed in the agreement, as it was an adhesion contract, not subject to bargaining, and the customer had no meaningful choice of other alternatives. Id., at pp. 85-86. In weighing on the sliding scale, the First Appellate District upheld the trial courts finding of unconscionability, and its judgment that only 24% could be charged.

It is clear that each case revolved around their own facts and circumstances. California Grocers does not hold as a matter of law that a charge yielding a profit of 100% is never unconscionable. The body of law is established that there is a weighing process of many facts and factors in the determination of unconscionability.

"Although unconscionability is ultimately a question of law, numerous factual inquiries bear upon that question. 'to the extent there are conflicts int the evidence or in the factual inferences which may be drawn therefrom, we must assume a set of facts

consistent with the court's finding of unconscionability if such an assumption is supported by substantial evidence.' [Citation.]" Carboni, at p. 93.

Plaintiff's CashCall Loan Experience

Plaintiff Eduardo de law Torre testified at trial regarding his CashCall loan transaction. Plaintiff obtained a CashCall $2600 loan back in 2006, when we was a college student, age 21. He grew up in Redwood City, California, and lives in East Palo Alto. His parents were immigrants to the USA, with a sixth grade education, and worked doing manual labor. Plaintiff has four sisters who did not go to college. Plaintiff wanted to go to college to have a better life, and obtained scholarships and loans to attend the University of California at Davis in Fall 2003. The school counselor helped Plaintiff fill out the FAFSA financial application to apply for college financial aid. Plaintiff used the funds for tuition as well as living expenses. Plaintiff testified that he did not even understand the terms of his student loans when he acquired them. He had no financial experience or training.

In January 2006, Plaintiff was in a desperate financial situation. He was on academic probation for two academic quarters, and lost his financial aid for that academic quarter as a result. So he had no money to live on. It was "traumatic", and Plaintiff felt embarrassed, shame, desperate, and lonely. He felt he was on his own, and had no one to help, as his family was not in a position to help him financially. Plaintiff was working part-time at school for near minimum wage.

In February 2006, Plaintiff saw the CashCall television advertisement, soliciting people to call "if you need cash fast", and that they can give "relief". Plaintiff was in a time crunch because he had bills to pay. So Plaintiff called the CashCall 800 telephone

number, and spoke to a representative about taking out a loan. Plaintiff only wanted to borrow $1300. Plaintiff was told that the terms of the loan were not negotiable, and told that the minimum loan was $2600. Plaintiff anticipated that he would do a $1300 prepayment of the loan (2600-1300) after he got his student loan which would start in Summer 2006. Plaintiff was told that he could apply, submit a form, and get a quick turn-around. He was told that he must apply online. During the telephone conversation with the CashCall representative, Plaintiff was not told the terms of the loans, other than the loan amount of $2600 and the monthly payment amount. Plaintiff went online and filled out the "boxes" on the application.

Thereafter, Plaintiff received a follow-up message from CashCall requesting further paperwork and documentation. Plaintiff gave them a copy of his ID, and a voided check so that CashCall could do direct deposit (and withdrawals).

Plaintiff was funded a $2600 loan from CashCall within 2-3 days of applying. He was sent a promissory note, that he doesn't recall signing. (Trial Exhibit #1.) He had no information about the term length of the loan, the annual percentage rate, the interest rate charged, or the amount of interest payments prior to entering into the transactions. He never asked. Plaintiff testified that he was in a "dire state of mind", trying "to survive". The terms were not important at the time, because he just needed to financially survive and pay his living expenses.

Plaintiff did know and realize that the monthly payment on the CashCall loan would be about $200, and he knew the $2600 principal amount. He said this would meet "my basic survival needs." He just wanted to pay his bills, and stay in his school.

Plaintiff did not think he had other financial options. He did not have a car, so he could not get an auto title loan. He did not have assets, so he could not get a pawn shop

loan. He was not aware of any upcoming tax refund for a tax refund anticipation loan. He did not think it was viable to apply for a personal loan from his bank, because it is "complicated", he had no credit history, and didn't want to wait two weeks or more to get funding.

Plaintiff made his CashCall monthly loan payments for about 1-1/2 years. In late 2007 or early 2008 he had trouble and missed a payment. He had too many debits on his account that month, and contacted CashCall to alert them that he could not pay that month, but CashCall did an attempted electronic payment anyway, yielding an NSF. In fact, Plaintiff was only two payments away from paying off the loan.

CashCall then started making multiple calls to Plaintiff regarding the debt, and calling Plaintiff's references to tell them about his debt. It is identified as a charge-off in Plaintiff's credit report. Plaintiff testified that he would not have taken out the CashCall loan if he knew then what he knows now.

Unconscionability Analysis of the CashCall $2600 Loan Transactions

The Court certified the following Plaintiff Class: "All individuals who, while residing in California, borrowed from $2,500 to $2,600 from CashCall for personal, family or household use at any time from August 1, 2005 to July 10, 2011." Evidence was presented that during this time period 133,848 such CashCall loans were made to Plaintiff and the Class. (See McFarlane trial testimony on 3/22/21, and demonstratives Trial Exhibits #35 and #36.) During the Class Period, CashCall charged annual interest rates of 96% for a 42-month term, or 136% for a 36-month term. The loan amount was always $2600, of which $75 was immediately paid to Defendant (upon funding of the

loan by the Defendant) as a loan "origination fee". So the actual loan proceeds to the borrower were $2525.

The California Supreme Court gave guidance to this Court that interest rates should be declared unconscionable only if they are so unreasonable and unexpectedly harsh as to be unduly oppressive or shock the conscience, in light of the totality of the transaction. De La Torre v. CashCall Inc., 5 Cal.5th at p. 973.

"Unconscionability is a flexible standard in which the court looks not only at the complained-of term but also at the process by which the contractual parties arrived at the agreement and the larger context surrounding the contract, including its 'commercial setting, purpose, and effect.' [Citations.]" De La Torre, at p. 976; see also, page 982.

The Supreme Court has instructed that this Court should consider, for procedural unconscionability:

- Unequal bargaining power
- Sophistication of the parties
- Cognitive limitations of the parties
- Availability of alternatives
- Existence of hidden terms
- Pressure to hurry and sign
- Procedural unfairness in the bargaining process

De la Torre, at pp. 982-983. For substantive unconscionability, the Court should consider:

- Harsh or one-sided results
- Lender's costs in making or administering the loan
- Basis and justification for the price/interest rate

- Whether the price is based upon a freely competitive market, or not

Id., at pp. 983-984.

Adhesion Contract and Unequal Bargaining Power

The evidence is undisputed that all of these CashCall consumer loans issued to Plaintiff and the Class were adhesion contracts. Thus there is an initial showing of procedural unconscionability. *None* of the terms of the CashCall $2600 consumer loans were negotiable. CashCall dictated the amount of the loan, the interest rate on the loan, the length of the loan, minimum monthly payment on the loan, and all of the terms of the written contract. No negotiation was acceptable. When a potential borrower requested to borrow *less* than $2600, CashCall refused. Defendant's agents simply told the potential borrower that if they didn't want all of the $2600[2] they could just immediately pay some of it back upon funding. Why? Because if Defendant loaned less than $2500 then the loan would be subject to the California Financial Code statutes limiting the amount of interest chargeable.[3] For example, applying the limits set by Finance Code Section 22303, if the loan was only for $1200, the lender could only charge interest of 24.75% per year – not 96%.

Plaintiff and the Class had *zero* bargaining power. Defendant only made these loans on a take-it-or-leave-it basis. The potential borrower could only accept, or walk away.

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[2] Plaintiffs' expert Professor Adam Levitin testified that $2600 is not a standard loan amount in the consumer loan market. The only purpose of making the loan be $2600 is to evade the usury loans in California.

[3] Evidence was presented that CashCall *did* make loans for less than $2600 in other states, but not in California.

Sophistication of the parties

In regard to sophistication of the parties, the focus is upon *financial* sophistication. Margot Saunders, Plaintiffs' expert on predatory lending practices, is a Senior Counsel at the National Consumer Law Center. Saunders testified that studies show that 90% of USA consumers cannot answer basic questions about financial matters. She testified that most people do not understand interest rates or how they apply to principal. People also do not understand why they would have to keep paying on a loan if they have already paid more than the amount of the loan principal in the first place. Many people also cannot understand how to calculate interest on a loan. She called this a "lack of quantitative literacy".

She testified that consumers who are Black, Hispanic, immigrant, lacking a high school degree, or whose first language is not English are shown to be particularly vulnerable to predatory lending practices. People who need money quickly are generally desperate and have a "perceived lack of choice". Most subprime borrowers do not compare providers of credit, and most think that the subprime high-interest rate loan is their only option. Their focus is simply upon the amount of the monthly payment. Saunders opined that there is a "grossly unequal knowledge level between consumer creditors versus consumer borrowers." Saunders did acknowledge that her opinions are not based upon the specific circumstances of each individual member of the Class.

Cognitive Limitations of the Parties

As to cognitive limitations, there was no particular evidence on this factor, other than the general lack of comprehension by subprime borrowers regarding financial matters – which is probably how they became subprime in the first place. Although

Plaintiff presented the testimony of Dr. Stacey Wood, a neuropsychologist, as an expert on borrower decision-making, it was too general. Dr. Wood's primary focus in her work is on decision-making by the aged and elderly, and how it changes over the lifespan – which is not relevant here. She did not conduct any survey of the Class members, or talk to any member of the Class, although she listened to some of the phone calls recorded by CashCall. She has no experience regarding lending. Her opinioned regarding the decision-making process was not of particular assistance to the Court in considering and weighing the unconscionability factors.

Availability of Alternatives

The $2600 CashCall loan product was not comparable to Alternative Financial Services Products. The "alternatives" asserted by Defendant are not actually comparable to or suitable substitutes for the CashCall $2600 unsecured subprime loans.

Delbert Meeks, the Chief Financial Officer of CashCall, testified that when he joined Defendant in August 2004, there was no one else in their market. Meeks testified that the CashCall loan product was "unique". The product was an unsecured, simple interest (no compound interest) consumer loan, with no prepayment penalty, provided to people with a poor credit history. Meeks testified to the effect that "no one else" was doing this at the time CashCall was founded.

Meeks testified that CashCall's $2600 subprime loans filled a niche between conventional bank loans and pay day loans. Such CashCall borrowers have an average FICO score of 578[4] – CashCall refers to such people as "unbankable". If these borrowers had a higher FICO score they could get a regular bank loan at conventional bank terms.

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[4] Evidence was presented that "subprime" is defined by the FDIC as a borrower with a FICO score of less than 660.

Meeks testified that the financial options for the subprime borrowers were not comparable to the CashCall $2600 product:

Pay Day Loans. Meeks explained that "pay day loans" are a loan based upon an advance on a paycheck. Typically, it is for a two-week term. The fees are high. Meeks stated that commonly the pay day loan is "rolled over" with new fees added. The loan is unsecured, i.e., there is no assignment of the paycheck. In California, they are referenced as "deferred deposit transactions"; and according to the California Department of Corporations, are for an average amount of $253 for an average term of 17 days with an average *annual* interest rate of 426%. [But on a loan of $253, that would be about $45 in interest due.]

Auto Title Loans. Meeks also testified that auto title loans were available, but that the borrower must own a vehicle that has zero debt on it, and the loan is secured on the vehicle.

Tax Refund Anticipation Loans. Meeks described the availability of loans based upon a tax refund. Where a borrower has already filed a tax return and a refund is due, the borrower takes a loan upfront, the tax refund is paid directly to the lender, and then any net is given to the borrower.

Plaintiffs' expert Saunders also testified regarding these "alternatives". She stated that the government refers to them as "Alternative Financial Services Products". Saunders testified that pay day loans in California are different from the CashCall unsecured loans. In California the pay day loan is limited to $300 for a term limited to one month. Typically the amount owed to pay back is $340. There is no underwriting. In order to get a pay day loan, the borrower must have a job with a paycheck and must have a bank account.

Plaintiffs' expert Adam Levitin opined that the CashCall $2600 product had "little or no direct competition" until late in the Class Period. He opined that all of these "alternatives" have very different characteristics than the $2600 CashCall unsecured subprime loans, as they all differed in regard to amount, length of term, secured or unsecured, fees, underwriting requirements, and/or prepayment options.

Levitin testified that Alternative Financial Services are *not* true "alternatives". They are non-bank, non-mainstream financial products, considered "fringe" financial services for people with bad credit. And none are comparable to the $2600 CashCall loan. He testified that simply "comparing" the interest rates charged, on an annual basis, is not an adequate comparison, as there are other aspects to each type of subprime financial product.

Levitin testified regarding California pay day loans, stating that they are for a maximum of $300, that they typically are $260 plus $40 in "fees" or interest. Their terms are 14 to 30 days, with maximum of 30 days and an average of 17 days. He stated that California does not allow rollovers for pay day loans – so one must find a different lender after 30 days.

Levitin discussed auto title loans in California. He stated that the borrower must own a vehicle completely, i.e., without debt or lien, and that the vehicle is used for security on the loan. It is not a loan used to buy the vehicle. Typically the loan amount is 25% to 50% of the BlueBook value. The term is generally 6 to 8 months.

Levitin discussed secured credit cards. The borrower must have a bank account with money in the bank – which deposit is held as collateral. A secured credit card had a small credit limit, typically $250 to $300. The money on deposit at the bank cannot be used until the credit card is paid off.

Levitin discussed pawn broker loans in California. He testified that they are loans secured by tangible property. So the borrower must have valuable assets already that the person does not need in order to live. California sets a maximum four-month term on such loans.

Levitin also discussed tax refund anticipation loans. He explained that the lender is your tax preparer. The loan is repaid out of the tax refund via direct deposit. The term is typically 11 days. So a borrower must file a tax return, and be owed money by the government in order to get such a loan.

Existence of Hidden Terms

The terms which Plaintiff and the Class find unconscionable are expressly stated in the subject loan agreement. There is no evidence of "surprise" in regard to the terms of the loan agreement. Plaintiff and Class agree that they are not asserting unconscionability based upon "surprise" but rather that it is based on "oppression" – as only one of the two need be shown. As there is no contention of surprise by Plaintiff and the Class, Defendant focused upon evidence showing no surprise. Surprise is not required, but there appears to be no barrier to the Court considering whether or not there is surprise in weighing the factors of unconscionability.

Plaintiffs emphasized that there is a difference between disclosure of terms versus understanding of those terms.

Evidence was presented by Defendant that some of the Class members actually paid off their CashCall loans, and then applied for and received another $2600 CashCall loan.

On the other hand, evidence was presented that CashCall does not affirmatively disclose all of the material terms of the loan prior to accepting the loan application or prior to issuing the promissory note. Evidence was presented that the phone representatives of CashCall will answer specific questions asked by the potential loan applicant if that person specifically asks the question in the first place. Defendant's advertising expert John Fuller, who did all the advertising for CashCall during the Class Period, testified at trial on cross-examination, that the television advertisements for the CashCall loans do *not* mention the length/term of the loan, do *not* state the total amount of interest payments, do *not* state the annual percentage rate of the interest to be charged, and do *not* state the actual interest rate. Fuller testified that CashCall customers focus on the amount of the monthly payment, not the interest rates.

Pressure to Hurry and Sign

Evidence reflects that there was no real pressure to "hurry and sign" per se. One of the ways that CashCall was unique, is that it was a pioneer in providing customers with the ability to prepare and submit loan applications online. Defendant's advertising emphasized speed: "Call today; cash tomorrow." Thus, the "pressure" was to proceed with the loan, even at the high interest rates.

CashCall would determine whether the application initially met its underwriting guidelines. Then the representative would walk the applicant through the process. Evidence was presented that sometimes applicants would stop and hang up, but then later decide to apply. So there was no pressure to sign, but rather emphasis on the speed of the process.

Procedural Unfairness in the Bargaining Process

As discussed previously, there was no bargaining process, because Defendant refused to negotiate any terms of the loan.

Harsh or One-sided Results

Evidence was presented that on a $2600 CashCall consumer loan at the 96% interest rate, the term of the loan was 42 months, with monthly payments of $216.44. The total payments due would be $9184.17 – of which $6659.17 is interest charges, and $2600 is principal. On a $2600 CashCall consumer loan at 135% interest rate, the term of the loan was 36 months, with monthly payments of $298.94. The total payments due would be $10,761.78 – of which $8236.78 is interest charges, and $2600 is principal.

Evidence was presented as to the "benefits" to the borrower of a CashCall loan: The lender makes a quick decision, typically within one to four days from the application. The application is easily done online and can be done with the assistance of a telephone representative of CashCall. Upon approval, funding of the loan is done quickly, typically after one day and certainly less than four days. Loans are given to a borrower with compromised credit history who lacks the ability to get conventional loans. No security is required.

Yet, a lender is not doing a favor to a borrower to give a loan that they cannot afford to pay.

The high interest rate and the payment structure over 3-1/2 years yields harsh results for the borrower – especially given that the borrowers are know to be subprime in the first place. Plaintiffs' expert Bruce McFarlane testified that on a typical $2600 CashCall consumer loan, after the borrower makes the contractual monthly payments for

one year, the borrower would have paid down only $162.00 in principal despite making total payments of $2688.73 – *more than the full amount of the principal*. (See Trial Exhibit #1 and also Trial Exhibit #31 demonstrative.) After making the contractual monthly payments for 20 months, the borrower would have only paid a total of $354 in principal, despite making total payments of $4421.13 – over one and a half times the amount of principal.

Plaintiff's expert on predatory lending practices, Margot Saunders, testified about the long-term harm to subprime borrowers. At the time of entering into the loan transactions, Defendant already knew and expected that there was a 35% to 40% probability that the borrower would default – and thus significant probability that the borrower would incur late fees, higher interest obligations, and further damage to credit history.[5] Saunders opined that Defendant "designed the loans knowing borrowers would have difficulty making the payments". Defendants' business strategy was intended to lend "to very risky borrowers."

The harshness of the situation is also reflected in the fact that borrowers *could not* borrow less than $2600, as discussed above. The purpose was to charge 96% (or 135%) interest rather than the regulated rate (approximately 24%). By requiring borrowers to borrow more than they wanted, and simply telling them to just prepay back what principal they didn't need/want, this yielded interest rate profits to CashCall that were unjustified. The impact is reflected in Defendant's own data, as testified to by Meeks, that of the Class members, 5467 of them repaid the entire loan in one month (approximately 4%) and 17.29% of the Class prepaid their loans within six months.

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[5] Defendant presented evidence that 33% of the Class members were not delinquent on their CashCall loans.

Plaintiff's expert Margot Saunders testified that the length of the loan term was also unfair and harmful to the borrowers. CashCall had the data that most of its loans were paid off by 20 months, but Defendant has the loan duration be 36 to 42 months long. If it had been 20 months, the default rates would be lower, and the borrowers would be less likely to end up with a "charged off" loan that further harmed their creditworthiness.[6] Even at 20 months, if the borrower prepaid to pay off the $2600 loan, the borrower would have already paid $4330 to CashCall and be expected to still owe $2208 in principal – thus yielding payments to Defendant of $6538 to pay off a $2600 loan. Instead Defendant set the loans for longer duration for its economic benefit, not caring if the loans went into default thereafter because they would have already been profitable to CashCall.

Expert Saunders also opined that the "no prepayment penalty" was *not* for the benefit of the borrowers. On the contrary, if a prepayment penalty was charged by CashCall it would undermine Defendant encouraging people to take out loans for more than they wanted/needed. Defendant pushed prospective borrowers to accept a $2600 loan, by assuring them that they could simply prepay what principal they did not need. As set forth above, the sole purpose was to impose a $2600 loan, and not something smaller, so that CashCall could charge a much higher interest rate.

Plaintiff's expert Adam Levitin also opined that the $2600 CashCall loan transaction was overly harsh and shocking if the loan terms are taken in combination, including the interest rate, the length of term, and that the underwriting was not based upon ability to repay. He testified that these loans were "loans doomed to failure" from

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[6] Saunders testified that higher interest rates actually *create* more risk of default. This makes sense because it increased the total that has to be paid on the loan.

the start. They were "overly harsh and unfair to borrowers and unduly favorable to CashCall." The business model for Defendant was to achieve a profit before the loan went into default, and that at the time of making the loan, Defendant already factored in that it expected 40% of these loans to go into default. Thus the subprime borrowers were set up to fail – as long as they "failed" after 20 months of making payments. Even if the loan goes into default, CashCall then gets *additional* money by selling those charged-off loans to others.

Lender's Costs in Making or Administering the Loan

The sole cost evidence presented by Defendant specific to its $2600 loan product was based upon its own profitability model. Defendant did not present any evidence as to the actual dollar cost for making and administering these $2600 loans at the time. The evidence is that the high interest rates charged by CashCall were *not* due to high administrative costs in making or servicing these loans. On the contrary, the evidence is that Defendant kept costs down – except for its advertising budget.

The advertising costs were not a true "cost" of making the loans or administering the loans. Indeed, the vast majority of the people who responded to the advertisements by "making the call" to CashCall ultimately did not apply, or did apply and were rejected.

In regard to administering loans, Defendant requires that its $2600 loan borrowers have an existing bank account, and requires that the monthly payments on the loans be set up as an automatic ACH withdrawal.

In regard to defaults and delinquencies, it was CashCall's policies and procedures that if a monthly payment was not made (such as a situation of NSF), Defendant would contact the borrower regarding payment. If the monthly payment was still not made, the

loan was deemed "delinquent". If a loan was delinquent for 150 days, then it was "charged off" aka deemed to be in "default".

Defendant's overhead is lower than conventional lenders, as all loan transactions are done online (starting back in 2004 when they were the only ones), and all communications are by telephone or online, so CashCall has centralized operations, i.e., no branch offices.

Basis and Justification for the price/interest rate

Meeks testified regarding the history of the CashCall $2600 product. The first loans by CashCall were in July 2003 for $10,000.[7] The first $2600 loans were in fourth quarter 2004. Originally, CashCall was issuing $2600 unsecured consumer loans at 79% annual interest. This was then increased by Defendant to 87%, as Defendant was experiencing losses due to defaults and business costs at the 79% rate. CashCall was still not profitable at 87%. During mid-2005, CashCall increased the interest rate to 96%, and was profitable. The second half of 2007, Defendant posted losses. Starting July 2009, CashCall increased the interest rate to 135%, because Defendant's own cost of capital doubled from 15% to 30% due to the Great Recession. There were also higher default rates being experienced by CashCall during that time period, due to the liquidity crisis in the American economy.[8]

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[7] CFO Meeks testified that these $10,000 loans were originally offered at 24% to 39%, but that CashCall was unable to make many loans because it set its underwriting guidelines to require a FICO score of at least 600, plus residual income.

[8] Plaintiffs' expert Levitin testified that the proper remedy for high default rates is to tighten your underwriting requirements, not to raise interest rates.

Unlike a bank which takes in deposits, Defendant was purely a lender. CashCall's founder and CEO Paul Reddam "invested" an initial tranche of $40 million of his personal capital into CashCall, plus a $20 million loan with note payable (later converted to equity).[9] This funding was used up by CashCall, and further rounds of funding were necessary. In second quarter 2006, a "Loan Syndicate" was formed by Deutsche Bank to include banks, hedge funds, etc. to lend funds to CashCall that Defendant used to fund the loans it made. Thus, Defendant borrowed money in order to lend money to Plaintiff and the Class – at a higher rate than Defendant was paying. The initial credit line by the Loan Syndicate was $486 million, and then increased beyond that over time. The consumer loans made by CashCall were the collateral for its own loan.

CashCall had a default rate[10] of 35% to 40% at the time Defendant decided to increase its loan interest rate to 96%. Yet, CashCall had that *same* default rate at the time Defendant decided to increase its interest rate to 135% in July 2009. Indeed, Meeks testified that **during the entire Class Period, CashCall's default rate stayed the same *regardless of the interest rate charged to customers*.** Even borrowers with better FICO score were charged the same high interest rates, rather than adjusting the loan terms (including interest) based upon the particular individual's creditworthiness.

Meeks testified that the actual default rate for the Class was 40.5%. Yet, he testified that the "default" rate was calculated by CashCall based upon the total dollar amounts of loans that went into default (i.e., failed to make a payment sometime during

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[9] CashCall Inc. was set up as an S Corporation owned by Reddam. Accordingly the company did not pay taxes, rather all profits/losses and tax obligations passed to its owner Reddam.

[10] CashCall calculated its "default rate" as unpaid loan balances charged off divided by the number of loans x $2600.

the term of the loan), and was *not* based upon the number of loans. The default rate of the Class based upon number of loans was apparently 45.9% -- and the evidence is that the higher rate was due to the Great Recession during the Class Period.

During the Class Period, 45% to 50% of the loans were prepaid, i.e., that payments were made on the loan for more than the minimum amount or sooner than the 3-1/2 year term concluded. Such prepayments reduce the amount of interest income to Defendant. 43.8% of the borrowers pay off the loan prior to the term end. The average life of a $2600 loan is less than 2 years (1.6 to 1.7 years). Only about 10% of the borrowers go all the way to 42 months.

Meeks testified that CashCall will meet its profit target on the $2600 loan product if the borrower continues to pay 20 months. More specifically, on a loan pool basis, the average loan in the pool had to pay to month 20 in order for CashCall to reach its 15% to 20% profit target. He testified that the "break even" point for CashCall to recover its costs and overhead is about 15 months, unless the loan is prepaid earlier. CashCall will "break even" on its costs and overhead if the entire loan is prepaid in 8 to 9 months. (See also Trial Exhibit #331.) He stated that if a $2600 loan is paid off before month 10, then CashCall will sustain a loss.

Whether the price is based upon a freely competitive market, or not

As set forth above, CFO Meeks testified that the CashCall $2600 unsecured subprime consumer loan was "unique". Indeed, CashCall represented to its own prospective lenders (back in 2006) that CashCall had a "3-year first movement advantage" over other potential competitors, that it was a "pioneer in the industry", that it had "no competitors", and has "strong brand recognition". (Trial Exhibit #8 "Pitch

Book" and Trial Exhibit #10, testimony by Meeks.) Indeed, CashCall stated to others that pay day lenders and auto title lenders are not direct competitors of Defendants.

Meeks testified that CashCall had its own internal "profitability model" that it used, and the Executive team (of five people) at CashCall set the interest rates during the Class Period. The model considered historical data including loan pool size, prepayments, defaults, company costs, costs of financing, and overhead; and calculated profitability per product type *daily* as to actual versus projected profitability. The profitability model is focused on achieving a profit of 15% to 20%.[11]

CashCall's profitability model attributes 25% of the loan amount as loan origination costs – of which approximately 3% is immediately recouped by charging the $75 loan origination fee to the borrower. Of these "costs", *over 50% is for advertising*, and the remainder is for employee labor costs/payroll and for credit reports. Thus, these business costs have nothing to do with the "risk" of making these loans to subprime borrowers, and cannot be the basis for justifying high interest rates or other related terms.

CashCall attributes 8% to 9% to "servicing" costs, including customer service, payment processing, and *predominantly* collection efforts. CashCall also has its own financing costs, for borrowing money for use in lending, that was originally in the neighborhood of 9% but escalated to 30% during the Great Recession.

Meeks testified that the 96% interest rate *was not* set by CashCall based upon competitive pricing or comparison with competitors, but rather it was set by the "model" to achieve the profitability that CashCall wanted. It was "risk based" pricing, *not* competitive pricing.

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[11] Plaintiffs' expert Adam levitin testified that a profitability target of 15% to 20% was high for the consumer finance industry.

At the time of making these $2600 subprime consumer loans, CashCall *expects* that 35% to 40% of the loans will default, i.e., that monthly payments will stop before the loan is fully repaid.

If the borrower goes all the way and makes all monthly payments timely, but does not prepay, and pays for the full 42-month term, then CashCall would make a 15% to 20% profit on that individual $2600 loan. But CashCall gave no market comparison. Meeks testified that CashCall *does not compete* with others, and Defendant *does not* adjust its interest rates to compete with others. It simply sets its own profitability targets. Indeed the evidence is that CashCall *never* modified it profitability targets over the years, despite changes in the market and the economy.

Evidence was presented that even Defendant's change in its interest rate from 96% to 135% was not based upon market conditions or as a response to any competitors. There was no fair market pricing used by CashCall.

Meeks testified that during the Class Period, CashCall made a profit of 7% to 8% on its $2600 loans. CashCall presented not documentation to support this oral statement. The financials presented by Defendant during the Meeks testimony was for the entire company as to all of its loan products during the years of the Class Period, and none had profits or losses broken out loan product.

The same is true for the testimony of Defendant's expert witness Christopher James. Although James asserted that CashCall's profitability was "below median" of the subprime lending market (including "alternatives"), he conceded that the financial statements were for the company over all[12], included the mortgage loan business of

[12] James testified that the total net profit margin for CashCall, according to its financial statements, was 23.3% of 2005, 9.4% for 2006, negative 7.3% for 2007, 0.3% for 2008 and for 2009, 13.3% for 2010, and 24.2% for 2011.

CashCall (i.e., secured loans), and had no data as to the $2600 unsecured loan products alone. It was also conceded that profitability went down because of the Great Recession. Even true monopolies lose profitability during a recession.

James asserted that there was "a lot of shopping in this market going on" for subprime loans, and that there was comparative shopping and competition. The Court did not find the testimony of James to be persuasive. As examples: James testified that other subprime loan products are non-negotiable just like CashCall. This ignores the factual evidence that the alternative lenders *do* allow the customer to choose or negotiation the amount of the loan, whereas CashCall does not. James testified that the TILA disclosures in the CashCall promissory note allow a customer to compare with other subprime lenders. This doesn't make sense, because the customer doesn't see the TILA disclosures under *after* CashCall loan is approved. James testified that the annual percentage rate is the best basis for customer comparison. This makes no sense here, because alternates like auto title loans and pay day loans does not have TILA disclosures; and the evidence is that CashCall never advertises its annual percentage rate to the public. James opined that the CashCall loans and Alternative financial Services Products had common features, such as that they were "short-term loans". Yet, the CashCall loans are obviously not "short term", because they are more than one year, and indeed are for three to three and one half year terms. James stated that he considers secured mortgages to be long term, not unsecured subprime loans. James testified that these other subprime products are "alternatives" to customers if it influences the price of the product at issue. Yet, evidence was presented through Meek that the price of other alternative subprime products *do not* effect the "price" terms of CashCall $2600 loan products.

Expert Adam Levitin testified that CashCall had no competition through 2007, and even as of 2010/2011 Defendant admittedly (via deposition testimony of Meeks) had "only minor competition" or "only minimal competition." In those later years, CashCall had four possible competitive lenders, but they were all minor players in this subprime market and had no price pressure on CashCall even though they offered lower rates.

Adam Levitin opined that any competition had no effect on Defendant's pricing. Indeed, Defendant increased the loan pricing, even during the time that Defendant had complete market power in the subprime lending market.

Levitin opined that any alleged "competition" had no effect on the CashCall $2600 loan product. Despite Defendant's assertions that competitors and "alternatives" existed in the market, during the Class Period, Defendant's default rate did not change, Defendant's interest rates *increased* not decreased, Defendant did not change its profitability target, and Defendant did not change its product to "match the market". What other lenders did was ignored by CashCall. Its focus was advertising targeted to desperate borrowers who did not shop around for financing.

Weighing the Factors

On weighing these factors, the Court finds that the $2600 CashCall consumer loan agreements with Plaintiff and the Class were procedurally and substantively unconscionable.

As to procedurally unconscionability, the evidence is clear that these are adhesion contract, as to which *zero* terms are negotiable, and that CashCall has all (unequal) bargaining power. Thus there was also procedural unfairness in the bargaining process. The financial sophistication of the parties is also unequal, as CashCall intentionally

targets subprime borrowers desperate for funds. During the Class Period, there were no comparable alternatives. Other "loan" types available to the public were not the same as the CashCall $2600 loan products. Those subprime loan companies that came into the market later in the Class Period were insignificant or not well-known, given CashCall's primary entry into the subprime loan product market and established market recognition. These factors weigh significantly in demonstrating heavy procedural unconscionability, as compared to the other procedural factors.

As to substantive unconscionability, evidence was presented that the terms of the CashCall $2600 subprime loan agreements yielded harsh results to the borrower, that the amount of the loan principal and the term of the loan were specifically designed to require the borrower to pay exorbitant amounts of interest with tiny amortizement of principal with the monthly payments over the first two-plus years. The terms also yielded a high probability that the subprime borrower would default on the CashCall loan, such that they would be even more uncreditworthy. CashCall's costs of business did not justify or require the huge interest rates charged by it. On the contrary, the evidence is that CashCall *did not* price its $2600 loan product based upon the costs of business, but rather set an artificial profit goal – which profit goal had no demonstrated correlation to the profit margin of other subprime lenders or allege "alternative" lenders. CashCall presented no such profitability evidence as to competitors in the market. The "price" of the CashCall loan was not based upon a freely competitive market. CashCall presented no reasonable basis or justification for its contractual terms and "price". That it had a high default rate is not a sufficient basis, as it never adjusted its terms *based upon the default rate* – on the contrary, the evidence is that it adjusted its *underwriting criteria* based upon the default rate, but did not decrease or increase its *contractual terms* to the

borrowers. These substantive facts weigh significantly in demonstrating heavy substantive unconscionability, as compared to any other substantive factors

CashCall's Justification

CashCall strenuously asserts that it was simply providing a service for which there is demand, namely a high-risk financial transaction, and accordingly it must charge high prices in order to make it financially worthwhile. As a matter of public policy, our society does not require or condone that every human "demand" be satisfied with "supply". In California there are needs and desires that people must suffer without fulfillment, for the protection of themselves and/or other members of society. Other needs and desires are also denied fulfillment for the sake of our environment or against cruelty.

Defendant's argument is also watered down by the fact that CashCall does not make loans to everyone who applies. Indeed, the vast majority of people who apply for a $2600 CashCall subprime consumer loan are *rejected* by Defendant. Evidence was presented as to the "underwriting" requirements of CashCall before it will make a loan. These underwriting requirements by Defendant changed throughout the Class Period. (Trial Exhibits #251, #32.) Of the hundreds of thousands of people who call CashCall inquiring about a loan, only 5% ultimately apply and receive a loan. Of the people who do apply for the CashCall $2600 loan, 70% of them are rejected by Defendant.

Evidence was presented that the business model of CashCall in making these $2600 subprime consumer loans is *not* consistent with general reasonable business

practices.[13] Rather it was to attempt to reap money through onerous loan contracts preying upon financially desperate people who were not creditworthy.

Remedies

Finance Code Section 22750(b) provides that if there is a violation of the statutes pertaining to finance lenders making consumer loans, which violation is done willfully, "the contract of loan is void, and no person has any right to collect or receive any principal, charges, or recompense in connection with the transaction." Section 22750(a) provides that "if any amount other than, or in excess of, the charges permitted by this division is willfully charged, contracted for, or received, the contract of loan is void, and no person has any right to collect or receive any principal, charges, or recompense in connection with the transaction."

Finance Code Sections 22751 and 22752 provide that if excess interest or other amounts are charged, or other violations of the finance lending statutes are committed, "for any reason other than a willful act of the licensee", then the interest and excess charges on the loan are "forfeit" but the lender can still keep or receive the principal amount of the loan.

The $75 "prepaid finance charge/origination fee" fee charged by CashCall upfront, by taking it out of the loan principal at the time of funding the loan, was legal under Finance Code Section 22305.

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[13] Meeks testified that CashCall stopped making any unsecured consumer loans as of approximately 2018. LoanMe is now the company in that business, founded by several ex-executives of CashCall. Instead, CashCall switched to making mortgage-backed loans.

Ours is not a direct cause of action under the Finance Code, but rather a claim for unlawful business act or practices under Business & Professions Code Section 17200. Remedies thereunder include monetary restitution and injunctive relief. Section 17203 provides that the Court has authority in equity to make orders or judgments "to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition." See Cortez v. Purolator Air Filtrations Products Co. (2000) 23 Cal.4th 163, 176. This includes the return of money obtained. Cortez, at p. 177.

In Fletcher v. Security Pacific National Bank (1979) 23 Cal.3d 442, the bank charged interest on commercial loans calculated as a 360-day year, rather than a 365-day year. The California Supreme Court held that even though the case could not proceed as a class action for breach of the loan contract (because of the individual question of knowledge), that a class action might proceed on unfair business advertising practices to seek recovery of the excess interest. Fletcher, at p. 451.

Such monetary recovery is limited to restitution of funds taken, not disgorgement of all profits. Korea Supply Co. v. Lockheed Martin Corp. (2003) 29 Cal.4th 1134, 1148.

"The court's discretion is very broad. Section 17203 does not mandate restitutionary or injunctive relief when an unfair business practice has been shown. Rather, it provides that the court "*may* make such orders or judgments . . . as may be necessary to prevent the use or employment . . . of any practice which constitutes unfair competition . . . or as may be necessary to restore . . . money or property." [Citation.] That is, as our cases confirm, a grant of broad equitable power." Cortez, at p. 180.

Upon due consideration of all the circumstances, the Court orders that (i) as the subject contracts were unconscionable at the time of the parties' agreement, including but

not limited to that the interest rate charged was unconscionable at the time of entering into the loan contract, and thus in violation of the finance lending statutes, and constituting an unlawful business practice, Defendant CashCall Inc. must forfeit and return to Plaintiff and the Class any and all interest paid by Plaintiff and the Class on their CashCall $2600 loans; and (ii) Plaintiff and the Class are responsible for payment of any principal due and owing on their CashCall loans, and this principal is not forfeit by Defendant. As the interest obligation is enjoined, then all payments actually made would be credited to total principal due by Plaintiff and the Class – and any net would be the restitution of the interest paid by Plaintiff and the Class as to the 101,564 "$2600" consumer loans where the Class member paid more than the amount of principal on those loans.[14] Plaintiff and the Class presented expert witness evidence of Bruce McFarlane as to these totals for them, and the net results of restitution due to Plaintiff and the Class as a group. No further money is collectable against Plaintiff and the Class as to those 101,564 consumer loans, and any collection of interest thereon is enjoined.

Although the $75 loan origination fees charged is legal, and not subject to restitution, that amount is accounted for as part of the $2600 principal that Defendant is entitled to keep/be paid.

According to the expert testimony of McFarlane, the net calculation for restitution, as determined by this Court, would be $245,515,389.

McFarlane testified that as to 32,384 of the $2600 CashCall consumer loans to the Class, the borrower paid less than the total amount of principal, and thus those members

[14] Evidence was presented that 54% of the Class paid their CashCall loans in full (principal and interest).

of the Class do not receive monetary restitution, but are entitled to injunctive relief against any collection of interest on those loans.

Both sides assert that this Court can consider a remedy based upon a finding of what would *not* be an unconscionable interest rate on these $2600 consumer loan products made to people with risky creditworthiness. Suggestion is made and evidence presented as to 36% -- which is a basis for the new statute setting an interest rate cap on such loans.

The Court does not agree. This Court must adjudicate whether or not the 96% (or 135%) interest rate charged is unconscionable under the circumstances. It is not up to this Court to adjudicate what would *not* be an unconscionable interest rate above the Constitutional interest rate of 10% simple interest per year. (California Constitution, Article XV, Section 1(2).) That the Legislature has now set a maximum of 36% (plus) is a matter of policy or of legislative negotiation, not an adjudication of conscionability.

Defendant asserts that Plaintiff and the Class must prove and the Court must determine as "offset" of "value" using a "price premium" approach. The cases upon which Defendant relies require no such thing in our action. The present case is on a single claim for *unlawful* business conduct in violation of *statute*(s), involving consumer loan products where principal is a sum certain and easily distinguishable from the unconscionable interest requirement. There is no claim asserted under the "unfair" or the "deceptive" prongs of Section 17200.

Instead, Defendant seeks to impose case law from lawsuits involving *intangible* aspects of *physical* products and/or involving claims of *deceptive advertising* under Business & Professions Code Section 17500 (along with Section 17200). Those "price premium" cases that Defendant seeks to apply specifically pertain to measure of

restitution *for false representations and material omissions* under a claim for *deceptive practices* under Section 17200 and/or *false advertising* under Section 17500. Stern, Business & Professions Code Section 17200 Practice (TRG 2023) §8:87. This distinction is identified and highlighted by the Ninth Circuit Court of Appeals in Pulaski & Middleman LLC v. Google Inc. (9th Cir. 2015) 802 F.3d 979, 988-989 (discussing *Nelson, Colgan, Kwikset* and the measure for restitution if the plaintiff is "deceived by misrepresentations into making a purchase" or "other forms of fraudulent omission"). "In calculating restitution under the UCL and FAL, the focus is on the difference between what was paid and what a reasonable consumer would have paid at the time of purchase **without the fraudulent or omitted information.**" Pulaski, at p. 989, bold added. That is simply not the claim here.

Defendant cites to Colgan v. Leatherman Tool Group Inc. (2006) 135 Cal.App.4th 663. That case involved a claim for false advertising under Section 17500 as well as deceptive business practices under Section 17200 and CLRA (Civil Code Section 1750) for labeling and advertising its tool products as "Made in U.S.A.", when parts of them were actually manufactured outside the United States. This was a false advertising and *deceptive* practices case regarding an *intangible* aspect of a *physical* product. The Court of Appeal upheld the trial court's ability to order restitution, but reversed on the basis that the trial court had no evidence supporting his methodology. In Colgan, the trial court decided that 25% of the price paid the tool would be attributed to the false intangible representation that it was Made in USA. The Court of Appeal found that there was no evidence support this arbitrary 25%, and remanded the case. The *holding* in Colgan was based upon a lack of any evidence for the restitution amount awarded – which is not our situation. In addressing the measure of restitution *in that case*, the Court of Appeal relied

upon a treatise regarding the situation of "fraud, duress or other consciously tortious conduct". Id., at pp. 698-700. It is *that* portion of the Colgan decision that Defendant seeks to impose here; but it is not applicable because there is no claim of deceptive practices or of tortious conduct, but rather is for violation of statute.

Defendant cites to In re Tobacco Cases II (2015) 240 Cal.App.4th 779, which again is a *deceptive advertising* case. Plaintiffs asserted that the tobacco industry falsely advertising "light" cigarettes as being healthier than standard cigarettes. Plaintiffs sought restitution as the difference between what they paid for the cigarettes and their value if they had been healthier than regular cigarettes – which made no sense since the trial court held that all cigarettes were unhealthy. The Court of Appeal held that the consumers were not entitled to return of their entire purchase price, and that they had no evidence the *intangible* "value" of a healthier cigarette as comparison. Id., at pp. 792-794. The Court of Appeal's discussion was that a full refund is only appropriate *for deceptive advertising* if the product purchased has no value. Id., at pp. 794-795; see also Nelson v. Pearson Ford Co. (2016) 186 Cal.App.4th 983, 1018. Otherwise what is subject to restitution must be a measurable amount. Id. Again, the decision does not apply to our CashCall situation.

Defendant cites to In re Vioxx Class Cases (2009) 180 Cal.App.4th 116. That case involved a claim for *deceptive advertising* and material omission of failure to disclose that it was more dangerous than other pain relievers. Plaintiff and the Class were not seeking tort damages for personal injuries, but rather sought "restitution" of the difference between the price of Vioxx and the price of "a safer, equally effective, pain reliever." The Court of Appeal in Vioxx was only addressing the issue of class certification, not the merits and not any award after trial. In the section of the Vioxx

decision cited by Defendant CashCall at page 131, the Court of Appeal was discussing the restitutionary measure for *deceptive* practices, not unlawful practices in violation of statute. Vioxx, at p. 131 ("This language, providing restitution of funds which 'may have been acquired,' has been interpreted to allow recovery without proof that the funds were lost as a result of actual reliance on the defendant's deceptive conduct."); see also at page 136 ("However, in order to obtain classwide restitution under the UCL, plaintiffs need establish not only a misrepresentation that was likely to deceived but also the existence of a 'measurable amount' of restitution, supported by the evidence.")

Defendant also cites to Dumas v. Stocker (1989) 213 Cal.App.3d 1262, which is completely irrelevant. That was a personal injury case, holding that the plaintiff has the burden of proof of punitive damages evidence. Thus it has nothing to do with restitution or Section 17200.

The difficulty in those deceptive advertising practices cases involving a fraudulent omission is that the Business & Professions Code requires a showing that the consumer actually parted with money acquired by the defendant *by means of* the deceptive practice. There is no such difficulty in our CashCall case, because Plaintiff and the Class *did* pay interest to Defendant, and it can be readily determined what was paid as the unlawful interest and what was paid as the lawful principal.

Although Defendant references the Supreme Court's decision in Cortez, 23 Cal.4th 163, Defendant ignores the restitutionary measure for ***unlawful*** business practices, i.e., violation of a statute then enforced through Section 17200. In Cortez, the plaintiff and class alleged a violation of the Labor Code for failure to pay overtime wages when due for work performed.

> [W]e also conclude that unlawfully withheld wages are property of the employee within the contemplation of the UCL. Our conclusion that these wages may be the subject of a restitutionary order under section 17203 is consistent with our recognition in Walnut Creek [citation], **that restitutionary awards encompass quantifiable sums one person owes to another. . . "**

Cortez, at p. 170, bold added. The money that belongs to the plaintiff pursuant to statute and does not belong to the defendant pursuant to statute is subject to restitution. There is no weighing of values.

In People ex rel Kennedy v. Beaumont Investment, Ltd. (2003) 111 Cal.App.4th 102, cited by Defendant, is a case alleging *unlawful* business practices under Section 17200 based upon a rent control ordinance violation. The Court of Appeal upheld the trial court's restitution remedy of requiring defendant to repay to all mobilehome tenants the amount of rent charged above-ordinance rent – i.e., restitution of *all* of the money charged in violation of the ordinance law -- and upheld the trial court's injunctive relief forbidding the defendant from charging excessive rent in the future. Kennedy, at pp. 135-136. This supports this Court's remedies awarded.

As set forth above, the Finance Code provides that the *entirety* of the interest is unlawful and forfeit if it is unconscionable. The Finance Code goes even further to say that the principal may also be forfeit – but that is not a remedy provided under Section 17200. The unlawful conduct was charging the unconscionable interest, and thus all of the interest is unlawful and subject to return to the consumer.

This Court's remedy of restitution is indeed the restoration of money to a person acquired by Defendant by means of its unlawful business practice of charging

unconscionable interest on a consumer loan. B&P Code §17203. "The object of restitution is to restore the status quo by returning to the plaintiff funds in which he or she has an ownership interest." Korea Supply, at p. 1149.

DATED: November 7, 2023

HON. MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

EDUARDO DE LA TORRE,

Plaintiff,

v.

JOHN PAUL REDDAM; CASHCALL, INC., a California corporation; and DOE 1 through DOE 20, inclusive,

Defendants.

30-2024-01421309-CU-NP-NJC
Case No. _____

Assigned for All Purposes
Judge Nathan Vu

COMPLAINT FOR AVOIDANCE AND RECOVERY OF VOIDABLE TRANSFER [Civil Code §§ 3934 *et seq.*]

Plaintiff Eduardo De La Torre, for himself and for the benefit of the Class certified in *De La Torre v. CashCall, Inc*., San Mateo Superior Court Case No. 19CIV01235, complains against defendants, and each of them, pursuant to Civil Code section 3439.07, and alleges as follows:

1. Eduardo De La Torre is the plaintiff and class representative in a class action lawsuit against defendant CashCall, Inc. ("CashCall") in San Mateo County Superior Court, *De La Torre v. CashCall, Inc*., San Mateo Superior Court Case No. 19CIV01235.

2. The Court in *De La Torre v. CashCall* certified a plaintiff Class and has rendered a money judgment against CashCall in favor of the Class.

3. Plaintiff brings this action for himself and for the benefit of the Class in *De La Torre v. CashCall* pursuant to the Uniform Voidable Transactions Act (UVTA), Civil Code §§ 3934 *et seq*., to avoid and recover a large money distribution CashCall made in October 2021 to its sole shareholder, defendant John Paul Reddam, in violation of the UVTA, and any other transfers CashCall has made to Mr. Reddam in violation of the UVTA.

4. Defendant John Paul Reddam is, and all material times was, the sole shareholder and Chief Executive Officer of CashCall. Plaintiff is informed and believes, and on that basis alleges, that Reddam is a resident of California and resides in Orange County, California.

5. Defendant CashCall is a California corporation whose principal place of business is located in Orange County, California. Plaintiff joins CashCall as a defendant in this case because CashCall may have an interest relating to the subject of this action and be so situated that the disposition of the action in its absence may as a practical matter impair or impede its ability to protect that interest.

6. Defendants DOE 1 through DOE 20 are persons or entities whose true names and identities are now unknown to plaintiff, and who therefore are sued by these fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of these fictitiously named defendants when they are ascertained. Each of the fictitiously named defendants is a recipient of and/or has possession of distributions made by CashCall in violation of the UVTA and is liable to pay these distributions to plaintiff for his benefit and for the benefit of the Class certified in *De La Torre v. CashCall, Inc*.

7. On March 7, 2019, plaintiff filed *De La Torre v. CashCall* as a class action, seeking restitution and injunctive relief under the Unfair Competition Law, Business & Professions Code §§ 17200 *et seq*. The complaint challenged CashCall's $2,600 consumer installment loans as unconscionable, in violation of Civil Code section 1670.5 and Financial Code section 22302, and requested restitution of interest paid on those loans by members of the Class. Plaintiff requested that the court certify a plaintiff Class defined as "All individuals who, while residing in California, borrowed from $2,500 to $2,600 from CashCall, Inc., for personal, family or household use at any time from August 1, 2005 to July 10, 2011."

8. The case was assigned to the Honorable Marie S. Weiner, Judge of the San Mateo Superior Court.

9. On January 16, 2020, Judge Weiner granted plaintiff's Motion for Class Certification. The Court certified a Class consisting of "All individuals who, while residing in California, borrowed from $2,500 to $2,600 from CashCall for personal, family or household use at any time from August 1, 2005 to July 10, 2011."

10. By later Stipulation and Order, the Class definition was amended as follows: "All individuals who, while residing in California, borrowed from $2,500 to $2,600 from CashCall for personal, family or household use at any time from August, 1, 2005 to July 10, 2011, whose loans had an interest rate of 90% or more."

11. In 2021, Judge Weiner presided over the trial of *De La Torre v. CashCall*. The trial began on March 8, 2021, and testimony concluded on May 18, 2021.

12. During the trial, Class Counsel presented expert testimony calculating the restitution sought on behalf of the Class as $292,393,266 and $243,355,073, based on two different calculation methodologies. These calculations were based on borrower transactional data, including borrower payments, that CashCall had produced for the period through May 13, 2020.

13. On or about August 6, 2021, CashCall reached a settlement in principle of a legal malpractice action (the "Katten Litigation") CashCall had filed against the law firm of Katten Muchin Rosenman LLP ("Katten").

14. On or about August 21, 2021, CashCall and Katten signed a settlement agreement and the Katten Litigation was dismissed.

15. On August 31, 2021, at CashCall's request, final argument was scheduled in *De La Torre v. CashCall* for November 1, 2021.

16. On or about September 16, 2021, Katten and/or entities on Katten's behalf wired the initial settlement payment of the Katten Litigation to CashCall.

17. On September 20, 2021 and October 4, 2021, Class Counsel and counsel for CashCall submitted simultaneous opening and closing post-trial briefs in *De La Torre v. CashCall*. In plaintiff's September 20, 2021 brief, plaintiff requested that the court award restitution of $292,393,266 in interest to the Class, in accordance with the evidence plaintiff submitted at trial.

18. On or about October 19, 2021, CashCall made a large money distribution to Mr. Reddam (the "Transfer"). The Transfer was over half of the net settlement payment wired to CashCall on or about September 16, 2021.

19. On November 1, 2021, Judge Weiner heard closing arguments in *De La Torre v. CashCall*.

20. On January 20, 2022, Judge Weiner issued a Tentative Decision After Court Trial, proposing to award the Class "any and all interest payments made to Defendant CashCall Inc. on those consumer loans funded during the Class Period; offset by any and all principal amounts (including the $75 fees) on the consumer loans made by Defendant to Plaintiff and the Class on those same consumer loans."

21. On November 7, 2023, Judge Weiner entered an Amended Judgment After Court Trial (the "Amended Judgment"), awarding the Class a money judgment of $245,515,389 on account of interest paid to CashCall by class members. A true and correct copy of the Amended Judgment After Court Trial is attached as Exhibit "A".

22. CashCall has appealed the Amended Judgment, but has not posted any bond, and collection of the Amended Judgment has not been stayed.

23. The amount of interest paid by plaintiff and the members of the Class was calculable on or before May 13, 2020, the date CashCall produced the transactional records on which the restitution calculations were based.

24. Plaintiff is informed and believes, and on that basis alleges, that CashCall made the Transfer to Mr. Reddam with actual intent to hinder, delay, or defraud the Class in the collection of the Amended Judgment in *De La Torre v. CashCall*, and/or without receiving a reasonably equivalent value in exchange for the Transfer.

25. Plaintiff is informed and believes, and on that basis alleges, that at the time of the Transfer to Mr. Reddam, CashCall believed or reasonably should have believed that it was about to incur liability to the Class in *De La Torre v. CashCall* beyond CashCall's ability to pay.

26. Plaintiff is informed and believes, and on that basis alleges, that CashCall made the Transfer to Mr. Reddam without receiving a reasonably equivalent value in exchange, and that CashCall was insolvent at that time of the Transfer.

27. The Amended Judgment in *De La Torre v. CashCall* exceeds the amount of the Transfer. Plaintiff seeks to avoid and recover the entire Transfer and have the entire Transfer avoided and for a money judgment to be entered against Mr. Reddam in the amount of the Transfer, plus prejudgment interest and costs, and any additional transfers established by the plaintiff, in favor of Plaintiff and the Class.

FIRST CAUSE OF ACTION
Avoidance and Recovery of Actual Fraudulent Transfer
Cal. Civ. Code §§ 3934 *et seq.*

28. Plaintiff realleges the allegations set forth in paragraphs 1 through 27 above and incorporates them by reference.

29. The Transfer was a transfer of an interest of CashCall in property.

30. Plaintiff is informed and believes, and on that basis alleges, that CashCall made the Transfer and incurred obligations relating to the Transfer with actual intent to hinder, delay, or defraud Plaintiff and the Class a creditor of CashCall.

31. Based on the foregoing, Plaintiff requests judgment as set forth below.

SECOND CAUSE OF ACTION
Avoidance and Recovery of Constructive Fraudulent Transfer
Cal. Civ. Code §§ 3934 *et seq.*

32. Plaintiff realleges the allegations set forth in paragraphs 1 through 27 above and incorporates them by reference.

33. The Transfer was a transfer of an interest of CashCall in property.

34. Plaintiff is informed and believes, and on that basis alleges, that that CashCall received less than a reasonably equivalent value in exchange for the Transfer.

35. Plaintiff is informed and believes, and on that basis alleges, that CashCall was insolvent on the date that the Transfer was made or became insolvent as a result of the Transfer, or was engaged in a business or transaction or was about to engage in a business or transaction for which any property remaining with CashCall was unreasonably small capital.

Based on the foregoing, plaintiff requests judgment as set forth below.

RELIEF SOUGHT

Plaintiff requests the following relief for himself and on behalf of Class *in De La Torre v. CashCall*:

1. On the First and Second Causes of Action:

a. Entry of a judgment in favor of plaintiff, for his benefit and for the benefit of the Class in *De La Torre v. CashCall*, and against defendants, and each of them, avoiding the Transfer and any other fraudulent transfer established by the Plaintiff, and awarding a money judgment in the full amount of the Transfer (and any additional established fraudulent transfers).

b. Prejudgment attachment and/or other provisional relief against defendants, pursuant to Code of Civil Procedure section 3439.07, subd. (a)(2) and (b);

c. Preliminary and permanent injunctive relief against further disposition of the Transfer by the defendants, and each of them, pursuant to Code of Civil Procedure section 3439.07(a)(3);

d. Issuance of writ(s) of execution, pursuant to Code of Civil Procedure section 3439.07(c);

e. Prejudgment interest;

f. Costs of suit; and

2. Such other and further orders and relief as may be necessary and proper to effectuate the avoidance and recovery of all transfers to Mr. Reddam in violation of the UVTA, and payment to or for the benefit of plaintiff and the Class in *De La Torre v. CashCall.*

DATED: August 21, 2024

By: _____
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Attorneys for Plaintiff
EDUARDO DE LA TORRE

Exhibit A

FILED
SAN MATEO COUNTY
NOV 07 2023
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

COMPLEX CIVIL LITIGATION

EDUARDO DE LA TORRE, on behalf of all others similarly situated and the general public,

Plaintiffs,

vs.

CASHCALL, INC., a California corporation, and DOES 1 through 25 inclusive,

Defendants.

Case No. 19CIV01235
CLASS ACTION

Assigned for All Purposes to
Hon. Marie S. Weiner, Dept. 2

***AMENDED* JUDGMENT AFTER COURT TRIAL**

Court Trial was held in Department 2 of this Court before the Honorable Marie S. Weiner, as the single-assigned judge. James Sturdevant of The Sturdevant Law Firm, Steven Tindall of Gibbs Law Group LLP, Arthur Levy, Esq., and Jessica Riggin of Rukin Hyland & Riggin LLP appeared on behalf of Plaintiff de la Torre and the Certified Class; and Brad Seiling, Donald Brown, and Justin Jones-Rodriguez of Manatt Phelps & Phillips LLP appeared on behalf of Defendant CashCall Inc.

This complex case and certified class action commenced Court Trial on March 8, 2021, the presentation of evidence concluded on May 14, 2021, written Closing

Argument Briefs were filed concluding October 4, 2021, and oral Closing Arguments were conducted and concluded on November 1, 2021. A Tentative Decision was issued. A Proposed Statement of Decision was issued. Objections to the Proposed Statement of Decision were filed by the parties. A Final Statement of Decision after Court Trial was issued. Judgment was entered, and post-trial motions filed – in response to which this Court decided to issue an Amended Final Statement of Decision and this Amended Judgment.

IT IS HEREBY DECIDED, ORDERED AND ADJUDGED that Judgment shall be and is entered in favor of Plaintiff Eduardo de la Torre and the Certified Class and against Defendant CashCall Inc.

The Certified Class was previously certified and defined as follows: "All individuals who, while residing in California, borrowed from $2,500 to $2,600 from CashCall for personal, family or household use at any time from August 1, 2005 to July 10, 2011." Plaintiff Eduardo De La Torre was previously appointed the Plaintiff Class Representative.

The Amended Final Statement of Decision after Court Trial entered November 7, 2023 is incorporated herein by reference. Plaintiff and the Certified Class have proven, by a preponderance of the evidence, their cause of action for violation of Business & Professions Code Section 17200 *et seq.* based upon violation of Financial Code Section 22302 (and related Civil Code Section 1670.5).

Plaintiff and the Class are entitled to monetary restitution of any and all interest payments made to Defendant CashCall Inc. on those $2600 consumer loans funded during the Class Period. Accordingly, Plaintiff Eduardo de la Torre and the Certified Class are awarded monetary restitution under Business & Professions Code Section

17200 *et seq.* for the total amount of **$245,515,389,** against Defendant CashCall Inc. This reflects the return (restitution) of all interest paid by those Class members who have paid to Defendant more than the amount of their principal on their 101,564 loans. No monetary restitution is awarded on the 32,284 loans to those Class members who have paid to Defendant less than the amount of the principal of their loans.

Injunctive relief is granted to Plaintiff and the Class, as follows: Defendant CashCall Inc., and any and all of its parents, subsidiaries, assignees, transferees, loan portfolio purchasers, representatives, agents, officers, directors, employees, and/or trustees, are enjoined from and shall not collect, receive, charge, take, or obtain payments of any *interest* on any consumer loans entered into at any time from August 1, 2005 to July 10, 2011 between any Plaintiff or any member of the Certified Class on the one hand, and Defendant CashCall Inc. on the other hand, with an initial principal amount of $2,500 to $2,600. This is not a prohibition against collection of any principal still due and owing only on the 32,284 loans to those Class members whose net payments to Defendant are less than the amount of the principal of their loans.

No prejudgment interest is awarded.

Plaintiff and the Certified Class are the prevailing parties entitled to statutory costs upon timely filing and service of a Memorandum of Costs.

The Plan of Distribution of the Amended Judgment proceeds to the Plaintiff and members of the Certified Class shall be proposed and considered by the Court after entry of the Amended Judgment.

Plaintiff shall immediately file and serve formal Notice of Entry of Amended Judgment.

DATED: November 7, 2023

HON. MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

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E-mail: BSeiling@manatt.com
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Facsimile: (310) 312-4224

Attorneys for Defendants
JOHN PAUL REDDAM AND
CASHCALL, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

EDUARDO DE LA TORRE,

Plaintiff,

v.

JOHN PAUL REDDAM; CASHCALL, INC., a California corporation; and DOE 1 through DOE 20, inclusive,

Defendants.

Case No. 30-2024-01421309-CU-NP-NJC

ANSWER TO COMPLAINT

Defendants John Paul Reddam and CashCall, Inc. ("Defendants") answer the unverified Complaint ("Complaint") of Eduardo De La Torre ("Plaintiff"), as follows:

GENERAL DENIAL

Defendants answer the unverified Complaint under Code of Civil Procedure Section 431.30, subdivision (d). Defendants deny each allegation of the Complaint and each cause of action alleged against Defendants. Defendants further deny that Plaintiff was injured, harmed, or damaged in the manner or sums alleged, or at all, by the conduct of Defendants, or that Plaintiff is entitled to any relief, whether equitable or legal.

AFFIRMATIVE DEFENSES

Without waiving the foregoing or undertaking any burden of proof not otherwise assigned to it, Defendants assert the following separate and affirmative defenses to the causes of action alleged in the Complaint.

FIRST AFFIRMATIVE DEFENSE

(Failure to State Facts Sufficient to Allege a Cause of Action or Obtain the Relief Sought)

The Complaint and each cause of action alleged in it fail to state facts sufficient to allege a cause of action against Defendants or to obtain any of the relief sought against Defendants.

SECOND AFFIRMATIVE DEFENSE

(Good Faith Transfer for Reasonably Equivalent Value)

The transfer alleged in the complaint was made in good faith for reasonably equivalent value. Civil Code section 3439.08.

ADDITIONAL AFFIRMATIVE DEFENSES

The Complaint does not describe the claims or facts with sufficient particularity to permit Defendants to ascertain what other defenses may exist. Defendants will rely on any and all further defenses that become available or appear during discovery in this action and specifically reserve the right to assert any additional defenses.

PRAYER

Defendant prays for judgment as follows:

1. That Plaintiff takes nothing by reason of the Complaint;

2. That Defendants be awarded their costs and expenses incurred in this action; and

3. That Defendants recover any other relief that this Court deems just and proper.

Dated: October 21, 2024

MANATT, PHELPS & PHILLIPS, LLP

By: Brad W. Seiling

Brad W. Seiling
Donald R. Brown
Attorneys for Defendants
JOHN PAUL REDDAM and CASHCALL, INC.

PROOF OF SERVICE

Eduardo De La Torre v. John Paul Reddam et al.
Superior Court of Orange County
Case No. 30-2024-01421309-CU-NP-NJC

I, Paulette E. Surjue, declare:

I am employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 2049 Century Park East, Suite 1700, Los Angeles, California 90067.

On October 21, 2024, I served a copy of the within document(s):

ANSWER TO COMPLAINT

on the interested parties in this action addressed as follows:

Michael A. Gould
Aarin A. Zeif
The Gould Law Firm
161 Fashion Lane, Suite 207
Tustin, CA 92780-3364
Email: Michael@wageandhourlaw.com
Email: Aarin@wageandhourlaw.com
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Eduardo De La Torre

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Attorneys for Plaintiff
Eduardo De La Torre

☐ **(BY MAIL)** By placing such document(s) in a sealed envelope, with postage thereon fully prepaid for first class mail, for collection and mailing at Manatt, Phelps & Phillips, LLP, Los Angeles, California following ordinary business practice. I am readily familiar with the practice at Manatt, Phelps & Phillips, LLP for collection and processing of correspondence for mailing with the United States Postal Service, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for collection.

☐ **(BY OVERNIGHT MAIL)** By placing such document(s) in a sealed envelope, for collection and overnight mailing at Manatt, Phelps & Phillips, LLP, Los Angeles, California following ordinary business practice. I am readily familiar with the practice at Manatt, Phelps & Phillips, LLP for collection and processing of overnight service mailing, said practice being that in the ordinary course of business, correspondence is deposited with the overnight messenger service, **Federal Express**, for delivery as addressed.

☒ **(BY ELECTRONIC MAIL)** By transmitting such document(s) electronically from my e-mail address, psurjue@manatt.com at Manatt, Phelps & Phillips, LLP, Los Angeles, California, to the person(s) at the electronic mail addresses listed above.

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

Executed on October 21, 2024, at Los Angeles, California.

PAULETTE E. SURJUE

403481508.1

CM-110

OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: 143515 NAME: Brad W. Seiling FIRM NAME: MANATT, PHELPS & PHILLIPS, LLP STREET ADDRESS: 2049 Century Park East, Suite 1700 CITY: Los Angeles STATE: CA ZIP CODE: 90067 TELEPHONE NO.: (310) 312-4000 FAX NO.: (310) 312-4224 EMAIL ADDRESS: bseiling@manatt.com ATTORNEY FOR *(name)*: John Paul Reddam and CashCall, Inc.	***FOR COURT USE ONLY***
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 1275 N. Berkeley Avenue MAILING ADDRESS: CITY AND ZIP CODE: Fullerton, CA 92832 BRANCH NAME: NORTH JUSTICE CENTER	
PLAINTIFF/PETITIONER: EDUARDO DE LA TORRE DEFENDANT/RESPONDENT: JOHN PAUL REDDAM and CASHCALL, INC.	
CASE MANAGEMENT STATEMENT ***(Check one):*** ☒ **UNLIMITED CASE** (Amount demanded exceeds $35,000) ☐ **LIMITED CASE** (Amount demanded is $35,000 or less)	CASE NUMBER: **30-2024-014621309-CU-NP-NJC**

A **CASE MANAGEMENT CONFERENCE** is scheduled as follows:

Date: February 6, 2025 Time: 9:00 a.m. Dept.: N15 Div.: Room:

Address of court *(if different from the address above):*

☒ **Notice of Intent to Appear by Telephone, by *(name):*** Brad W. Seiling

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties** *(answer one):*
   a. ☒ This statement is submitted by party *(name):* Defendants JOHN PAUL REDDAM; and CASHCALL, INC.
   b. ☐ This statement is submitted **jointly** by parties *(names):*
2. **Complaint and cross-complaint** *(to be answered by plaintiffs and cross-complainants only)*
   a. The complaint was filed on *(date):* August 21, 2024
   b. ☐ The cross-complaint, if any, was filed on *(date):*
3. **Service** *(to be answered by plaintiffs and cross-complainants only)*
   a. ☒ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
   b. ☐ The following parties named in the complaint or cross-complaint
      (1) ☐ have not been served *(specify names and explain why not):*
      (2) ☐ have been served but have not appeared and have not been dismissed *(specify names):*
      (3) ☐ have had a default entered against them *(specify names):*
   c. ☐ The following additional parties may be added *(specify names, nature of involvement in case, and date by which they may be served):*
4. **Description of case**
   a. Type of case in ☒ complaint ☐ cross-complaint *(Describe, including causes of action):*

CM-110

PLAINTIFF/PETITIONER: EDUARADO DE LA TORRE	CASE NUMBER: 30-2023-01421309-CU-NP-NJC
DEFENDANT/RESPONDENT: JOHN PAUL REDDAM and CASHCALL, INC.	

4. b. Provide a brief statement of the case, including any damages *(if personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings; if equitable relief is sought, describe the nature of the relief):*
This is a fraudulent transfer action. CashCall, Inc. is an S Corporation. John Paul Reddam is its sole shareholder and is responsible for paying taxes. The distribution to Reddam in October 2021 was to satisfy state and federal tax obligations. CashCall was not insolvent at the time of the distribution. No judgment had been entered in the San Mateo County Superior Court case at the time of the distribution.
☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**
The party or parties request ☒ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*
Plaintiff has demanded a jury trial.

6. **Trial date**
a. ☐ The trial has been set *for (date):*
b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain):*
c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability):*
July 29, 2025-August 18, 2025. Vacation

7. **Estimated length of trial**
The party or parties estimate that the trial will take *(check one)*
a. ☒ days *(specify number):* 3-5 days
b. ☐ hours (short causes) *(specify):*

8. **Trial representation** *(to be answered for each party)*
The party or parties will be represented at trial ☐ by the attorney or party listed in the caption ☒ by the following:
a. Attorney: Brad Seiling and Donald Brown
b. Firm: Manatt, Phelps & Phillips LLP
c. Address: 2049 Century Park East, Suite 1700
d. Telephone number: (310) 312-4000
f. Fax number: (310) 312-4224
e. Email address: bseiling@manatt.com dbrown@manatt.com
g. Party represented: Defendants
☐ Additional representation is described in Attachment 8.

9. **Preference**
☐ This case is entitled to preference *(specify code section):*

10. **Alternative dispute resolution (ADR)**
a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 of the California Rules of Court for information about the processes available through the court and community programs in this case.
(1) For parties represented by counsel: Counsel ☒ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.
(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.
b. **Referral to judicial arbitration or civil action mediation** (if available).
(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.
(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
(3) ☒ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1 775 et seq. *(specify exemption):* Amount in controversy exceeds mandatory arbitration limits.

PLAINTIFF/PETITIONER: EDUARDO DE LA TORRE DEFENDANT/RESPONDENT: JOHN PAUL REDDAM and CASHCALL, INC.	CASE NUMBER: 30-2023-01421309-CU-NP-NJC

10. c. In the table below, indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in *(check all that apply and provide the specified information):*

	The party or parties completing this form **are willing** to participate in the following ADR processes *(check all that apply):*	If the party or parties completing this form in the case **have agreed** to participate in or have already completed an ADR process or processes, indicate the status of the processes *(attach a copy of the parties' ADR stipulation):*
(1) Mediation	☒	☒ Mediation session not yet scheduled ☐ Mediation session scheduled for *(date):* ☐ Agreed to complete mediation by *(date):* ☐ Mediation completed on *(date):*
(2) Settlement conference	☐	☐ Settlement conference not yet scheduled ☐ Settlement conference scheduled for(*date*)*:* ☐ Agreed to complete settlement conference by *(date):* ☐ Settlement conference completed on *(date):*
(3) Neutral evaluation	☐	☐ Neutral evaluation not yet scheduled ☐ Neutral evaluation scheduled for *(date):* ☐ Agreed to complete neutral evaluation by *(date):* ☐ Neutral evaluation completed on *(date):*
(4) Nonbinding judicial arbitration	☐	☐ Judicial arbitration not yet scheduled ☐ Judicial arbitration scheduled for *(date):* ☐ Agreed to complete judicial arbitration by *(date):* ☐ Judicial arbitration completed on *(date):*
(5) Binding private arbitration	☐	☐ Private arbitration not yet scheduled ☐ Private arbitration scheduled for *(date):* ☐ Agreed to complete private arbitration by *(date):* ☐ Private arbitration completed on *(date):*
(6) Other *(specify):*	☐	☐ ADR session not yet scheduled ☐ ADR session scheduled for *(date):* ☐ Agreed to complete ADR session by *(date):* ☐ ADR completed on *(date):*

PLAINTIFF/PETITIONER: EDUARDO DE LA TORRE DEFENDANT/RESPONDENT: JOHN PAUL REDDAM and CASHCALL, INC.	CASE NUMBER: 30-2023-01421309-CU-NP-NJC

11. **Insurance**

a. ☐ Insurance carrier, if any, for party filing this statement *(name):*

b. Reservation of rights: ☐ Yes ☐ No

c. ☐ Coverage issues will significantly affect resolution of this case *(explain):*

12. **Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other *(specify):*

Status:

13. **Related cases, consolidation, and coordination**

a. ☒ There are companion, underlying, or related cases.

(1) Name of case: De la Torre v. CashCall, Inc.

(2) Name of court: San Mateo County Superior Court

(3) Case number: 19CIV01235

(4) Status: On appeal, First Appellate District Case No. A169205

☐ Additional cases are described in Attachment 13a.

b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by *(name party):*

14. **Bifurcation**

☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action *(specify moving party, type of motion, and reasons):*

15. **Other motions**

☒ The party or parties expect to file the following motions before trial *(specify moving party, type of motion, and issues):*

Defendants anticipate filing a summary judgment motion after the close of discovery.

16. **Discovery**

a. ☐ The party or parties have completed all discovery.

b. ☒ The following discovery will be completed by the date specified *(describe all anticipated discovery):*

Party	Description	Date
Defendants	Written discovery	September 2025
Defendants	Expert Discovery	November 2025

c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated *(specify):*

None at this time.

PLAINTIFF/PETITIONER: EDUARDO DE LA TORRE DEFENDANT/RESPONDENT: JOHN PAUL REDDAM and CASHCALL, INC.	CASE NUMBER: 30-2023-01421309-CU-NP-NJC

17. **Economic litigation**

a. ☐ This is a limited civil case (i.e., the amount demanded is $35,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.

b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed *(if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):*

18. **Other issues**

☐ The party or parties request that the following additional matters be considered or determined at the case management conference *(specify):*

19. **Meet and confer**

a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court *(if not, explain):*

b. ☐ After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following *(specify):*

20. Total number of pages attached *(if any):* _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: January 22, 2025

Brad W. Seiling
(TYPE OR PRINT NAME)

Brad W. Seiling
(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

PROOF OF SERVICE

Eduardo De La Torre v. John Paul Reddam et al.
Superior Court of Orange County
Case No. 30-2024-01421309-CU-NP-NJC

I, Paulette E. Surjue, declare:

I am employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 2049 Century Park East, Suite 1700, Los Angeles, California 90067.

On January 22, 2025, I served a copy of the within document(s):

CASE MANAGEMENT STATEMENT
(REGARDING FEBRUARY 6, 2025, CASE MANAGEMENT CONFERENCE)

on the interested parties in this action addressed as follows:

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BY ELECTRONIC MAIL: By transmitting such document(s) electronically from my e-mail address, psurjue@manatt.com at Manatt, Phelps & Phillips, LLP, Los Angeles, California, to the person(s) at the electronic mail addresses listed above.

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

Executed on January 22, 2025, at Los Angeles, California.



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Attorneys for Defendants
JOHN PAUL REDDAM and CASHCALL, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

EDUARDO DE LA TORRE,

Plaintiff,

v.

JOHN PAUL REDDAM; CASHCALL, INC., a California corporation; and DOE 1 through DOE 20, inclusive,

Defendants.

`

Case No. 30-2024-01421309-CU-NP-NJC

Hon. Nathan N. Vu

DEFENDANTS' NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT OR SUMMARY ADJUDICATION; MEMORANDUM OF POINTS AND AUTHORITIES

[Filed concurrently with:

1. Separate Statement of Undisputed Material Facts
2. Compendium of Evidence
3. [Proposed] Order]

Hearing Date: May 11, 2026
Time: 9:00 a.m.
Dept.: N15

Complaint Filed: August 21, 2024
Trial Scheduled: February 23, 2026

TO THE COURT, PLAINTIFF, AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on May 11, 2026, at 9:00 a.m. or as soon as thereafter as can be heard in Department N15 of the above-captioned Court, located at 1275 N. Berkley Ave., Fullerton, California 92838, defendants CashCall, Inc. ("CashCall") and John Paul Reddam ("Reddam") (together, "Defendants") will and hereby do move for summary judgment on plaintiff Eduardo de la Torre's ("Plaintiff") Complaint, which asserts two causes of action under the Uniform Voidable Transfer Act ("UVTA"), or alternatively, for summary adjudication on each of the two causes of action.

This Motion is made pursuant to California Code of Civil Procedure section 437c on the grounds that there is no triable issue as to any material fact and that Defendants are entitled to judgment as a matter of law. The sole transfer at issue in the Complaint cannot be voided under the UVTA because CashCall, the transferor, did not intend to hinder, delay, or defraud Plaintiff by making the transfer and there is no factual basis to impute fraud to CashCall.

This Motion is based upon this Notice of Motion and Motion, the attached Memorandum of Points and Authorities, the Compendium of Evidence filed concurrently herewith, the papers and pleadings on file in this matter, and such other evidence as the Court may deem proper.

Dated: November 3, 2025

Respectfully submitted,

MANATT, PHELPS & PHILLIPS, LLP

By: Brad W. Seiling

Brad W. Seiling
Donald R. Brown
Brandon Wong
Attorneys for Defendants
JOHN PAUL REDDAM and CASHCALL, INC.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Eduardo De la Torre alleges that defendant CashCall, a Chapter S corporation under the Internal Revenue Code, made a fraudulent conveyance to its sole shareholder, defendant John Paul Reddam, when it made a tax distribution to Reddam in October 2021. Chapter S corporations do not pay income taxes; their shareholders (Reddam in this instance) are responsible for paying any state and federal income taxes that flow from the S corporation's taxable income. The potential tax obligation that occasioned the tax distribution to Reddam arose out of a payment to CashCall in settlement of litigation filed by CashCall and Reddam. Plaintiff's fraudulent conveyance claims fail, because the tax distribution wasn't made with the intent to shield the funds from Plaintiff, and because the transfer was made in good faith to satisfy potential tax obligations that Reddam would owe as CashCall's sole shareholder.

Plaintiff's case rests on the *conjectural theory* that the transfer was made because Defendants knew that CashCall was about to sustain an adverse judgment in a class action lawsuit involving CashCall's California lending operations, *De la Torre v. CashCall, Inc.*, San Mateo County Superior Court Case No. 19-CIV-01235 (the "San Mateo Litigation"). That theory is contrary to the undisputed facts, which show:

- CashCall and Reddam sued their prior counsel for legal malpractice arising out of advice relating to CashCall's non-California lending operations (the "Malpractice Case").
- In August 2021, CashCall and Reddam decided to settle the Malpractice Case on the eve of trial (after four years of litigation) for reasons related solely to that case.
- Before the Malpractice Case settlement funds were disbursed in September 2021, CashCall and Reddam commissioned a tax analysis, which recommended payment to CashCall rather than Reddam because it would result in the lowest tax obligation.
- In October 2021, CashCall made a distribution to Reddam (the "Tax Distribution") to cover the potential tax obligations arising from CashCall's taxable income (which increased significantly as a result of the settlement payment).

- The amount of the Tax Distribution was calculated by applying the tax rates that would be applicable to Reddam to CashCall's net income as of September 30, 2021.
- Everyone involved in the Tax Distribution has testified that the San Mateo Litigation played no role in the decision to settle the Malpractice Case or in the Tax Distribution.
- At the time of the Malpractice Case Settlement and Tax Distribution, the San Mateo Litigation trial was still in progress.
- CashCall was solvent at the time of the Tax Distribution and is still in business today.

Not only do those undisputed facts compel summary judgment in Defendants' favor, but Plaintiff's theory defies common sense. If Defendants had wanted to shield the Malpractice Case Settlement funds from a potential judgment in the San Mateo Litigation (despite undisputed facts showing otherwise), they could have simply chosen for all funds to be sent to Reddam, bypassing CashCall entirely. They did not do that because the San Mateo Litigation played no role in the decision to settle the Malpractice Case or the decision to make a Tax Distribution to Reddam.

Theories and allegations do not defeat summary judgment. Yet that's all Plaintiff has after extensive and intrusive financial discovery. Summary judgment should be granted.[1]

II. RELEVANT FACTUAL BACKGROUND

A. CashCall and Reddam

CashCall is a finance lender licensed by the California Department of Financial Protection and Innovation. (Separate Statement of Undisputed Material Facts ("UF") 1.) Reddam founded CashCall in 2003 and is its sole shareholder. (UF 1, 2.)

B. The Federal Litigation Against CashCall

In 2008, a California consumer filed a putative class action complaint against CashCall in federal court, alleging that its loans violated state and federal law (the "Federal Litigation"). (UF 6.) Plaintiff here (De la Torre) was added as a named plaintiff in the Federal Litigation. (UF 6; Declaration of Brad W. Seiling ("Seiling Decl.") ¶ 3.)[2] After many twists and turns, the Federal

[1] If, for any reason, the Court declines to award judgment to CashCall on one of Plaintiff's claims, it should award summary adjudication in CashCall's favor on the other claim.

[2] *See generally De la Torre v. CashCall, Inc.*, Case No. 3:08-cv-03174-TSH (N.D. Cal.).

Litigation was dismissed without prejudice for lack of subject matter jurisdiction in February 2019. (UF 8.)

C. The San Mateo Litigation Against CashCall

On March 7, 2019, De La Torre filed a class action complaint against CashCall in San Mateo County Superior Court (previously defined as the "San Mateo Litigation"), again alleging that its loans violated state and federal law. (UF 9.) A bench trial commenced on March 8, 2021, and testimony concluded on May 14, 2021, after 13 days of trial testimony. (UF 10, 11.) The parties submitted post-trial briefs on September 20, 2021, and replies thereto on October 4, 2021. (UF 22.) The Court held closing arguments on November 1, 2021. (UF 31.)

On January 20, 2022, the court issued a Tentative Ruling After Court Trial. (UF 32.) Ten months later, on November 17, 2022, the court issued a Proposed Statement of Decision After Court Trial. (UF 33.) Both sides filed objections to the Proposed Statement of Decision, with CashCall's objections being filed on December 19, 2022. (UF 34.) Eight months later, on August 22, 2023, the Court issued a Final Statement of Decision that revised the Proposed Statement of Decision and awarded restitution to De La Torre and the class in the amount of $245,515,389. (UF 35.) On August 31, 2023, the Court issued its Judgment After Court Trial. (UF 36.)

On September 7, 2023, CashCall moved for a new trial and to vacate the judgment. (UF 37.) On November 7, 2023, the Court denied CashCall's motion but exercised its discretion to issue an Amended Final Statement of Decision and Amended Judgment. (UF 38.) On November 17, 2023, Plaintiff filed a Motion for an Amended Judgment, which was denied on January 9, 2024. (UF 39, 41.)

On November 29, 2023, CashCall filed a notice of appeal with regard to the November 2023 Amended Judgment. (UF 40.)[3] The appeal has been fully briefed and, as of the date of this Motion, the parties are awaiting the scheduling of oral argument. (Seiling Decl. ¶ 17.)

[3] *See generally Eduardo de la Torre v. CashCall, Inc.*, A169205 (Cal. Ct. App. 1st Dist. appeal lodged Dec. 4, 2023).

On January 19, 2024, the court granted *preliminary* approval of Plaintiff's motion for attorney's fees and a plan of allocation indicating, among other things, that the court would schedule a hearing on the plan of allocation after any appeal is completed and final. (UF 42.)

D. The Malpractice Case and Settlement

In 2017, CashCall and Reddam filed a lawsuit in Orange County Superior Court against their former outside counsel for legal malpractice related to advice given in connection with CashCall's non-California lending operations (previously defined as the "Malpractice Case"). (UF 7.) On August 6, 2021, ten days before trial was scheduled to commence, the parties agreed to settle the Malpractice Case and signed a confidential Settlement Term Sheet. (UF 12.) The parties then signed a confidential settlement agreement ("Malpractice Case Settlement") on August 13, 2021, prior to the completion of post-trial briefing and closing arguments in the San Mateo Litigation. (UF 15, 22, 31.) The San Mateo Litigation played no role in CashCall and Reddam's decision to settle the Malpractice Case or the timing of the settlement. (UF 13.)

Because there would be a large initial payment under the Malpractice Case Settlement, Reddam and CashCall, through their in-house tax advisor, asked their outside tax accountant on August 9, 2021, to conduct a tax analysis to determine whether the proceeds of the settlement should be paid to CashCall, Reddam, or some combination of the two. (UF 14, 19.) Based on the advice of their tax advisors, all sums from the settlement (after deducting payment for attorneys' fees paid to CashCall and Reddam's counsel) were paid to CashCall. (UF 17.)[4]

E. 2021 Tax Liabilities and the Tax Distribution to Reddam

CashCall is an S corporation and does not pay federal or state income taxes, other than a 3.5% California state income tax on financial institutions. (UF 3, 4.) Under state and federal law, Reddam, as CashCall's sole shareholder, is responsible for paying taxes on taxable income earned by CashCall. (UF 5.) CashCall and Reddam understood that the Malpractice Case settlement

[4] Due to the confidential nature of the Malpractice Case Settlement, and to obviate the need for redactions and motions to seal for this brief and all but one of the supporting declarations, the separate statement and declarations specify where the amount of the settlement payment and subsequent tax distribution (and the identity of the Malpractice Case defendant, should that for any reason be relevant to this motion) can be found.

payment would result in a substantial increase in CashCall's net income that potentially could result in a significant tax obligation for Reddam. (UF 19.) Reddam and CashCall's chief financial officer Delbert Meeks discussed making a distribution to Reddam for tax purposes (previously defined as the "Tax Distribution"). (UF 20.) This was not the first time CashCall had made a distribution to Reddam to account for anticipated tax liabilities from CashCall's operations—to the contrary, CashCall had made distributions to Reddam on numerous prior occasions to account for anticipated tax obligations arising out of CashCall's taxable income. (UF 21.)

CashCall calculated the amount of the Tax Distribution by applying the maximum California and federal tax rates to CashCall's net income as of September 30, 2021. (UF 24.) Then, on October 26, 2021, CashCall sent a wire transfer to Reddam. (UF 23.)

The San Mateo Litigation played no role in CashCall's decision to make the Tax Distribution to Reddam or the amount of the Tax Distribution. (UF 25.) In fact, at the time of the Tax Distribution, the trial in the San Mateo Litigation was still under way (testimony had concluded, but the parties were engaged in post-trial briefing, and closing arguments had not yet been made). (UF 11, 22, 31.)

Moreover, at the time of the Tax Distribution and through the end of 2021, CashCall was paying its debts as they came due, and the total sum of CashCall's debts was less than the total sum of its assets. (UF 26, 27.) At that time, CashCall had no plans to cease doing business, and Reddam had no plans to initiate bankruptcy or insolvency proceedings for CashCall. (UF 16, 28, 29.) CashCall continues to do business and is originating new loans. (UF 30.)

III. LEGAL STANDARD

To prevail on a motion for summary judgment or summary adjudication, the moving party must demonstrate that there are no triable issues of material fact and that it is "entitled to a judgment as a matter of law." Code Civ. Proc. § 437c(c). The moving party may meet its burden by demonstrating that one or more elements of the cause of action in question cannot be established or that there is a complete defense. *Aguilar v. Atl. Richfield Co.*, 25 Cal.4th 826, 850 (2001) (citing Code Civ. Proc., § 437c(o)(2)). A triable issue of material fact exists only if the evidence would

allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof." *Id.*

As the Supreme Court further explained, "the party moving for summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he carries his burden of production, he causes a shift, and the opposing party is then subjected to a burden of production of his own to make a prima facie showing of the existence of a triable issue of material fact." *Id.* "A prima facie showing is one that is sufficient to support the position of the party in question." *Id.* at 851 (citing Evid. Code § 602).

"An issue of fact can only be created by a conflict of evidence. It is not created by 'speculation, conjecture, imagination, or guess work.' Further an issue of fact is not raised by 'cryptic, broadly phrased, and conclusory assertions or mere possibilities.'" *Spinner v. Am. Broad. Cos.*, 215 Cal. App. 4th 172, 183 (2013) (citing *Sinai Mem'l Chapel v. Dudler*, 231 Cal. App. 3d 190, 196-97 (1991) (internal citations omitted)); *see also Sangster v. Paetkau*, 68 Cal. App. 4th 151, 163 (1998) (evidence giving rise to mere speculation "cannot be regarded as substantial, and is insufficient to establish a triable issue of material fact"). An inference in favor of a party must be "*more reasonable or probable*" than one that can be inferred against the party. *Leslie G. v. Perry & Assocs.*, 43 Cal. App. 4th 472, 483 (1996) (emphasis in original). If a plaintiff rests "'upon conclusory allegations, improbable inferences, and unsupported speculation,' summary judgment may be appropriate even where intent is an issue." *Nelson v. United Techs.*, 74 Cal. App. 4th 597, 614 (1999).

"[I]f the facts are undisputed and admit of only one conclusion, then summary judgment may be entered on issues that otherwise would be submitted to the jury." *Eisenberg v. Alameda Newspapers, Inc.*, 74 Cal. App. 4th 1359, 1386-87 (1999); *see also Preach v. Monter Rainbow*, 12 Cal. App. 4th 1441, 1451 (1993) ("'[An] issue of fact becomes one of law and loses its triable character if the undisputed facts leave no room for a reasonable difference of opinion.'" (quoting *Advanced Micro Devices, Inc. v. Great Am. Surplus Lines Ins. Co.* 199 Cal. App. 3d 791, 795-96 (1988))).

IV. ARGUMENT

The premise of Plaintiff's claim that the Tax Distribution to Reddam violated the UVTA is that CashCall made the distribution to shield assets that might otherwise satisfy a potential judgment in Plaintiff's favor in the San Mateo Litigation—even though judgment was not entered in the San Mateo Litigation until August 31, 2023, almost two years after the date of the Tax Distribution. (UF 18, 36.) The undisputed facts confirm that CashCall made the Tax Distribution for a legitimate purpose at a time when it was solvent and remained solvent after the Tax Distribution. There is no evidence of any intent to defraud Plaintiff, nor can any such intent be inferred from the undisputed facts.

A. As a Matter of Law, CashCall Had No Actual Intent to Hinder, Delay, or Defraud Plaintiff or Any Other Creditor.

"A fraudulent conveyance is a transfer by the debtor of property to a third person undertaken with the intent to prevent a creditor from reaching that interest to satisfy its claim." *Yaesu Elecs. Corp. v. Tamura*, 28 Cal. App. 4th 8, 13 (1994). A transfer is voidable if the debtor made the transfer with "actual intent to hinder, delay, or defraud any creditor of the debtor." Cal. Civ. Code § 3439.04(a)(1). The creditor must establish all elements of an actual intent claim by a preponderance of the evidence. *Id.* § 3439.04(c).

As a matter of law, CashCall had no such intent. The undisputed facts confirm that CashCall made the Tax Distribution to Reddam because Reddam is responsible, as the owner of the S corporation, for paying taxes on CashCall's taxable income, including on the settlement payment from the Malpractice Case Settlement. The testimony and exhibits in support of this motion uniformly demonstrate that the Tax Distribution was made for that purpose. CashCall and Reddam consulted tax advisors to determine how to apply the settlement proceeds. (UF 14, 17.) Recognizing that the settlement proceeds would substantially increase CashCall's net income, which potentially could result in a significant tax obligation for Reddam, CashCall's CFO and Reddam discussed making a tax distribution to Reddam. (UF 19, 20.) This was not out of the ordinary; CashCall had made distributions to Reddam on numerous prior occasions to account for anticipated tax obligations arising out of CashCall's taxable income. (UF 21.) CashCall calculated the amount of

the distribution by applying the maximum California and federal tax rates to CashCall's net income as of September 30, 2021. (UF 24.)

The evidence also uniformly demonstrates that the San Mateo Litigation was not a consideration when settling the Malpractice Case or when CashCall made the Tax Distribution. The Malpractice Case Settlement was reached in August 2021, at a time when testimony in the San Mateo Litigation had concluded, but before post-trial briefing and closing arguments. (UF 11, 22, 25, 31.) When the Tax Distribution occurred two months later, closing arguments in the San Mateo Litigation still hadn't taken place. (UF 23, 31.) The court didn't issue its Tentative Ruling After Court Trial until January 20, 2021—three months after the Tax Distribution—and when it came, the Tentative Ruling did not even specify the amount of restitution to be awarded.[5] (UF 32.) There was no judgment at the time of the Tax Distribution, let alone an enforceable final judgment.

In addition, if CashCall and Reddam had "colluded" to shield the settlement funds from potential collection by Plaintiff (even though trial in the San Mateo Litigation was still in progress), they could simply have chosen for the settlement payment to be made directly to Reddam. Instead, CashCall and Reddam elected to have the net proceeds of the settlement paid to CashCall based on tax advice that payment to CashCall would result in the lowest tax obligation. This underscores the undisputed fact that the San Mateo Litigation played no role in the decision to settle the Malpractice Case and to make the Tax Distribution.

Accordingly, Plaintiff's first cause of action for violation of Civil Code section 3439.04, which claims that CashCall made the Tax Distribution "with actual intent to hinder, delay, or defraud Plaintiff and the Class[6] as a creditor of CashCall," fails as a matter of law, warranting judgment in CashCall's favor.

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[5] And even if the Tentative Ruling did specify an amount of restitution, it would not have been binding on CashCall. A tentative opinion does not have the force of law until it has been adopted by the court. *See* Cal. R. Ct. 3.1590(b) ("The tentative decision does not constitute a judgment and is not binding on the court."); *Silverado Modjeska Recreation & Park Dist. v. Cty. of Orange*, 197 Cal. App. 4th 282, 300 (2011) ("[A] trial court's tentative ruling is not binding on the court; the court's final order supersedes the tentative ruling."). *See generally Jordan v. Malone*, 5 Cal. App. 4th 18 (1992).

[6] There is no "Class" in this case, so Plaintiff has no right to assert claims in this case on behalf of a "Class." But that issue does not affect Defendants' right to summary judgment or summary adjudication.

B. The Tax Distribution Is Not Voidable Under a Constructive Fraud Theory.

Plaintiff's alternative claim that the Tax Distribution is voidable under a theory of constructive fraud also fails. Fraud may be implied under the UVTA when a debtor does not receive "reasonably equivalent value" for a particular asset or obligation **and** the debtor (1) was engaged or about to be engaged in a business or transaction for which the debtor's remaining assets were unreasonably small relative to the size of the business or transaction (Cal. Civ. Code § 3439.04(a)(2)(A)); (2) intended to incur, or objectively should have known it would incur, debts beyond its ability to pay (*id.* § 3439.04(a)(2)(B)); or (3) was insolvent at the time of the transfer or became insolvent because of the transfer (*id.* § 3439.05(a)). Leaving aside whether CashCall received reasonably equivalent value for the Tax Distribution (it did),[7] the undisputed material facts show that Plaintiff cannot establish the second part of this equation, as Plaintiff cannot demonstrate any of the three alternatives listed above.

First, Plaintiff cannot establish that CashCall was engaged or about to be engaged in a transaction for which its assets were unreasonably small relative to the size of the transaction. (Cal. Civ. Code §§ 3439.04(a)(2)(A)). The supposed "transaction" is the mere possibility (at the time) that Plaintiff would prevail in the San Mateo Litigation and obtain a large judgment in his favor. A potential adverse judgment is not a "transaction" under the plain meaning of that word, which connotes a voluntary exchange. *See Transaction*, BLACK'S LAW DICTIONARY ("1. The act or an instance of conducting business or other dealings; esp., the formation, performance, or discharge of a contract. 2. Something performed or carried out; a business agreement or exchange."). Accordingly, Defendants are aware of no case under the UVTA interpreting "transaction" as including a judgment; rather, cases have interpreted "transaction" in accord with its plain meaning. *See, e.g., Ark v. HAF Corp.*, 2023 WL 4681591 (C.D. Cal. June 27, 2023) (paying attorneys); *In re Paradigm Int'l, Inc.*, 635 F. App'x 355, 358 (9th Cir. 2015) (payment under asset-backed guaranty).

In addition, the UVTA focuses on events occurring at the time of the transfer the plaintiff seeks to void. At the time of the Tax Distribution and through the end of 2021, CashCall was paying

[7] Defendants need not establish reasonably equivalent value in order to defeat this claim and therefore decline to address that element, to avoid any argument that it supposedly implicates a material issue of fact.

its debts as they came due, and the total sum of CashCall's debts was not greater than the total sum of its assets. (UF 26, 27.) CashCall had no plans to cease operations or initiate bankruptcy or insolvency proceedings. (UF 16.) And because no judgment of any kind had been returned at the time, there is no objective grounds for Plaintiff to argue that CashCall's assets were unreasonably small relative to a judgment.

Second, Plaintiff cannot establish that CashCall intended to, or objectively should have known that it would, incur debts beyond its ability to pay. (Cal. Civ. Code § 3439.04(a)(2)(B).) Plaintiff wants to apply hindsight—arguing that because the court in the San Mateo Litigation ultimately entered judgment against CashCall (two years after the Tax Distribution), CashCall should have known at the time of the Tax Distribution that liability was imminent. That theory is contrary to the law and the undisputed facts. It is undisputed that the San Mateo Litigation played no role in the decisions concerning the Tax Distribution. (UF 13, 25.) None.

At the time of the Tax Distribution, trial in the San Mateo Litigation was still in progress, and CashCall certainly did not intend to incur an adverse judgment, nor, objectively "should" CashCall have known that it would incur an adverse judgment. Plaintiff can point to no ruling from the trial judge in the San Mateo Litigation that would have shown that liability was imminent at the time of the Tax Distribution. Theories and conjecture do not defeat summary judgment or support a viable claim under the UVTA. In addition, two prior trial judges—Judge Victoria Chaney of the Los Angeles County Superior Court and Magistrate Judge Maria-Elena James—had dismissed claims based on the legal theory advanced in the San Mateo Litigation. (Seiling Decl. ¶¶ 2, 5.) Plaintiff can cite to no evidence that CashCall or Reddam were expecting a different result in the San Mateo Litigation.

Third, Plaintiff cannot establish that CashCall was insolvent at the time of the Tax Distribution or became insolvent because of the Tax Distribution. Cal. Civ. Code § 3439.05(a). "Insolvent" means that the fair value of all debts exceeds the fair value of all nonexempt assets. *Id.* § 3439.02(a). CashCall was solvent at the time of the Tax Distribution and after the Tax Distribution (UF 16, 26, 27), and Plaintiff cannot demonstrate otherwise. As explained at length above, the San

Mateo Litigation trial was still in progress, so there was no decision on the merits, let alone a final judgment. Hence there was no "debt"[8] by reason of that litigation.

Accordingly, Plaintiff's second cause of action for violation of Civil Code section 3439.04, which is based on a theory of constructive fraud, fails as a matter of law, warranting judgment in CashCall's favor.

V. CONCLUSION

There is no factual basis for Plaintiff's claims. Theory and conjecture do not defeat summary judgment. The undisputed facts confirm that the San Mateo Litigation played no role in the decision to make the Tax Distribution or the timing of that decision. For the forgoing reasons, the Court should grant summary judgment in Defendants' favor. Alternatively, if the Court finds that one of the claims is not subject to judgment as a matter of law, Defendants respectfully request that the Court grant summary adjudication to whichever claim does fail as a matter of law.

Dated: November 3, 2025

Respectfully submitted,

MANATT, PHELPS & PHILLIPS, LLP

By: Brad W. Seiling

Brad W. Seiling
Donald R. Brown
Brandon Wong
Attorneys for Defendants
JOHN PAUL REDDAM and
CASHCALL, INC.

[8] "'Debt' means liability on a claim." Cal. Civ. Code § 3439.01(d).

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JOHN PAUL REDDAM and CASHCALL, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

EDUARDO DE LA TORRE,

Plaintiff,

v.

JOHN PAUL REDDAM; CASHCALL, INC., a California corporation; and DOE 1 through DOE 20, inclusive,

Defendants.

Case No. 30-2024-01421309-CU-NP-NJC

DECLARATION OF DELBERT O. MEEKS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

[Filed concurrently with:

1. Memorandum of Points and Authorities
2. Separate Statement of Undisputed Material Facts
3. Declaration of John Paul Reddam
4. Declaration of Elizabeth Emrick
5. Declaration of Brad W. Seiling
6. [PROPOSED] Order]

I, Delbert O. Meeks, declare as follows:

1. I am a certified public accountant and am the chief financial officer ("CFO") of CashCall, Inc. ("CashCall"). The following facts are within my personal knowledge, and if called as a witness, I could testify competently thereto.

2. I have been CashCall's CFO since August 2004. For most of its existence, CashCall offered consumer loans to California residents, including unsecured loans and, at various times, mortgage loans. CashCall is currently making unsecured consumer loans. I am responsible for preparing CashCall's financial statements, including annual and monthly statements. I also work with CashCall's outside accountants on the preparation of CashCall's annual audited financial statements. CashCall is a licensed finance lender under California law. As a licensed finance lender, CashCall also must prepare annual financial statements for its regulators, and I am responsible for gathering the financial data reported to the regulators.

3. CashCall has elected to be taxed as a Subchapter S corporation under the Internal Revenue Code. As such, CashCall does not pay federal or state income taxes, other than a 3.5% California income tax on net income. John Paul Reddam is CashCall's sole shareholder. As the sole shareholder of CashCall, Mr. Reddam is responsible for paying any federal and California state income taxes due based on CashCall's taxable income.

4. I am aware that CashCall and Reddam filed a lawsuit in 2017 against CashCall's former legal counsel Katten Muchin Rosenman, LLP and one of its partners in Orange County Superior Court (the "Katten Litigation"). I was not involved in the Katten Litigation or any of the negotiations regarding its potential settlement, although I was aware that such discussions had occurred.

5. In August 2021, I was made aware that there was an agreement to settle the Katten Litigation that would result in a substantial lump-sum payment and payments over time (the "Katten Settlement'). I was not involved in those settlement discussions or in any discussions regarding the allocation of the settlement payment between CashCall and Mr. Reddam. At the time of the settlement of the Katten Settlement, Elizabeth Emrick was responsible for Mr. Reddam's and

CashCall's tax issues. Ms. Emrick worked with CashCall's and Reddam's outside tax advisors, and I had only minimal involvement in those tax issues.

6. In September 2021, the net proceeds from the Katten Settlement were deposited into CashCall's operating account. As CashCall's CFO, I needed to decide how to manage this substantial infusion of cash. The decision was made to repay outstanding loans to save the interest payments that CashCall was obligated to pay. We also decided to use some of the funds to pay other outstanding obligations.

7. We also understood that the Katten Settlement payment would result in a substantial increase in CashCall's net income that potentially could result in a significant tax obligation for Mr. Reddam. Mr. Reddam and I discussed making a distribution to him for tax purposes (the "2021 Tax Distribution"). This was not the first time CashCall had made a distribution to Mr. Reddam to account for anticipated tax liabilities from CashCall's operations. To the contrary, on numerous prior occasions, CashCall had made distributions to Mr. Reddam to account for anticipated tax obligations arising out of CashCall's operations. In fact, I do not recall CashCall ever making a distribution to Mr. Reddam other than for tax purposes.

8. To calculate the amount of the 2021 Tax Distribution, we used the tax rates that would apply to Mr. Reddam; Elizabeth Emrick provided those rates to me—37.60% federal, 13.3% California state. I applied these rates to CashCall's net income through September 30, 2021. I prepared CashCall's financial statements for the month ended September 30, 2021. A true and correct copy of the financial statements though September 30, 2021 is attached as **Exhibit 5 to the Compendium of Evidence ("Compendium Exhibit")**. The September 2021 financial statements reflect the amount of the Tax Distribution to Mr. Reddam. Month-end financial statements typically are not complete until the middle off the next month. The financial statements for September 30, 2021, were not complete until mid-October 2021.

9. I instructed CashCall's controller Shawna Parks to wire the 2021 Tax Distribution to Mr. Reddam's account. A true and correct copy of the memorandum authorizing the wire transfer of the 2021 Tax Distribution is attached as **Compendium Exhibit 6**. As reflected in **Compendium**

Exhibit 6, the amount of the 2021 Tax Distribution was calculated by applying the applicable tax rates provided by Ms. Emrick to CashCall's net income through September 30, 2021.

10. At the time CashCall made the 2021 Tax Distribution to Mr. Reddam, the sum of CashCall's debts did not exceed its assets, as reflected in the financial statements through September 30, 2021. At the time CashCall made the 2021 Tax Distribution to Mr. Reddam, CashCall was paying its debts as they came due.

11. At the time CashCall made the 2021 Tax Distribution to Mr. Reddam, there were no plans for CashCall to stop doing business. CashCall continues to operate today and is making new loans.

12. I am aware that CashCall was sued in a class action lawsuit in Northern California challenging the interest rates charged on its unsecured consumer loans, which I understand is referred to in filings in this case as the "San Mateo Litigation.". I was deposed in the San Mateo Litigation, provided declarations to counsel, assisted in gathering financial documents, testified by Zoom at the trial, and observed other days of testimony of the trial when I was not a witness.

13. There were no discussions of the San Mateo Litigation in connection with the decisions regarding the application of the proceeds from the Katten Settlement, including the decision to make the 2021 Tax Distribution. The San Mateo Litigation played no role in the decision to make the 2021 Tax Distribution or the timing of the distribution. I did not discuss the San Mateo Litigation with Mr. Reddam when we discussed the 2021 Tax Distribution, and I did not discuss the San Mateo Litigation with Ms. Parks when I instructed her to wire the 2021 Tax Distribution to Mr. Reddam's account.

14. At all times in 2021, based on my observations of the trial and my understanding of the claims at issue, I regarded the chance of an unfavorable outcome in the San Mateo Litigation as slight. Under Generally Accepted Accounting Principles, there is no obligation to account for a remote potential liability from pending litigation.

15. As mentioned above, CashCall has used outside accountants to prepare audited annual financial statements as long as I have been CFO. Baker Tilly USA, LLP was the audit firm that prepared CashCall's audited financial statements for the year ended December 31, 2021. Baker

Tilly was the successor company of the auditing firms that had been preparing CashCall's audited financial statement as long as I have been CashCall's CFO.

16. I was deposed in this case. At my deposition, plaintiff's counsel, Arthur Levy, showed me various pages from Baker Tilly's work papers, which I had never seen before, that used the term "winding down" to refer to CashCall's business. I disagree with the characterization that CashCall was in "wind down mode" in 2021 and I do not know why Baker Tilly used this term in its work papers. That CashCall continues to do business is a good indication that it was not winding down operations in 2021. And if Baker Tilly believed that CashCall was in a "wind down mode," it would have been required to disclose that fact in the audited financial statements, yet there was no such disclosure in CashCall's 2021 audited financial statements. A true and correct copy of CashCall's audited financial statements for the year ended December 31, 2021 is attached as **Compendium Exhibit 7**.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed this 10/31/2025 day of October 2025, at Orange, California.

Signed by:
A544751DE7B94D8...

Delbert O. Meeks

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

EDUARDO DE LA TORRE,

Plaintiff,

v.

JOHN PAUL REDDAM; CASHCALL, INC., a California corporation; and DOE 1 through DOE 20, inclusive,

Defendants.

Case No. 30-2024-01421309-CU-NP-NJC

DECLARATION OF JOHN PAUL REDDAM IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

[Filed concurrently with:

1. Memorandum of Points and Authorities
2. Separate Statement of Undisputed Material Facts
3. Declaration of Delbert O. Meeks
4. Declaration of Elizabeth Emrick
5. Declaration of Brad W. Seiling
6. [PROPOSED] Order]

I, JOHN PAUL REDDAM, declare as follows:

1. I am one of the named defendants in this case. The following facts are within my personal knowledge, and if called upon as a witness, I could testify competently to them.

2. I am the founder and sole shareholder of CashCall, Inc. ("CashCall"), the other defendant in this case. CashCall, formed in 2003, is a finance lender licensed by the California Department of Financial Protection and Innovation ("DFPI"), formerly known as the Department of Business Oversight ("DBO"). Prior to the DBO and DFPI being formed, the California Department of Corporations regulated CashCall. Throughout its existence, CashCall has been licensed and has been required to file annual reports with its California state regulator.

3. CashCall has elected to be taxed as a Subchapter S corporation under the Internal Revenue Code. As such, CashCall does not pay federal or state income taxes, other than a 3.5% California income tax on net income. As the sole shareholder of CashCall, I am responsible for paying any federal and California state income taxes due based on CashCall's taxable income.

4. For most of its existence, CashCall offered consumer loans to California residents, including unsecured loans and, at various times, mortgage loans. CashCall is currently making unsecured consumer loans.

5. In 2017, CashCall and I filed a lawsuit against the law firm Katten Muchin Rosenman, LLP and one of its partners in Orange County Superior Court (the "Katten Litigation"). In that lawsuit, CashCall and I claimed that Katten committed malpractice when providing legal advice related to CashCall's non-California lending operations, leading to numerous state and federal regulatory actions and class action lawsuits in which both CashCall and I were named as defendants.

6. The Katten Litigation was contentious and lasted four years. After multiple attempts to settle the litigation, including multiple mediations, had been unsuccessful, and with trial scheduled to begin on August 16, 2021, Katten's chair, [redacted], requested a meeting. [redacted]

[redacted]

[redacted]

[redacted]

It was my decision to settle the Katten Litigation, and I did so without consulting with my counsel or any other advisors. Once Mr. [redacted] and I agreed to the basic terms, our respective counsel documented the deal in a term sheet that we both signed that same day (August 6, 2021). A true and correct copy of the Term Sheet is attached as to the **Evidence Compendium as Exhibit 1**.

7. [redacted]

8. The primary reason why I decided to settle the Katten Litigation in August 2021 was my concern that Katten would not be able to pay an adverse judgment if CashCall and I prevailed at trial. [redacted]

9. Counsel negotiated a final settlement agreement (the "Katten Settlement Agreement"), which the parties signed on August 13, 2021. A true and correct copy of the Katten Settlement Agreement is attached as **Compendium Exhibit 2**. [redacted].

10. [redacted]

[redacted]

11. After agreeing to the Term Sheet but before signing the Katten Settlement Agreement, we needed to decide how to allocate the settlement proceeds between CashCall and myself, since both CashCall and I were plaintiffs in the Katten Litigation. It was my understanding that Katten was agnostic as to payment allocation. I therefore asked my in-house tax advisor Elizabeth Emrick whether the settlement payment should be made to me or to CashCall. My primary concern was to determine how to minimize the tax liabilities associated with the settlement payment since I would be responsible for any tax liability regardless of whether the payments were made to CashCall, to me, or to some combination of CashCall and myself.

12. Ms. Emrick consulted with CashCall's and my tax accountant, Michael McGrath of Financial Advocates, to analyze the issue. Based on Mr. McGrath's tax analysis, we concluded that the settlement payments should be made to CashCall.

13. I am aware that CashCall was sued in a class action lawsuit in Northern California challenging the interest rates charged on its unsecured consumer loans, which I understand is referred to in filings in this case as the "San Mateo Litigation." I was not involved in the day-to-day activities of the San Mateo Litigation but was kept generally apprised of developments in the case by CashCall's counsel. I know that the San Mateo Litigation was a protracted matter that involved many procedural twists, and that it went to trial in 2021. I was never deposed in the San Mateo Litigation, did not provide any declarations, was not called as a witness at trial, and did not attend any sessions of the trial.

14. The San Mateo Litigation played no role in my decision to settle the Katten Litigation or the timing of the settlement. My decision to settle the Katten Litigation related solely to my view of what would be an appropriate resolution of that case, which was set for trial within less than two weeks of the settlement. The timing of the Settlement of the Katten Litigation was due to the proximity of the trial date.

15. CashCall received the net proceeds from the Katten Settlement in September 2021. CashCall used portions of the funds to repay existing loans and other outstanding obligations. I discussed with CashCall's CFO, Del Meeks, the tax consequences that would flow from the settlement payment and the resulting increase to CashCall's net income. We decided that CashCall would make a distribution to me to cover potential tax liabilities that would flow to me through CashCall because of the Katten Settlement (the "Tax Distribution"). Mr. Meeks calculated the amount of the Tax Distribution by applying the applicable tax rates to CashCall's net income as of September 30, 2021. I received the Tax Distribution in October 2021.

16. The San Mateo Litigation played no role in the decision to make the Tax Distribution. Mr. Meeks and I did not discuss the San Mateo Litigation in any of our communications related to the Tax Distribution, and I did not discuss the San Mateo Litigation with anyone else in connection with the Tax Distribution.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed this 30th day of ~~November~~ October 2025, at Albany, The Bahamas.

John Paul Reddam

Scanned with CamScanner

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

EDUARDO DE LA TORRE,

Plaintiff,

v.

JOHN PAUL REDDAM; CASHCALL, INC., a California corporation; and DOE 1 through DOE 20, inclusive,

Defendants.

Case No. 30-2024-01421309-CU-NP-NJC

DECLARATION OF ELIZABETH EMRICK IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

[Filed concurrently with:

1. Memorandum of Points and Authorities
2. Separate Statement of Undisputed Material Facts
3. Declaration of John Paul Reddam
4. Declaration of Delbert O. Meeks
5. Declaration of Brad W. Seiling
6. [PROPOSED] Order]

I, Elizabeth Emrick, declare as follows:

1. The following facts are within my personal knowledge, and if called upon as a witness, I could testify competently thereto.

2. For approximately ten years I have been employed by Ralis Services Corporation ("Ralis"), a servicing company that provides other companies with accounting, human resources, IT, risk management, and other services. Ralis is owned by John Paul Reddam and provides services to other companies owned by Mr. Reddam, including CashCall, Inc. ("CashCall"). Ralis has also provided services to companies that are unaffiliated with Mr. Reddam.

3. I have known Mr. Reddam since 1995, when I was working as a tax manager at KPMG. I began doing work for CashCall and other companies owned by Mr. Reddam when CashCall was first formed in 2003, before I was employed by Ralis.

4. My duties at Ralis include facilitating the preparation of the tax returns for Mr. Reddam and the entities he owns, including CashCall. I also prepare Mr. Reddam's personal financial statements. Those were my duties in 2021.

5. I have never prepared tax returns for Mr. Reddam or his companies; I have always assisted outside tax accountants who prepared the returns. I do not prepare CashCall's financial statements but am sometimes asked for information related to the financial statements. Del Meeks, CashCall's chief financial officer, is responsible for preparing those statements. I passed the exam to become a certified public accountant, but my certificate is currently inactive.

6. I was aware that CashCall and Reddam filed a lawsuit against CashCall's former legal counsel Katten Muchin Rosenman, LLP and one of its partners (the "Katten Litigation"). My first involvement in the Katten Litigation came after the parties had reached a settlement, and there was a question of where the settlement funds should be sent—to CashCall, Mr Reddam, or some combination of the two. Before the settlement I was not asked to provide any services related to the Katten Litigation, and I never spoke to any of the lawyers representing CashCall, Mr. Reddam, or Katten in that litigation. I did not participate in drafting the settlement agreement.

7. At some point in August 2021, Mr. Reddam asked me "do I have them pay me or CashCall." Mr. Reddam did not express any urgency in asking this question, nor do I recall Mr.

Reddam ever expressing to me that he was in a hurry to complete the Katten settlement. He merely asked me to whom, from a tax perspective, it would be advantageous for the payment to be made. It was my understanding at the time that the settlement funds would be remitted within 30 days, so we needed to complete our tax analysis prior to the funds being sent. It was my understanding that the settlement agreement left it to CashCall and Mr. Reddam to decide how to allocate the settlement payments.

8. I asked Michael McGrath of Financial Advocates, Inc., for a professional opinion on how best to structure the settlement from the tax perspective. Mr. McGrath was CashCall's and Mr. Reddam's outside CPA. He prepared CashCall's and Mr. Reddam's tax returns, and I would work with him to provide data and information he needed to prepare the returns. Based on his experience as CashCall's and Mr. Reddam's tax accountant, I felt Mr. McGrath was the best person to provide advice on the structure of the settlement payments from a tax perspective. In determining the best structure for the settlement from a tax perspective, we were seeking the best business decision to create the least amount of tax liability within the law.

9. Our goal was to minimize the overall tax impact of the settlement payments, since Mr. Reddam ultimately would be responsible for paying any tax obligations arising out of the settlement. CashCall has elected to be taxed as a S Corporation under the Internal Revenue Code, and Mr. Reddam is CashCall's sole shareholder. That means Mr. Reddam is solely responsible for any federal and state income tax obligations from any taxable income generated by CashCall, other than a 3.5% California tax on income that CashCall must pay. In my initial communications with Mr. McGrath, I advised him about the timing of the settlement payment, and that we would need to have our analysis complete within 30 days.

10. Over the next few weeks, I had multiple communications with Mr. McGrath focused solely on the tax issues related to the settlement payment. At his request, I sent Mr. McGrath a draft of the settlement agreement, and he provided comments and suggested language to include in the settlement agreement.

11. On September 9, 2021, McGrath provided a memorandum outlining his tax analysis. A true and correct copy of Mr. McGrath's memo is attached as **Exhibit 3** to the Compendium of

Exhibits ("**Compendium Exhibit**"). Mr. McGrath also prepared multiple analyses outlining the tax consequences of the settlement under different scenarios depending on the recipient of the funds. A true and correct copy of one of Mr. McGrath's tax analyses is attached as **Compendium Exhibit 4**. It was Mr. McGrath's conclusion that the most advantageous treatment of the settlement from a tax perspective was for all the funds to be sent to CashCall. The primary reason for this was the fact that CashCall could deduct legal fees incurred in the Katten Litigation, but Mr. Reddam could not.

12. I was aware that a tax distribution was being considered to be made to Mr. Reddam in October 2021, but I was not involved in the ultimate computation of the tax distribution to Mr. Reddam. I recall Mr. Meeks asking me for the federal and state tax rates that an individual would be charged on net income of $88 million. I provided that information to Mr. Meeks.

13. I was never made aware of concerns regarding the Katten Settlement other than tax issues. I am aware that CashCall was sued in a class action lawsuit in Northern California challenging the interest rates charged on its unsecured consumer loans, which I understand is referred in filings in this case as the "San Mateo Litigation." There were no discussions of the San Mateo Litigation in connection with the decisions regarding the application of the proceeds from the Katten Settlement. Mr. Meeks did not mention the San Mateo Litigation when he asked me for tax rates. I do not recall discussing the San Mateo Litigation with Mr. Reddam or Mr. Meeks related to the tax planning assignment I worked on with Michael McGrath. I did not discuss the San Mateo Litigation with Mr. McGrath at any time.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed this 31 day of October 2025, at Orange, California.

Elizabeth Emrick

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EDUARDO DE LA TORRE,

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JOHN PAUL REDDAM; CASHCALL, INC., a California corporation; and DOE 1 through DOE 20, inclusive,

Defendants.

Case No. 30-2024-01421309-CU-NP-NJC

Hon. Nathan N. Vu

DEFENDANTS' SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS

[Filed concurrently with:
1. Notice of Motion and Motion for Summary Judgment; Memorandum of Points and Authorities;
2. Compendium of Evidence;
3. [Proposed] Order]

Hearing Date: May 11, 2026
Time: 9:00 a.m.
Dept.: N15

Complaint Filed: August 21, 2024
Trial Scheduled: February 23, 2026

Pursuant to California Code of Civil Procedure section 437c(b)(1), Defendants submit the following separate statement of undisputed material facts. This same set of facts is the basis for Defendants' motion for summary judgment, Defendant's motion for summary adjudication on the First Cause of Action, and Defendant's motion for summary adjudication on the Second Cause of Action. All cited evidence is contained in the concurrently-filed Compendium of Evidence.

MOVING PARTIES' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
1. CashCall, Inc. ("CashCall") was formed in 2003 and is a finance lender licensed by the California Department of Financial Protection and Innovation. (Reddam Decl. ¶ 2)	
2. John Paul Reddam is CashCall's founder and sole shareholder. (Reddam Decl. ¶ 2)	
3. CashCall is an S Corporation. (Reddam Decl. ¶ 3)	
4. As an S corporation, CashCall does not pay federal or state income taxes, other than a 3.5% California state financial institutions tax. (Reddam Decl. ¶ 3)	
5. As the sole shareholder of an S Corporation, Reddam is responsible for all state and federal income taxes for taxable	

MOVING PARTIES' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
income generated by CashCall. (Reddam Decl. ¶ 3)	
6. In 2008, a California consumer filed a putative class action complaint against CashCall in federal court, Case No. 3:08-cv-03174-TSH (N.D. Cal.), that was eventually captioned *De la Torre v. CashCall, Inc.* (the "Federal Litigation"). Among other claims in the Federal Litigation, the plaintiffs alleged that the interest rates CashCall charged on loans to California borrowers were unconscionable and therefore unlawful under the California Unfair Competition Law. (Seiling Decl. ¶ 2)	
7. In 2017, CashCall and Reddam filed a lawsuit in Orange County Superior Court against their former outside counsel for legal malpractice and other claims related to advice given in connection with CashCall's non-California lending operations (the "Malpractice Case"). (Reddam Decl. ¶ 5)	

MOVING PARTIES' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
8. The Federal Litigation was dismissed by the federal court without prejudice for lack of subject matter jurisdiction in February 2019. (*De La Torre v. CashCall, Inc.* (N.D. Cal. Feb. 5, 2019) No. 08-CV-03174-TSH, 2019 WL 452028, at *4.)	
9. On March 7, 2019, De La Torre filed a class action complaint against CashCall in San Mateo County Superior Court, captioned *Eduardo de la Torre v. CashCall, Inc.*, No. 19CIV01235 (the "San Mateo Litigation"), again alleging that the interest rates CashCall charged on loans to California borrowers were unconscionable and therefore unlawful under the California Unfair Competition Law. (Seiling Decl. ¶ 9)	
10. A bench trial in the San Mateo Litigation commenced on March 8, 2021. (Seiling Decl. ¶ 10)	
11. The last day of trial testimony in the San Mateo Litigation was May 14, 2021; there	

MOVING PARTIES' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
were a total of 13 days of trial testimony. (Seiling Decl. ¶ 10)	
12. On August 6, 2021, ten days before the trial of the Malpractice Case was scheduled to commence, CashCall and Reddam agreed to settle the case and signed a confidential Settlement Term Sheet. (Reddam Decl. ¶ 6, Compendium Ex. 1)	
13. The San Mateo Litigation played no role in CashCall and Reddam's decision to settle the Malpractice Case or the timing of the settlement. (Reddam Decl. 14)	
14. On August 9, 2021, Reddam and CashCall, through Elizabeth Emrick, their in-house tax advisor, asked their tax accountant (Michael McGrath of Financial Advocates) to conduct a tax analysis to determine whether the proceeds from the settlement of the Malpractice Case should be paid to CashCall, Reddam, or some combination of the two. (Emerick Decl. ¶¶ 7–9, Compendium Ex. 3)	

MOVING PARTIES' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
15. The confidential Malpractice Case Settlement Agreement was signed on August 13, 2021. (Reddam Decl. ¶ 9 & Compendium Ex. 2)	
16. [REDACTED – CONDITIONALLY FILED UNDER SEAL]	
17. On September 9, 2021, Michael McGrath provided his tax analysis, which concluded that payment of the entire proceeds from the Malpractice Case Settlement Agreement to CashCall was the best approach from a tax perspective because it would result in the lowest tax obligation. (Emrick Decl. ¶ 11 & Compendium Ex. 3)	

MOVING PARTIES' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
18. On September 14, 2021, the net proceeds from the Malpractice Case Settlement Agreement were wired into CashCall's bank account. (Meeks Decl. ¶ 6)	
19. CashCall and Reddam understood that the Malpractice Case settlement payment would result in a substantial increase in CashCall's net income that potentially could result in a significant tax obligation for Mr. Reddam. (Meeks Decl. ¶ 7)	
20. Reddam and CashCall's chief financial officer Delbert Meeks discussed making a distribution to Reddam for tax purposes. (Meeks Decl. ¶ 7)	
21. CashCall had made distributions to Reddam on numerous prior occasions to account for anticipated tax obligations arising out of CashCall's taxable income. (Meeks Decl. ¶ 7)	
22. The parties submitted opening post-trial briefs in the San Mateo Litigation on September 20, 2021, and reply briefs on October 4, 2021. (Seiling Decl. ¶ 10)	

MOVING PARTIES' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
23. On October 26, 2021, CashCall sent a wire transfer to Reddam (the "Tax Distribution"). (Meeks Decl. ¶ 9)	
24. The amount of the Tax Distribution was calculated by applying the maximum California and federal tax rates to CashCall's net income as of September 30, 2021. (Meeks Decl. ¶ 8; Emrick Decl.. ¶ 12)	
25. The San Mateo Litigation played no role in CashCall's decision to make the Tax Distribution to Reddam or the amount of the Tax Distribution. (Meeks Decl. ¶ 13; Reddam Decl. ¶ 14)	
26. At the time of the Tax Distribution and through the end of 2021, CashCall was paying its debts as they came due. (Meeks Decl. ¶ 10)	
27. At the time of the Tax Distribution and through the end of 2021, the total sum of CashCall's debts was not greater than the total sum of its assets. (Meeks Decl. ¶ 10)	

MOVING PARTIES' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
28. At the time of the Tax Distribution, CashCall had no plans to cease doing business. (Meeks Decl. ¶ 11; Reddam Decl. ¶ 7, 10, Compendium Exs. 1 & 2)	
29. At the time of the Tax Distribution, Reddam had no plans to initiate bankruptcy of insolvency proceedings for CashCall. (Reddam Decl. ¶ 10, Compendium Exs. 1 & 2)	
30. CashCall continues to do business and is originating new loans. (Meeks Decl. ¶ 11)	
31. The court in the San Mateo Litigation held closing arguments on November 1, 2021. (Seiling Decl. ¶ 10)	
32. On January 20, 2022, the court in the San Mateo Litigation issued a Tentative Ruling After Court Trial. (Seiling Decl. ¶ 11 & Compendium Ex. 8)	
33. Ten months later, on November 17, 2022, the court in the San Mateo Litigation issued a Proposed Statement of Decision	

MOVING PARTIES' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
After Court Trial. (Seiling Decl. ¶ 12 & Compendium Ex. 9)	
34. Both sides filed objections to the Proposed Statement of Decision; CashCall filed its objections on December 19, 2022. (Seiling Decl. ¶ 12)	
35. On August 22, 2023, the court in the San Mateo Litigation issued a Final Statement of Decision that made revisions to the Proposed Statement of Decision and awarded monetary restitution to De La Torre and the class in the amount of $245,515,389. (Seiling Decl. ¶ 13 & Compendium Ex. 10)	
36. On August 31, 2023, the court in the San Mateo Litigation issued its Judgment After Court Trial. (Seiling Decl. ¶ 14 & Compendium Ex. 11)	
37. On September 7, 2023, CashCall moved for a new trial and to vacate the judgment. (Seiling Decl. ¶ 15)	
38. On November 7, 2023, the court in the San Mateo Litigation denied CashCall's	

MOVING PARTIES' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
motion for new trial and to vacate the judgment, but exercised its discretion to issue an Amended Final Statement of Decision and Amended Judgment. (Seiling Decl. ¶ 15, Compendium Ex. 12 & 13)	
39. On November 17, 2023, Plaintiff filed a Motion for an Amended Judgment. (Seiling Decl. ¶ 16)	
40. On November 29, 2023, CashCall filed a notice of appeal with regard to the November 2023 Amended Judgment. (Seiling Decl. ¶ 17)	
41. On January 9, 2024, the court in the San Mateo Litigation denied Plaintiff's motion for an amended judgment. (Seiling Decl. ¶ 16)	
42. On January 19, 2024, the court in the San Mateo Litigation granted *preliminary* approval of Plaintiff's motion for attorneys' fees and a plan of allocation, which order stated in part: As the Judgment is on Appeal and no payment has been made or received, the Court's approval of the Amended Plan of Distribution	

MOVING PARTIES' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	OPPOSING PARTY'S RESPONSE AND SUPPORTING EVIDENCE
and the Court's approval of the Plaintiffs' counsel's requests for attorneys' fees and reimbursement of costs is PRELIMINARY APPROVAL [*sic*]. Members of the Certified Class are entitled to received [*sic*] written Notice of the Judgment, the Amended Plan of Distribution, and the preliminary approval of the Fee and Cost award, including the incentive award to the named Plaintiff, and the opportunity to file Objections thereto. A Notice to the Class, the setting of an Objection deadline and the setting of a Hearing on Final Approval must be done AFTER the Appeal is completed and final, and any Judgment is paid or otherwise recovered. (Seiling Decl. ¶ 18 & Compendium Ex. 14)	

Dated: November 3, 2025

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

EDUARDO DE LA TORRE,

Plaintiff,

v.

JOHN PAUL REDDAM; CASHCALL, INC., a California corporation; and DOE 1 through DOE 20, inclusive,

Defendants.

REDACTED (PUBLIC) VERSION FILED WITH THE COURT PER CRC 2.551(b)(3)(A)(ii); LODGED VERSION CONTAINS MATERIAL DESIGNATED CONFIDENTIAL UNDER STIPULATED PROTECTIVE ORDER

Case No. 30-2024-01421309

PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Date: May 11, 2026
Time: 9:00 a.m.
Dept.: N15

Case Filed: August 21, 2024
Trial Date: October 12, 2026

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INTRODUCTION

Plaintiff is the class representative in a class action filed in 2019 against CashCall to recover interest payments made on 135,000 96% and 135% loans CashCall made to subprime borrowers between 2005 and 2011. The case was tried to a San Mateo County Superior Court Judge during the Spring of 2021. The trial judge held closing arguments on November 1, 2021. In November 2023, the trial judge issued a final Statement of Decision and a final Judgment, finding the loans unconscionable and holding CashCall liable to pay restitution of $245 million to the Class.

CashCall appealed. On February 27, 2026, the First District Court of Appeal affirmed the Judgment in full.

Five days before closing arguments in the trial court—on October 26, 2021—CashCall made a [redacted] distribution to its founder, sole shareholder, CEO, and director, defendant John Paul Reddam. CashCall justified the distribution in an interrogatory answer verified by CashCall's CFO, Delbert Meeks, stating:

[redacted]

Levy Dec. Ex. 6, emphasis added.

In fact, [redacted], and didn't have to pay any additional income tax until January 15, 2022, 2-1/2 months later. The distribution was [redacted] than Reddam actually paid for 2021 income taxes.

As to the First Cause of Action in the Complaint to recover the distribution based on an actual fraudulent transfer, the circumstances of the distribution bear multiple "badges of fraud" the courts have traditionally considered in assessing intent in fraudulent transfer cases. These badges of fraud prove that the "tax distribution" was a subterfuge and preclude summary judgment. Triable issues of fact exist as to whether CashCall intended to hinder, delay, or defraud the Class.

As to the Second Cause of Action to recover the distribution based on a constructive fraudulent transfer, CashCall fails to carry its initial burden of proving that CashCall was solvent at the time of the transfer. To the extent the Court may find CashCall's proof sufficient, genuine issues of fact still preclude summary judgment.

SUMMARY JUDGMENT STANDARDS

The pleadings frame the scope of what may be addressed via a motion for summary judgment. (*Nieto v. Blue Shield of Cal. Life & Health Ins. Co.* (2010) 181 Cal. App. 4th 60, 74.) The evidence submitted in support of or in opposition to the motion must be addressed to the causes of action stated.

If the moving party fails to state a material allegation of the complaint in its separate statement, the court cannot grant summary judgment on the ground that such unstated fact is not in genuine dispute. "We construe the statutory mandate for a separate statement as requiring a party to *specify within that document* any facts he deems to be disputed facts material to the issue presented." (*North Coast Bus. Park v. Nielsen Constr. Co.* (1993) 17 Cal.App.4th 22, 30 [emphasis in original].) "[I]f the facts presented in the moving party's separate statement, even if true, do not require or permit the desired ruling, the motion will be denied without further analysis. (*United Cmty. Church v. Garcin* (1991) 231 Cal.App.3d 327, 338.)

A court must draw all inferences from the evidence in the light most favorable to the non-moving party—here, plaintiff. (*Aguilar v. Atl. Richfield Co.* (2001) 25 Cal.4th 826, 843.) The court may not grant a motion for summary judgment "based on inferences reasonably deducible from the evidence if contradicted by other inferences or evidence that raise a triable issue as to any material fact." (Code Civ. Proc., § 437c, subd. (c).)

The Court must initially determine whether the moving party has met its initial burden of showing "that one or more elements of the cause of action, even if not separately pleaded, cannot be established …." (*Id*. subd. (p)(2).) Only when the court concludes that burden has been met does the burden shift to the opposing party "to show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto." (*Thompson v. Ioane* (2017) 11 Cal.App.5th 1180, 1196.)

THE UNIFORM VOIDABLE TRANSACTIONS ACT

In 2015 the Legislature amended what had previously been known as the Uniform Fraudulent Transfer Act ("UFTA"). (Stats. 2015, ch. 44, §§ 1–16 [SB 161].) The revised statute substantially adopted the Uniform Voidable Transactions Act recommended by the National Conference of Commissioners on Uniform State Laws (hereinafter, "Uniform Law" [Appendix (App.) Ex. "A"]). (Sen. Judiciary Comm. (April 21, 2015), Analysis of Sen. Bill. No. 161 (2015–2016 Reg. Sess.) p. 7; Legislative Counsel's Digest to SB 161.)

The 2015 legislation is codified as the Uniform Voidable Transactions Act (UVTA). (Civ. Code, §§ 3439 *et seq*.) California's enactment of the UVTA did not alter the essential elements of a cause of action for a fraudulent or voidable transfer. (*Aghaian v. Minassian* (2020) 59 Cal.App.5th 447, 455 fn. 8.) The UVTA is generally interpreted as consistent with the prior UFTA. (*Id*.; Civ. Code, § 3439.14, subd. (d).)

"The purpose of the UVTA is to prevent debtors from placing, beyond the reach of creditors, property that should be made available to satisfy a debt." (*Chen v. Berenjian* (2019) 33 Cal.App.5th 811, 817.) A creditor may set aside a transfer as fraudulent under the UVTA by showing either "actual fraud" or "constructive fraud." (*Ibid*.)

A transaction is voidable if made with "actual intent to hinder, delay, or defraud any creditor of the debtor." (Civ. Code, § 3439.04, subd. (a)(1).)

Alternatively, a transaction may be "constructively fraudulent," without regard to intent, if the debtor did not receive "reasonably equivalent value" for the transfer, and the transaction was made when the debtor was insolvent. (*Id*., § 3439.05.) Constructive fraud liability also exists under section 3439.04(a)(2) if the debtor either "(A) [w]as engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction" or "(B) [i]ntended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due."[1]

[1] CashCall's Separate Statement does not address liability under Civil Code section 3439.02(a)(2)(B), that at the time of the distribution, CashCall "intended to incur, or believed *or*

ARGUMENT[2]

1. Summary Adjudication of the First Cause of Should be Denied; a Triable Issue of Fact Exists on Intention to Hinder, Delay, or Defraud the Class.

The debtor's intent is an issue of fact. (*Aghaian*, *supra*, 59 Cal.App.5th at 456.) Intent need only be shown by a preponderance of the evidence. (Civ. Code, § 3439.04, subd. (d).)

Here, the controlling intent is that of CFO Delbert Meeks. The intent of the debtor—CashCall—is controlling, not the intent of the recipient, Reddam. (Civ. Code, § 3439.04(a)(1); *Kirschner v. Fitzsimons* (S.D.N.Y. Jan. 6, 2017) 2017 U.S. Dist. LEXIS 3039, at *13.)

Within CashCall, Meeks *alone* made the decision to pay [redacted] to Reddam on October 26, 2021, without consulting Reddam's personal tax advisor, Elizabeth Emrick (other than to obtain income tax rates), or Reddam. Meeks Depo. (Levy Dec. Ex. 1) 129:4-130:25; 132:1-8; Emrick Depo. (Ex. 2) 10:24-11:18; 79:12-80:17; Reddam Depo. (Ex. 4) 105:16-107:5.

As for CashCall's point that CashCall and Reddam decided that all of the Katten settlement proceeds would be allocated to CashCall, not Reddam, Meeks had no involvement in or knowledge of that decision process. Meeks Dec. ¶ 5, Separate Statement (SS) 14. Further, the tax allocation analysis (CE Ex. 3) recommended the most advantageous approach for CashCall and Reddam to minimize their overall taxes. Defendants' Compendium of Evidence (CE) Ex. 5 at pp. 52-53; SS 17.

The only direct evidence of Meeks' intent CashCall provides is Meeks' bald statement that "The San Mateo Litigation played no role in the decision to make the 2021 Tax Distribution or the timing of the distribution." (UF 25, CE Ex. "C" ¶ 13.)[3]

---

reasonably should have believed that [it] would incur, debts beyond the debtor's ability to pay as they became due." (Emphasis added.) This is alleged in paragraph 25 of the Complaint. This alone is a basis for denying summary judgment and summary adjudication.

[2] CashCall's exhibits are identified by "CE" (Compendium of Evidence). Plaintiff's exhibits are identified by "Ex."

[3] Although Mr. Meeks uses the term "we" throughout his declaration, he does not make clear to whom he is referring. At best, he can only speak for his own intentions. Plaintiff objects on grounds of relevancy and lack of personal knowledge to his testimony to the extent he purports to testify to the intentions of others. Reddam testified he had no knowledge or participation in calculating the distribution or its timing. Ex. 4 105:16-107:5.

Because the UVTA adopted sections 4 and 5 of the Uniform Law without material change, the Uniform Law provides direct guidance in interpreting the UVTA. (Civ. Code, § 3439.13 [UVTA "shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it"]; Sen. Analysis.)

The comments to the Uniform Law explain that an actual intent to defraud need not be shown, only conduct that "unacceptably contravenes norms of creditors' rights," including hindering or delaying collection of a debt:

> Section 4(a)(1) is sometimes said to require "actual fraud," by contrast to § 4(a)(2) and § 5(a), which are said to require "constructive fraud." That shorthand is highly misleading. Fraud is not a necessary element of a claim for relief under any of those provisions…. "Hinder, delay, or defraud" is best considered to be a single term of art describing a transaction that unacceptably contravenes norms of creditors' rights. Such a transaction need not bear any resemblance to common-law fraud. Thus, the Supreme Court held a given transfer voidable because made with intent to "hinder, delay, or defraud" creditors, but emphasized: "We have no thought in so holding to impute to [the debtor] a willingness to participate in conduct known to be fraudulent…. [He] acted in the genuine belief that what [he] planned was fair and lawful. Genuine the belief was, but mistaken it was also. Conduct and purpose have a quality imprinted on them by the law." *Shapiro v. Wilgus.* 287 U.S. 348, 357.

(Uniform Law [App. Ex. "A"] at p. 25, emphasis added.)

a. Well-Established "Badges of Fraud" Prove Intent to Hinder, Delay, or Defraud

"Rarely will a fraudster admit outright to the commission of a devious act. A transferor's intent must therefore be gleaned and deduced through the consideration of circumstances surrounding a transfer."[4] (*In re Wireless Sys. Sols. LLC* (Bankr. E.D.N.C. 2025) 675 B.R. 451, 462.) Because intent to intent to hinder, delay or defraud creditors is rarely admitted, courts can infer intent from the circumstances surrounding the transfer, taking particular note of certain recognized indicia or "badges of fraud." (*Filip v. Bucurenciu* (2005) 129 Cal.App.4th 825, 834; *Acequia, Inc. v. Clinton* (9th Cir. 1994) 34 F.3d 800, 805-06; *Deitsch Plastic Co. v. Generations*

[4] The leading cases on voidable transfers are federal bankruptcy cases because bankruptcy trustees have broad avoidance powers, including under substantially the same substantive standards as the UVTA. App. Ex. "B"-"E".

Re Ventures LLC (C.D. Cal. Apr. 17, 2025) 2025 U.S. Dist. LEXIS 106519 at *10; 2025 LX 111832; 2025 WL 1543611.)

Section 3439.04(b) provides a non-exclusive list of well-established circumstantial "badges of fraud" to guide the courts in determining intent. (*Filip, supra*, 129 Cal.App.4th at 834.) Although these factors do not necessarily compel a finding one or the other (*id.*), they "include[] most of the so-called 'badges of fraud' that have been recognized by the courts in construing and applying the Statute of 13 Elizabeth and § 7 of the Uniform Fraudulent Conveyance Act." (App Ex. "A" at 22.)

"Although 'no one badge of fraud constitutes a per se showing of fraudulent intent,' the presence of a number of badges of fraud 'is said to 'create . . . an overwhelming presumption of fraud' or to 'raise . . . a strong inference of fraudulent intent'." (*Freeland v. Enodis Corp.* (7th Cir. 2008) 540 F.3d 721, 733, internal citations omitted; *Acequia, supra*, 34 F.3d at 805-06.)

The courts have found the presence of multiple badges of fraud to be sufficient to prove fraudulent intent in the face of express disavowals by defendants. (*E.g., Aghaian, supra*, 59 Cal.App.5th at 456 [transfers to insider, retention of control, plaintiff's lawsuit filed before the transfers were made, and absence of reasonably equivalent value for transfers held sufficient to state cause of action for actual fraud); *Filip, supra*, 129 Cal.App.4th at 834 [transfers made after defendant knew that the creditor had filed suit and "knew that a judgment against Peter might be forthcoming"]; *Freeland, supra*, 540 F.3d at 733-34.

Here, multiple badges of fraud are present that preclude summary judgment.

b. Application of the Badges of Fraud to the Distribution

Meeks paid Reddam on the backdrop of several years of the company's profound financial decline. CashCall had embarked on a disastrous program to expand its subprime lending nationally by operating through a supposed Indian tribal entity. *Consumer Fin. Prot. Bureau v. CashCall, Inc.* (9th Cir. 2025) 124 F.4th 1209, 1212, *cert. denied*, March 2, 2026. In 2013, the federal Consumer Financial Protection Bureau sued CashCall, challenging its tribal lending program and seeking penalties and restitution. Ex. 4 27:23-28: 4; Ex. 17. The CFPB case prevented CashCall not only from re-expanding nationally, but also from getting funding for

lending in California. *Id*. 26:20-28:4; 45:24-48:12. This led to a dramatic contraction of CashCall's business. *Id*.; Ex. 1 96:2-11.

By 2015, CashCall was beginning to wind down. Ex. 7. CashCall did not make any new loans in 2019 and that continued through 2021. Ex. 1 19:19-20:11; 96:2-11. Even now, CashCall lending is minimal, only about 5-10 loans a month. Parks Depo. (Ex. 5) 74:8-19.

The Katten Settlement was a rare victory for a declining company, bringing a "huge cash settlement" [redacted]. Ex. 1 129:4-20; CE Ex. 5 at p. 59 ("Miscellaneous Income"). The settlement enabled CashCall [redacted]. CE Ex. 7 at p. 87; Ex. 1 93:10-96:1; Ex. 5 45:15-46:20, 65:22-66:8; Ex. 8, 9, 11.

For Meeks, the Katten settlement money was an opportunity to push a large amount of money out the door to Reddam before a large judgment could be rendered in the class action. He had a strong motive for getting money into Reddam's hands. The pretext of a "tax distribution" fit the bill:

> Q. Did you know when Mr. Reddam's estimated tax payment was due at this time in October of 2021?
>
> A. I do not know the date -- the exact date.
>
> Q.· Did you have any concern that Mr. Reddam was going to be penalized for making a late estimated tax payment?
>
> A. My concern is getting him the money.· His -- and then his work starts with his tax person to determine the time, dates, and the payments.
>
> Q. Did you check to see when his estimated tax payment was due?
>
> A. It is not under my privy.
>
> Q. And I take it from your testimony, you didn't contact Mr. McGrath in connection with this distribution to ask him how much Mr. Reddam would owe in estimated taxes?
>
> A. No.

Ex. 1: 131:9-25.

i. Badge (1): "Whether the transfer or obligation was to an insider"

Reddam is an insider. He is the founder, sole shareholder, CEO, director, and active, indeed predominant, decisionmaker at CashCall. SS 2; Ex. 4 10:12-12:13. Meeks did not know the tax law and had a strong motive for getting money out of the Katten "huge cash settlement" to his boss, Reddam. Ex. 1 10:1-3; 23:14-18; 129:4-20; 131:9-25.

ii. Badge (4): "Whether before the transfer was made …, the debtor had been sued or threatened with suit"

Defendants rely heavily on the facts that the San Mateo Court had not yet rendered its Tentative Decision or entered Judgment against CashCall. The UVTA does not require that a creditor even to have filed suit to avoid a transfer. Section 3439.01(d) defines a "debt" as liability on a claim. "Claim" is broadly defined as "a right to payment, *whether or not the right is reduced to judgment*, liquidated, unliquidated, fixed, *contingent*, matured, unmatured, *disputed*, undisputed, legal, equitable, secured, or unsecured." (*Id*., § 3439.01, subd. (b), emphasis added; § 3439.04(a) [transfer voidable "whether the creditor's claim arose before or after the transfer was made or the obligation was incurred'].)

A threatened or pending lawsuit suffices to trigger badge (4). (*E.g*., *Aghaian*, *supra*, 59 Cal.App.5th at 456 [lawsuit filed before the transfers were made]; *Freeland*, *supra*, 540 F.3d at 733 [transfers occurred when debtor "knew it faced significant furnace-related claims" from pending and likely future lawsuits].)

Here, the class action had been pending since 2019, and had already been tried in the Spring of 2021. SS 9-11. CashCall's summary judgment motion had been denied. Ex. 10. Meeks made the distribution to Reddam just five days before closing arguments in the trial. SS 22, 23, 31.

iii. Badge (10) "Whether the transfer occurred *shortly before* or shortly after a substantial debt was incurred"

Meeks paid Reddam "shortly before" the San Mateo Court was about to hear closing arguments and render its Tentative Decision. SS 23, 31, 32. The evidence raises a triable issue of

fact whether Meeks really intended to make a tax distribution—or whether tax was a pretext for getting money out to Reddam before the San Mateo Court ruled.

CashCall received the Katten payment on September 14. SS 18. Although Reddam's deadline for making a third quarter estimated tax payment was September 15,[5] Meeks did not make his "tax distribution" to Reddam until six weeks later, on October 26. SS 23. [redacted]. Ex. 8, 11; Ex. 5 65:22-66:6. [redacted]. Ex. 12, 13. Meeks had been active during the class trial, serving as CashCall's' client representative during the trial. Ex. 14. The brief [redacted] summarized the trial evidence supporting a judgment against CashCall, and made clear that the Class was asking for at least $243 million, roughly the same amount the court eventually awarded:

> Plaintiff introduced two separate methodologies for restitution based on loan data provided by CashCall. In both, Mr. McFarlane calculated borrowers' total payments and then deducted the unpaid principal on the loans to determine restitution. In Methodology 1, he calculated that the total amount of interest paid on the loans made during the Class period was $292,393,266. In Methodology 2, he calculated that the total amount of interest paid by Class members *above 36%* interest was $243,355,073.

Ex. 13 at 23:27-24:8, record citations omitted, emphasis added. The brief went on to state that "Plaintiff … respectfully submits that Methodology 1 is the more appropriate approach …." *Id.* at 25:1.

[redacted] and then preparing the September financials in mid-October (Meeks Dec. ¶ 8), on October 26—five calendar days before the San Mateo Court would be hearing closing arguments for the trial on November 1—Meeks processed the distribution to Reddam on October 26. Meeks Dec. ¶ 9 & CE Ex. 6; SS 31.

This evidence proves that Meeks was aware of the size of the Class claim, and as soon as he had completed the September financials in mid-October, took action to get money out the door

[5] Ex. 3 at 23:19-24:18; Ex. 2 77:24-78:14.

to Reddam as soon as he could. His deposition testimony quoted above, alone, supports the inference that that, not tax considerations, was his true motive for the timing and size of his distribution to Reddam. Ex. 1 131:9-25.

Defendants present an alternative scenario, [redacted]. Ex. 6. Construing the evidence as a whole in favor of plaintiff, a triable issue of fact nevertheless remains as to Meeks' true motive.

Meeks' tax justification rings false: Estimated income taxes are due April 15, June 15, September 15, and January 15 of the following year. McGrath Depo. (Ex. 3) 23:19-24:18; Ex. 2 77:24-78:14.

Meeks did not know Reddam's next estimated tax deadline and made no attempt to find out. Ex. 1 131:1-133:15. Elizabeth Emrick is Reddam's "personal CFO" and handles his tax matters. Ex. 2 11:24-19; Ex. 4 20:20-25; Ex. 3 17:24-18:31. CPA Michael McGrath advises Emick about Reddam's estimated tax amounts and prepares his tax returns. Ex. 2 56:10-23; 58:12-18.

Meeks contacted Emrick around October 26, but only get the income tax rates he used in calculating the distribution. Ex. 1 129:14-25; CE Ex. 6. He did not ask her when Reddam's next estimated tax payment was due, or how much Reddam would owe. Ex. 2 76:13-17; 79:12-17. Nor did he ask Reddam's tax preparer, CPA McGrath. Ex. 1 131:21-25.

[redacted]. Ex. 3 59:6-62:1; 69:23-72:15; Ex. 15, 19, 20. He did not have to pay any additional income tax until January 15, 2022. Ex. 2 78:24-78:1; Ex. 3 24:14-18.

Meeks' October 26 distribution bore no relationship to the amount of tax Reddam actually owed or would end up owing for 2021. Reddam had already paid [redacted]. Levy Dec. ¶ 19 & Ex. 15. He paid [redacted]. *Ibid.* His total tax payments on account of 2021 were only [redacted] of the October 2021 payment to him, which [redacted]. *Ibid.* Even taking account of the credits Reddam claimed against 2021 taxes (including prior year refunds, etc.), his total payments and credits on account of 2021 taxes amounted [redacted]

[redacted].

Ibid.

Meeks based the distribution on CashCall income on the CashCall's "book income" from CashCall's internal profit and loss statement through September 30, 2021. SS 24; Meeks Dec. ¶ 8 & CE Ex. 5 at p. 57, 6; Ex. 1 125:25-126:15; Ex. 6. But CashCall's "book" or raw financial statement income is not the "taxable income" that Reddam had to report for income tax purposes. Ex. 3 20:22-22:23. Meeks did not know what CashCall's taxable income was, and made no attempt to find out. Ex. 1 126:16-127:19.

Although Meeks based the distribution to Reddam on book income of [redacted], CashCall's 2021 annual income was falling after September 30. Ex. 1 124:17-125:24;136:21-24. CashCall's book income fell by [redacted] as of the end of 2021. *Id*. 136:21-24 CashCall's taxable income was even less, $49.3 million. Ex. 3 84:6-85:7; Ex. 16.

On January 17, 2022—five days before the San Mateo Court's Tentative Decision—Meeks learned that CashCall's 2021 taxable income was about [redacted] than the figure he had used in calculating the distribution to Reddam, only about half of the figure Meeks had used. *Ibid*. Even after Meeks came to realize that he had used a figure nearly twice CashCall's actual 2021 taxable income, he did not think the distribution had been "excessive," and did not ask Reddam for a refund. Ex. 1 136:25-138:9, SS 32.

If Meeks had paid Reddam while having a contingency plan in place to cover the potential for liability to the Class and a potential adverse judgment, that might show an absence of intent to hinder, delay, or defraud the Class. But here the opposite is true: Meeks and CashCall had no such plan. Ex. 1 42:11-47:2; Ex. 1 49:10-23. That Meeks paid out half of the Katten settlement to Reddam while having no plan for addressing the substantial objective potential that existed at the time for a large Class judgment against CashCall shows an intent to hinder, delay, or defraud the Class. SS 31, 32, 36, 38; CE Ex. 7; Ex. 6, 8, 10, 11.

iv. Badge (9): "Whether the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred"

Plaintiff addresses insolvency below in the context of constructive liability. CashCall was insolvent at the time of the distribution. See pp. 14-20, below.

v. Badge (8): "Whether the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred"

If the debtor receives reasonably equivalent value from the transferee in exchange for a transfer, that militates against liability under subdivision (a)(1). (Civ. Code, § 3439.04, subd. (b)(8).) That is because fair consideration received by the debtor would not unreasonably deplete the debtor's assets.

But here, CashCall received no consideration from Reddam. The distribution simply depleted funds from CashCall that could otherwise have been applied in satisfaction of the Class Judgment.

CashCall's financial statements are clear that Reddam returned no property or other consideration in exchange for the distribution. [redacted]. CE Ex. 5, at p. 58 ("[redacted]"). CashCall booked the payment as a [redacted]." Ex. 6; Ex. 8 at p. 79 ("[redacted]").

CashCall does not challenge that the complaint accurately alleges that the payment to Reddam was a "distribution." (Complaint ¶ 18.) A "distribution" is a payment to a shareholder solely by reason of ownership—e.g., a dividend paid to shareholder—and does not represent remuneration for services or other compensation. Corporations Code section 166 defines "distribution" as "the transfer of cash or property by a corporation to its shareholders *without consideration*, whether by way of dividend or otherwise …." (Emphasis added.)

That CashCall is an S corporation simply confirms that Reddam returned no consideration to CashCall in return for the distribution, far from proving the contrary. CashCall has been an S corporation from its inception. Reddam Dec. ¶ 3; Ex. 4 18:1-19:2. "As an S corporation, CashCall *does not pay* federal or state income taxes, other than a 3.5% California state financial institutions tax." SS 4, emphasis added. "As the sole shareholder of an S Corporation, Reddam *is*

responsible for all state and federal income taxes for taxable income generated by CashCall." SS 5, emphasis added.

Reddam's decision, as CashCall's founder, to elect S corporation tax treatment, means that CashCall incurs no income tax liability (except for 3.5% California tax). Instead, Reddam is personally liable to pay income tax on all of CashCall's taxable income. Significantly, CashCall's *losses* are also passed through to Reddam that shelter and reduce his personal income liability. Ex. 3 25:19-26:5. Therefore, when CashCall makes a "tax distribution" to Reddam, it is making a payment on account of a debt only Mr. Reddam owes, not CashCall. There is no "reasonably equivalent value" in exchange for such a payment:

> Like an S-corporation, SGK had no income tax liability of its own; its members were required to treat their share of SGK's income as a personal tax liability. Assuming that SGK had committed to pay its members enough cash to satisfy their tax liability for a given year, this arrangement—even if called a contract—was equivalent to a corporate dividend; fulfilling the commitment would not produce any benefit to SGK.

(*Official Comm. of Unsecured Creditors of SGK Ventures, LLC v. NewKey Group, LLC* (Bankr. N.D. Ill. 2014) 521 B.R. 842, 859.)

2. Summary Adjudication Should Be Denied on the Second Cause of Action: There is a Triable Issue of Fact on CashCall's Insolvency

Section 3439.05(a) renders a transfer voidable "if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor *was insolvent at that time* or the debtor became insolvent as a result of the transfer or obligation." (Emphasis added.)

In its brief and Separate Statement, CashCall does not raise the issue whether the transfer was made for reasonably equivalent value.[6] Therefore, the only issue under section 3934.05 is whether CashCall was objectively insolvent at the time of the distribution to Reddam.

[6] However, as shown above there was no reasonably equivalent value. See pp. 12-13, above.

a. CashCall Has Failed to Carry Its Burden of Proving Insolvency

The UVTA provides that "A debtor is insolvent if, *at a fair valuation*, the sum of the debtor's debts is greater than the sum of the debtor's assets." (Civ. Code. § 3439.02, subd. (a), emphasis added.)

Insolvency is an issue of fact and CashCall tenders it as such. SS 27. The Separate Statement bases CashCall's proof of solvency on paragraph 10 of the Meeks Declaration. *Ibid.* There he uses the words of the statute, "the sum of CashCall's debts did not exceed its assets, as reflected in the financial statements through September 30, 2021," without mentioning the "fair valuation" requirement. CE Ex. "C", ¶ 10. His testimony at best states a conclusory, subjective, and unsupported opinion that fails to establish that he has applied the UVTA's "fair valuation" standard and has conducted any valuation analysis in conformity with that standard. Viewing his testimony in the light most favorable to plaintiff, he has not, and CashCall's insolvency proof fails.

CashCall's September 30, 2021 unaudited internal balance sheet does not cure this deficiency. [redacted]. CE Ex. 5 at p. 58. There is no testimony establishing any of the liabilities are valued in compliance with the UVTA's "fair valuation" standard. CashCall's September 30 internal financial statements [redacted] *Id.* at p. 58. [redacted]. *Ibid.*; Ex. 1 124:3-11; Pfeiffer Dec. ¶¶ 17, 18.

CashCall appears to take the position that the insolvency determination does not have to account for CashCall's liability to the Class because Judgment was not entered until November 2023. That is incorrect.

Under the UVTA, a "debt' is "liability on a claim." The Class had a "claim" because it had "a right to payment … *whether or not the right [had been] reduced to judgment*, liquidated, *unliquidated*, fixed, *contingent*, matured, unmatured, *disputed*, [or] undisputed …" (Civ. Code, §

3439.01, subd. (a), emphasis added.) Because the class claim arose before the transfer, plaintiff has the right to avoid it based on section 3439.05.

In determining insolvency, "fair valuation" of a company's liabilities must take account of liabilities that are disputed, contingent, and/or unliquidated debts and before they have been reduced to judgment. (*E.g.*, *In Re Xonics Photochemical* (7th Cir. 1988) 841 F.2d 198, 200 [unasserted potential claim on loan guarantee had to be discounted for solvency purposes, Posner, J.]; *Freedland, supra,*540 F.3d at 731-32 [furnace-related claims, both filed and threatened, had to be valued and "appropriately discounted" in determining solvency]; *Dundon v. McKinsey & Co.* (S.D.N.Y. 2025) 674 B.R. 349, 419-420 [failure to account for unadjudicated opioid liabilities "led to an exaggerated perception of the company's solvency"]; *In re W.R. Grace & Co.* (Bankr. D. Del. 2002) 281 B.R. 852, 859-62 [unasserted asbestos claims had to be included in fair valuation analysis for determining the company's solvency].)[7]

According to the Uniform Act, the UVTA's insolvency definition "is derived from the definition of 'insolvent' in Bankruptcy Code § 101(29)(A) (1984). The definition in subsection (a) contemplates a fair valuation of the debts as well as the assets of the debtor." (App. Ex. "A" at p. 14.)

The Bankruptcy Code section defining "insolvent" has been renumbered without substantial change. (11 U.S.C. § 101(32) [App. Ex. "B"].) Section 3439.02(a) uses substantially the same language as the Bankruptcy Code in defining insolvency. Judicial interpretation of federal laws "is persuasive authority and entitled to substantial weight" when interpreting parallel California statutes. (*Olson v. Six Rivers Nat'l Bank* (2003) 111 Cal.App.4th 1, 12, citing *Kahn v. Kahn* (1977) 68 Cal.App.3d 372, 387; *Aguilar v. Mandarich Law Group, LLP* (2023) 87 Cal.App.5th 607, 627.)

The Uniform Act departs from the rule of valuing liabilities at their face value and requires "discounting the face amount of a contingent debt to reflect the probability that the contingency will not occur …." (App. Ex. "A" at pp. 14-15.) The foundational decision on

[7] See also discussion at pp. 19-20, below.

unliquidated contingent debt is *Xonics*. *Xonics* dealt with a "contingent liability," a guarantee the bankruptcy debtor (Xonics) had signed, but had not yet been called upon to pay. The bankruptcy trustee sued to recover payments made to Mitsui as voidable preferences. "The dispositive issue was whether Xonics Photochemical had been insolvent when the payments to Mitsui were made; that is, did the fair value of its liabilities exceed the fair value of its assets" under the Bankruptcy Code. (*Xonics, supra*, 841 F.2d at 199.)

The court rejected the position that the guarantee had to be counted at the face value of the debt as "absurd" because it ignored entirely the probability that the debtor would never be called upon to pay the guarantee. Instead, the court adopted the "probability discount" test:

> By definition, a contingent liability is not certain -- and often is highly unlikely -- ever to become an actual liability. To value the contingent liability it is necessary to discount it by the probability that the contingency will occur and the liability become real.

(*Xonics*, 841 F.2d at 200.)

> The principle just outlined has long been recognized in cases dealing with the question whether a firm is insolvent within the meaning of the Bankruptcy Code (and this is such a case). It makes no difference whether the firm has a contingent asset or a contingent liability; the asset or liability must be reduced to its present, or expected, value before a determination can be made whether the firm's assets exceed its liabilities.

(*Ibid.*, emphasis added.)

The courts have followed *Xonics* by applying the probability discount rule in valuing contingent liabilities to determine insolvency. *Covey v. Commercial Nat'l Bank* (7th Cir 1992) 960 F.2d 657, 660 ["a firm whose assets are worth less than book value may be insolvent despite a financial statement showing positive net worth"]; *Freeland, supra*, 540 F.3d at 732 ["a bankruptcy court must calculate an appropriately discounted value for contingent liabilities"]; see also, *e.g.*, *Merkel v. Commissioner* (9th Cir. 1999) 192 F.3d 844, 840 [agreeing that "as a general proposition 'discounting a contingent liability by the probability of its occurrence is good economics and therefore good law'", but distinguishing *Covey* because, unlike the Bankruptcy Code, the applicable Tax Code definition (26 U.S.C. § 108(d)(3)) provided that liabilities are not

discounted but valued at face value]; *In Re Sierra Steel* (9th Cir. B.A.P. 1989) 96 B.R. 275, 278-79; *Dundon, supra,* 674 B.R. at 418-21.)

CashCall does not submit any probability discount analysis to determine the "present or expected value" of the class liability. Pfeiffer Dec. ¶¶ 12-15, 19. CashCall's simply treats its liability to the Class as non-existent. Because CashCall's motion fails to provide any "fair valuation" of the class liability, it has failed to carry its summary judgment burden on the Second Cause of Action and its motion should be denied.

b. A Triable Issue of Fact Exists as to CashCall's Insolvency

There is, at minimum, a triable issue of fact as to CashCall's insolvency, and CashCall's motion entirely fails to address it. Pfeiffer Dec. ¶¶ 16-21. At the time of the distribution to Reddam, there was a substantial objective probability of CashCall being held liable for $245 million. *Id.* ¶¶ 20, 21. That probability rendered CashCall insolvent under the "fair valuation" standard. *Ibid.*; see also evidence cited disputing SS 27.

Eight months before the distribution, the San Mateo Court had already denied CashCall's summary judgment motion in an Order dated February 25, 2021. Ex. 10. The California Supreme Court had already rejected CashCall's argument that the Class claim constituted impermissible judicial economic policymaking. (*De La Torre v. CashCall, Inc.* (2018) 5 Cal.5th 966, 991.) The parties had already gone through a 13-day trial, during which CashCall presented testimony from three defense experts with distinguished credentials, including Christopher James (the William H. Dial/SunTrust Eminent Scholar in Finance and Economics at the University of Florida), Bruce Carlin (professor of finance at Rice University and the University of Chicago), and Gordon Klein (on the faculty at UCLA's Anderson School of Management). Levy Dec. ¶ 23.

CashCall would not have invested so heavily in its defense unless it took the Class claims seriously.

The UVTA requires that insolvency be determined as of the "time of the transfer." This requires an "objective valuation" of solvency. (*W.R. Grace, supra,* 281 B.R. at 857; *Lids Corp. v. Marathon Partners, L.P.* (Bankr. D. Del. 2002) 281 B.R. 535, 547 ["We conclude that

Marathon's arguments are based on a subjective evaluation of Lids' solvency rather than the objective test required by section 547(b)".)

Objective fair valuation but does not put blinders on the court as to post-valuation date events. Valuation may include consideration of information "originating subsequent to the transfer date if it tends to shed light on a fair and accurate assessment of the asset or liability as of the pertinent date, which assures that the valuation is based in reality." (*In re Mama De'Angelo, Inc.* (10th Cir. 1995) 55 F.3d 552, 556; *W.R. Grace*, *supra*, 281 B.R. at 869; *In re Adelphia Commc'ns Corp.* (Bank. S.D.N.Y. 2014) 512 B.R. 447, 495; *Dundon*, *supra*, 674 B.R. at 416-17.)

That CashCall would prevent the court from *any* consideration that the Class has an affirmed Judgment against it for $245 million is to advance a valuation process that has no basis in reality.

Shortly after the distribution, on January 22, 2022, the San Mateo Court issued its decision tentatively holding CashCall liable to pay "restitution of any and all interest payments made to Defendant CashCall Inc. on those consumer loans funded during the Class Period; offset by any and all loan principal amounts (including the $75 fees) on the consumer loans made by Defendant to Plaintiff and the Class on those same consumer loans." CE Ex. 8. CashCall's General Counsel [redacted] Ex. 17. Shortly after the Tentative Decision issued, [redacted]. Ex. 13. Greines briefed and argued the appeal for CashCall in the First District. Levy Dec. ¶¶ 9, 22 & Ex. 18-A, -B.

This evidence shows that upon receiving the Tentative Decision, CashCall had already evaluated that its chances of avoiding an adverse judgment in the trial court were slim. CashCall would not have decided *so quickly* to appeal and retain appellate specialty counsel if it had not already evaluated its prospects otherwise. Even at the time of the distribution, CashCall already believed that the court was likely going to rule against it.

Finally, there is the Judgment itself and the Court of Appeal decision affirming the San Mateo Judgment. CE Ex. 13; Levy Dec. ¶ 2. Because the Court of Appeal has affirmed, after

fully considering two appeal briefs from CashCall containing its best arguments for reversing the Judgment, the objective probability of the $245 million was substantial as of October 26, 2021. This rendered CashCall insolvent under the fair valuation standard at the time of the transfer. Pfeiffer Dec. ¶¶ 16-21.

i. The Baker Tilly Audited Financial Statements Do Prove Any Fair Valuation of CashCall's Liability to the Class

Although CashCall does not cite its audited 2021 financial statements in its Separate Statement, plaintiff will address them. CE Ex. 7. Unlike the interim September 2021 financials, the year-end statements were audited by Baker Tilly. But the audited financials [redacted] Ex. 1 76:11-22; Pfeiffer Dec. ¶¶ 17, 18.

To the extent CashCall might still argue that Baker Tilly's review and certification of the audited statements supports a solvency finding, the audited financials are inadmissible hearsay for the purpose of proving the value of the Class liability. (Evid. Code, § 1200.) CashCall presents no sworn testimony from Baker Tilly to vouch for any opinion of value.

Further, the audited financials do not apply the UVTA's "fair value" standard, which is different from auditing standards. Pfeiffer Dec. ¶¶ 11, 12. "There is no generally accepted accounting principle for analyzing the insolvency of a company." (*Arrow Elecs., Inc. v. Justus* (9th Cir. 2000) 218 F.3d 1070, 1076; *Sierra Steel*, *supra*, 96 B.R. at 278 ["Requiring application of GAAP would make accountants and the board which promulgate GAAP the arbiters of insolvency questions"]*; Tronox, Inc. v. Kerr-McGee Corp.* (Bank. S.D.N.Y. 2013) 503 B.R. 239, 301 ["A principal reason why financial statements are of little use in a solvency analysis is that generally accepted accounting principles (GAAP) require reserves only for claims that are 'probable and reasonably estimable'"]; *Lids Corp.*, *supra,* 281 B.R. at 542-43.)

ii. Valuation of the Class Liability as Non-Contingent Debt

The alternative to applying the *Xonics* probability discount rule is to value CashCall's liability as non-contingent debt. A "contingent debt" is "one which the debtor will be called upon

to pay only upon the occurrence or happening of an extrinsic event which will trigger the liability of the debtor to the alleged creditor." (*In re Fostvedt* (9th Cir. 1987) 823 F.2d 305, 306.) The mere fact that a claim has not been adjudicated or reduced to judgment does not render it "contingent." (*In re Loya* (Bank. 9th Cir. 1991) 123 B.R. 338, 340 [creditor claim where no suit had been filed or otherwise pursued constituted non-contingent debt].)

Disputed liabilities based on past events triggering liability may be treated as not subject to a probability discount. In *Tronox*, the court declined to apply a probability discount to matured but unliquidated environmental claims on the ground that, having matured, they are non-contingent. In rejecting an expert's valuation of the environmental claims, the court held

> His probabilistic analysis tends to assume that the environmental claims at issue here are mere contingent claims that should be subject to a discount for the probability they will never be pursued, whereas in fact environmental claims are claims that can be brought (or filed in a bankruptcy case) without satisfaction of a contingency…. [¶] Nevertheless, as Judge Wolin points out, tort liability, like the environmental liability in this case, is not a contingent liability.

(*Tronox, supra*, 503 B.R. at 313-14.)

The court instead required that the liability not be reduced by the probability of occurrence, but instead by applying a discount rate of 2.5% annually to arrive at a present value. (*Id.* at 314-15; see also *W.R. Grace & Co., supra*, 281 B.R. at 863-64; *Ind. Bell Tel. Co. v. Lovelady* (W.D. Tex. Mar. 4, 2008) 2008 U.S. Dist. LEXIS 131600 at *14-17.)

Here, all events triggering CashCall's liability to the Class had already occurred before October 26, 2021. The Class definition was loans made between 2005 and 2011. CE Ex. 12 at p. 178. That requires valuing CashCall's liability at $245 million reduced by a modest discount rate (such as 2.5%) for two years.

Dated: April 20, 2026

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

EDUARDO DE LA TORRE,

Plaintiff,

v.

JOHN PAUL REDDAM; CASHCALL, INC., a California corporation; and DOE 1 through DOE 20, inclusive,

Defendants.

REDACTED (PUBLIC) VERSION FILED WITH THE COURT PER CRC 2.551(b)(3)(A)(ii); LODGED VERSION CONTAINS MATERIAL DESIGNATED CONFIDENTIAL UNDER STIPULATED PROTECTIVE ORDER

Case No. 30-2024-01421309

PLAINTIFF'S RESPONSE TO SEPARATE STATEMENT AND ADDITIONAL FACTS IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Date: May 11, 2026
Time: 9:00 a.m.
Dept.: N15

Case Filed: August 21, 2024
Trial Date: October 12, 2026

Pursuant to Code of Civil Procedure section 437c(b)(3), plaintiff hereby responds to Defendants' Separate Statement of Material Facts and states additional facts as follows:[1]

DEFENDANTS' MATERIAL FACTS AND SUPPORTING EVIDENCE	PLAINTIFFS' RESPONSE AND SUPPORTING EVIDENCE
1. CashCall, Inc. ("CashCall") was formed in 2003 and is a finance lender licensed by the California Department of Financial Protection and Innovation. (Reddam Decl. ¶ 2)	Undisputed.
2. John Paul Reddam is CashCall's founder and sole shareholder. (Reddam Decl. ¶ 2)	Undisputed; see also Ex. 4 10:12-12:13.
3. CashCall is an S Corporation. (Reddam Decl. ¶ 3)	Undisputed.
4. As an S corporation, CashCall does not pay federal or state income taxes, other than a 3.5% California state financial institutions tax. (Reddam Decl. ¶ 3)	Undisputed.
5. As the sole shareholder of an S Corporation, Reddam is responsible for all state and federal income taxes for taxable income generated by CashCall. (Reddam Decl. ¶ 3)	Undisputed.
6. In 2008, a California consumer filed a putative class action complaint against CashCall in federal court, Case No. 3:08- cv-03174-TSH (N.D. Cal.), that was eventually	Undisputed.

[1] Defendants' exhibits are identified by "CE" (Compendium of Evidence). Plaintiff's exhibits are identified by "Ex."

DEFENDANTS' MATERIAL FACTS AND SUPPORTING EVIDENCE	PLAINTIFFS' RESPONSE AND SUPPORTING EVIDENCE
captioned *De la Torre v. CashCall, Inc*. (the "Federal Litigation"). Among other claims in the Federal Litigation, the plaintiffs alleged that the interest rates CashCall charged on loans to California borrowers were unconscionable and therefore unlawful under the California Unfair Competition Law. (Seiling Decl. ¶ 2)	
7. In 2017, CashCall and Reddam filed a lawsuit in Orange County Superior Court against their former outside counsel for legal malpractice and other claims related to advice given in connection with CashCall's non-California lending operations (the "Malpractice Case"). (Reddam Decl. ¶ 5)	Undisputed.
8. The Federal Litigation was dismissed by the federal court without prejudice for lack of subject matter jurisdiction in February 2019. (*De La Torre v. CashCall, Inc*. (N.D. Cal. Feb. 5, 2019) No. 08-CV-03174-TSH, 2019 WL 452028, at *4.)	Undisputed.
9. On March 7, 2019, De La Torre filed a class action complaint against CashCall in San Mateo County Superior Court, captioned *Eduardo de la Torre v. CashCall, Inc*., No.	Undisputed, except the allegation was that the *loans* were unconscionable, not just the interest rates.

DEFENDANTS' MATERIAL FACTS AND SUPPORTING EVIDENCE	PLAINTIFFS' RESPONSE AND SUPPORTING EVIDENCE
19CIV01235 (the "San Mateo Litigation"), again alleging that the interest rates CashCall charged on loans to California borrowers were unconscionable and therefore unlawful under the California Unfair Competition Law. (Seiling Decl. ¶ 9)	
10. A bench trial in the San Mateo Litigation commenced on March 8, 2021. (Seiling Decl. ¶ 10)	Undisputed.
11. The last day of trial testimony in the San Mateo Litigation was May 14, 2021; there were a total of 13 days of trial testimony. (Seiling Decl. ¶ 10)	Undisputed.
12. On August 6, 2021, ten days before the trial of the Malpractice Case was scheduled to commence, CashCall and Reddam agreed to settle the case and signed a confidential Settlement Term Sheet. (Reddam Decl. ¶ 6, Compendium Ex. 1)	Undisputed.
13. The San Mateo Litigation played no role in CashCall and Reddam's decision to settle the Malpractice Case or the timing of the settlement. (Reddam Decl. 14)	Undisputed.
14. On August 9, 2021, Reddam and CashCall, through Elizabeth Emrick, their in-	Undisputed.

DEFENDANTS' MATERIAL FACTS AND SUPPORTING EVIDENCE	PLAINTIFFS' RESPONSE AND SUPPORTING EVIDENCE
house tax advisor, asked their tax accountant (Michael McGrath of Financial Advocates) to conduct a tax analysis to determine whether the proceeds from the settlement of the Malpractice Case should be paid to CashCall, Reddam, or some combination of the two. (Emerick Decl. ¶¶ 7–9, Compendium Ex. 3)	
15. The confidential Malpractice Case Settlement Agreement was signed on August 13, 2021. (Reddam Decl. ¶ 9 & Compendium Ex. 2)	Undisputed.
16. [redacted] (Reddam Decl. ¶¶ 7, 10, Compendium Exs. 1 & 2)	Undisputed.
17. On September 9, 2021, Michael McGrath provided his tax analysis, which concluded that payment of the entire proceeds from the Malpractice Case Settlement Agreement to CashCall was the best approach from a tax	Undisputed.

DEFENDANTS' MATERIAL FACTS AND SUPPORTING EVIDENCE	PLAINTIFFS' RESPONSE AND SUPPORTING EVIDENCE
perspective because it would result in the lowest tax obligation. (Emrick Decl. ¶ 11 & Compendium Ex. 3)	
18. On September 14, 2021, the net proceeds from the Malpractice Case Settlement Agreement were wired into CashCall's bank account. (Meeks Decl. ¶ 6)	Undisputed.
19. CashCall and Reddam understood that the Malpractice Case settlement payment would result in a substantial increase in CashCall's net income that potentially could result in a significant tax obligation for Mr. Reddam. (Meeks Decl. ¶ 7)	Undisputed as to Meeks' understanding. Cited testimony does not support that Meeks had personal knowledge of Reddam's state of mind on the subject.
20. Reddam and CashCall's chief financial officer Delbert Meeks discussed making a distribution to Reddam for tax purposes. (Meeks Decl. ¶ 7)	Undisputed.
21. CashCall had made distributions to Reddam on numerous prior occasions to account for anticipated tax obligations arising out of CashCall's taxable income. (Meeks Decl. ¶ 7)	Undisputed.
22. The parties submitted opening post-trial briefs in the San Mateo Litigation on	Undisputed.

DEFENDANTS' MATERIAL FACTS AND SUPPORTING EVIDENCE	PLAINTIFFS' RESPONSE AND SUPPORTING EVIDENCE
September 20, 2021, and reply briefs on October 4, 2021. (Seiling Decl. ¶ 10)	
23. On October 26, 2021, CashCall sent a wire transfer to Reddam (the "Tax Distribution"). (Meeks Decl. ¶ 9)	Undisputed.
24. The amount of the Tax Distribution was calculated by applying the maximum California and federal tax rates to CashCall's net income as of September 30, 2021. (Meeks Decl. ¶ 8; Emrick Decl. ¶ 12)	Undisputed that Meeks based the distribution on CashCall's "book income" as reflected in September 30, 2021 internal financial statements that he had prepared. Meeks Dec. ¶ 8 & CE Ex. 5 at p. 57, 6; Ex. 1 125:25-126:15; Ex. 6.
25. The San Mateo Litigation played no role in CashCall's decision to make the Tax Distribution to Reddam or the amount of the Tax Distribution. (Meeks Decl. ¶ 13; Reddam Decl. ¶ 14)	Disputed based on multiple badges of fraud under Civil Code § 3439.04(b) and other evidence. The facts and evidence supporting the badges and fraud and other evidence are stated in Additional Fact Nos. 43-66, below, and also in response to Separate Statement (SS) 27. These facts are incorporated by reference in this response by reference to promote readability and avoid repetition.
26. At the time of the Tax Distribution and through the end of 2021, CashCall was paying its debts as they came due. (Meeks Decl. ¶ 10)	Disputed. Levy Dec. ¶ 27 & Ex. 21; Ex. 5 45:15-46:20, 65:22-66:8; Ex. 9.

DEFENDANTS' MATERIAL FACTS AND SUPPORTING EVIDENCE	PLAINTIFFS' RESPONSE AND SUPPORTING EVIDENCE
27. At the time of the Tax Distribution and through the end of 2021, the total sum of CashCall's debts was not greater than the total sum of its assets. (Meeks Decl. ¶ 10) Objection to Evidence no. 1.	Disputed. At a fair valuation of CashCall's liability to the Class, CashCall was insolvent under the standard of Civil Code § 3439.02(a) at the time of the distribution. Pfeiffer Dec. ¶¶ 12-21; SS Nos. 9, 10, 11, 13, 22, 32-38; CE Ex. 8, 9, 10, 11, 12, 13; Ex. 10, 12, 13, 16, 17, 18; Levy Dec. ¶¶ 2, 9, 22, 23, 24.
28. At the time of the Tax Distribution, CashCall had no plans to cease doing business. (Meeks Decl. ¶ 11; Reddam Decl. ¶ 7, 10, Compendium Exs. 1 & 2)	Undisputed, but CashCall had not made any loans for three years. Ex. 1 19:19-20:11; 96:2-11; Ex. 5 74:8-19.
29. At the time of the Tax Distribution, Reddam had no plans to initiate bankruptcy of insolvency proceedings for CashCall. (Reddam Decl. ¶ 10, Compendium Exs. 1 & 2)	Undisputed.
30. CashCall continues to do business and is originating new loans. (Meeks Decl. ¶ 11)	Undisputed that CashCall continues to make a few loans per month. Ex. 5 74:8-19.
31. The court in the San Mateo Litigation held closing arguments on November 1, 2021. (Seiling Decl. ¶ 10)	Undisputed.
32. On January 20, 2022, the court in the San Mateo Litigation issued a Tentative Ruling After Court Trial. (Seiling Decl. ¶ 11 & Compendium Ex. 8)	Undisputed.

DEFENDANTS' MATERIAL FACTS AND SUPPORTING EVIDENCE	PLAINTIFFS' RESPONSE AND SUPPORTING EVIDENCE
33. Ten months later, on November 17, 2022, the court in the San Mateo Litigation issued a Proposed Statement of Decision After Court Trial. (Seiling Decl. ¶ 12 & Compendium Ex. 9)	Undisputed.
34. Both sides filed objections to the Proposed Statement of Decision; CashCall filed its objections on December 19, 2022. (Seiling Decl. ¶ 12)	Undisputed.
35. On August 22, 2023, the court in the San Mateo Litigation issued a Final Statement of Decision that made revisions to the Proposed Statement of Decision and awarded monetary restitution to De La Torre and the class in the amount of $245,515,389. (Seiling Decl. ¶ 13 & Compendium Ex. 10)	Undisputed.
36. On August 31, 2023, the court in the San Mateo Litigation issued its Judgment After Court Trial. (Seiling Decl. ¶ 14 & Compendium Ex. 11)	Undisputed.
37. On September 7, 2023, CashCall moved for a new trial and to vacate the judgment. (Seiling Decl. ¶ 15) motion for new trial and to vacate the judgment, but exercised its discretion to issue an Amended Final	Undisputed.

DEFENDANTS' MATERIAL FACTS AND SUPPORTING EVIDENCE	PLAINTIFFS' RESPONSE AND SUPPORTING EVIDENCE
Statement of Decision and Amended Judgment. (Seiling Decl. ¶ 15, Compendium Ex. 12 & 13)	
38. On November 7, 2023, the court in the San Mateo Litigation denied CashCall's motion for new trial and to vacate the judgment, but exercised its discretion to issue an Amended Final Statement of Decision and Amended Judgment. (Seiling Decl. ¶ 15, Compendium Ex. 12 & 13)	Undisputed.
39. On November 17, 2023, Plaintiff filed a Motion for an Amended Judgment. (Seiling Decl. ¶ 16)	Undisputed.
40. On November 29, 2023, CashCall filed a notice of appeal with regard to the November 2023 Amended Judgment. (Seiling Decl. ¶ 17)	Undisputed. On February 27, 2026 the First District Court of Appeal affirmed the Judgment in full in an unpublished opinion. See Case No. A169205. Levy Dec. ¶ 2.
41. On January 9, 2024, the court in the San Mateo Litigation denied Plaintiff's motion for an amended judgment. (Seiling Decl. ¶16)	Undisputed.
42. On January 19, 2024, the court in the San Mateo Litigation granted *preliminary* approval of Plaintiff's motion for attorneys'	Undisputed.

DEFENDANTS' MATERIAL FACTS AND SUPPORTING EVIDENCE	PLAINTIFFS' RESPONSE AND SUPPORTING EVIDENCE
fees and a plan of allocation, which order stated in part: As the Judgment is on Appeal and no payment has been made or received, the Court's approval of the Amended Plan of Distribution and the Court's approval of the Plaintiffs' counsel's requests for attorneys' fees and reimbursement of costs is PRELIMINARY APPROVAL [sic]. Members of the Certified Class are entitled to received [sic] written Notice of the Judgment, the Amended Plan of Distribution, and the preliminary approval of the Fee and Cost award, including the incentive award to the named Plaintiff, and the opportunity to file Objections thereto. A Notice to the Class, the setting of an Objection deadline and the setting of a Hearing on Final Approval must be done AFTER the Appeal is completed and final, and any Judgment is paid or otherwise recovered. (Seiling Decl. ¶ 18 & Compendium Ex. 14)	

PLAINTIFF'S ADDITIONAL MATERIAL FACTS PRECLUDING SUMMARY JUDGMENT AND SUMMARY ADJUDICATION

PLAINTIFF'S ADDITIONAL DISPUTED FACTS AND SUPPORTING EVIDENCE	DEFENDANTS' RESPONSE AND SUPPORTING EVIDENCE
43. Within CashCall, Meeks alone made the decision to pay [redacted] to Reddam on October 26, 2021, without consulting Reddam's personal tax advisor, Elizabeth Emrick, other than to obtain income tax rates, or Reddam. Ex. 1 129:4-130:25; 132:1-8; Ex.	

PLAINTIFF'S ADDITIONAL MATERIAL FACTS PRECLUDING SUMMARY JUDGMENT AND SUMMARY ADJUDICATION	
PLAINTIFF'S ADDITIONAL DISPUTED FACTS AND SUPPORTING EVIDENCE	**DEFENDANTS' RESPONSE AND SUPPORTING EVIDENCE**
2 10:24-11:18; 79:12-80:17; Ex. 4 105:16-107:5.	
44. The amount of the distribution Meeks made to Reddam on October 26, 2021 was [redacted]. Meeks ¶¶ 8, 9; CE Ex. 6.	
45. The distribution was [redacted] than Reddam actually owed in income taxes for 2021. Ex. 15 & Levy Dec. ¶ 19.	
46. By 2015, CashCall was beginning to wind down and by the time of the distribution had not made any loans for three years. Ex. 7; Ex. 1 19:19-20:11; 96:2-11; Ex. 5 74:8-19.	
47. The Katten Settlement brought a "huge cash settlement" into CashCall's [redacted]. Ex. 1 129:4-20; CE Ex. 5 at p. 59 [redacted]).	
48. [redacted]. CE Ex. 7 at p. 87; Ex. 1 93:10-96:1; Ex. 5 45:15-46:20, 65:22-66:8; Levy Ex. 8, 9.	

PLAINTIFF'S ADDITIONAL MATERIAL FACTS PRECLUDING SUMMARY JUDGMENT AND SUMMARY ADJUDICATION	
PLAINTIFF'S ADDITIONAL DISPUTED FACTS AND SUPPORTING EVIDENCE	**DEFENDANTS' RESPONSE AND SUPPORTING EVIDENCE**
49. Meeks did not know the tax law and had a strong motive for getting money out of the Katten settlement to his boss, Reddam. Ex. 1 10:1-3; 23:14-18; 129:4-20; 131:9-25.	
50. CashCall's "book" or raw financial statement income as of September 30, 2021, which Meeks used to calculate the distribution amount, is not the "taxable income" that Reddam had to report for income tax purposes. SS 24; Meeks Dec. ¶ 8; Ex. 3 20:22-22:23.	
51. In calculating the distribution, Meeks did not know what CashCall's taxable income was, and made no attempt to find out. Ex. 1 126:16-127:19.	
52. Estimated income taxes are due April 15, June 15, September 15, and January 15 of the following year. McGrath Depo. (Levy Ex. 3) 23:19-24:18; Ex. 2 77:24-78:14.	
53. Meeks did not know when Reddam's next estimated tax payment was due and made no attempt to find out. Ex. 1 131:1-133:15.	

PLAINTIFF'S ADDITIONAL MATERIAL FACTS PRECLUDING SUMMARY JUDGMENT AND SUMMARY ADJUDICATION	
PLAINTIFF'S ADDITIONAL DISPUTED FACTS AND SUPPORTING EVIDENCE	**DEFENDANTS' RESPONSE AND SUPPORTING EVIDENCE**
54. Long before the distribution, [redacted]. Ex. 3 59:6-62:1; 69:23-72:15; Levy Ex. 15, 19, 20.	
55. At the time of the distribution, Reddam did not have to pay any additional income taxes on account of 2021 until January 15, 2022. Ex. 2 78:24-78:1; Ex. 3 24:14-18.	
56. Although Reddam's deadline for making a third quarter estimated tax payment was September 15, Meeks did not make any "tax distribution" to Reddam until six weeks later, on October 26. SS 23; Ex. 3 at 23:19-24:18; Ex. 2 77:24-78:14.	
57. On September 20, 2021 [redacted]. Ex. 12, 13.	

PLAINTIFF'S ADDITIONAL MATERIAL FACTS PRECLUDING SUMMARY JUDGMENT AND SUMMARY ADJUDICATION	
PLAINTIFF'S ADDITIONAL DISPUTED FACTS AND SUPPORTING EVIDENCE	**DEFENDANTS' RESPONSE AND SUPPORTING EVIDENCE**
58. After [redacted] preparing the September financials in mid-October, Meeks processed the distribution to Reddam on October 26. Meeks Dec. ¶¶ 8, 9 & CE Ex. 6; SS 31.	
59. CashCall [redacted] before October 26, but Meeks did not make the distribution to Reddam until after Meeks had received plaintiff's brief and right before the San Mateo Court was going to hear final arguments. SS 22, 23, 31; Meeks Dec. ¶¶ 8, 9 & CE Ex. 6; Levy Ex. 8, 11; Ex. 5 65:22-66:6.	
60. Meeks based the distribution on [redacted] "book income" from CashCall's internal profit and loss statement as of September 30, 2021. SS 24; Meeks Dec. ¶ 8 & CE Ex. 5 at p. 57, 6; Ex. 1 125:25-126:15; Ex. 6.	
61. After September 30, 2021, CashCall's 2021 year-to-date book income [redacted]	

PLAINTIFF'S ADDITIONAL MATERIAL FACTS PRECLUDING SUMMARY JUDGMENT AND SUMMARY ADJUDICATION	
PLAINTIFF'S ADDITIONAL DISPUTED FACTS AND SUPPORTING EVIDENCE	**DEFENDANTS' RESPONSE AND SUPPORTING EVIDENCE**
[redacted]. Meeks 124:17-125:24;136:21-24; 136:21-24.	
62. CashCall's end of the year taxable income was $49.3 million. Ex. 3 84:6-85:7; Levy Ex. 16.	
63. After Meeks knew that he had calculated the distribution using an income figure [redacted], he did not think the distribution had been "excessive," and did not ask Reddam for a refund. Ex. 1 136:25-138:9, SS 32. `	
64. CashCall had no contingency plan in place to cover the potential for liability to the Class and a potential adverse judgment. Ex. 1 42:11-47:2; Ex. 1 49:10-23; see also SS 31, 32, 36, 38; CE Ex. 7; Ex. 6, 8, 10, 11.	
65. On March 10, 2021, CashCall's General Counsel [redacted] Levy Ex. 17.	
66. By March 10, 2022, after the Tentative Decision had been issued and before there	

PLAINTIFF'S ADDITIONAL MATERIAL FACTS PRECLUDING SUMMARY JUDGMENT AND SUMMARY ADJUDICATION	
PLAINTIFF'S ADDITIONAL DISPUTED FACTS AND SUPPORTING EVIDENCE	**DEFENDANTS' RESPONSE AND SUPPORTING EVIDENCE**
were any further court proceedings or hearing dates scheduled in the San Mateo Case, [redacted]. Ex. 13.	
67. Reddam did not provide CashCall with reasonable equivalent value in return for the distribution. SS 3, 4, 5; CE Ex. 5, at p. 58 ("Due to Shareholder"); Ex. 6; Ex. 8 at p. 79 ("Distributions").	

Dated: April 20, 2026

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EDUARDO DE LA TORRE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

EDUARDO DE LA TORRE,

Plaintiff,

v.

JOHN PAUL REDDAM; CASHCALL, INC., a California corporation; and DOE 1 through DOE 20, inclusive,

Defendants.

REDACTED (PUBLIC) VERSION FILED WITH THE COURT PER CRC 2.551(b)(3)(A)(ii); LODGED VERSION CONTAINS MATERIAL DESIGNATED CONFIDENTIAL UNDER STIPULATED PROTECTIVE ORDER

Case No. 30-2024-01421309

DECLARATION OF ALLEN PFEIFFER IN OPPOSITION TO CASHCALL'S MOTION FOR SUMMARY JUDGMENT

Date: May 11, 2026
Time: 9:00 a.m.
Dept.: N15

Case Filed: August 21, 2024
Trial Date: October 12, 2026

I, ALLEN PFEIFFER, declare as follows:

1. I have been retained by The Law Office of Arthur D. Levy, ("**Counsel**") in this matter on behalf of Mr. Eduardo De La Torre ("**Plaintiff**"), in the action against Mr. John Paul Reddam ("**Mr. Reddam**"), CashCall Inc., ("**CashCall**"), and other defendants (collectively, "**Defendants**"), to provide expert opinions in response to Defendants' Motion for Summary Judgment. Specifically, I have been asked to opine on whether Defendants are accurate in claiming that CashCall was solvent as of September 30, 2021 (the "**Valuation Date**").

2. I am a Managing Director in the Expert Services practice for Kroll, LLC ("**Kroll**"). As described in detail in my curriculum vitae, I have over thirty years of professional experience, in valuation, solvency, fraudulent transfers, damages, cash flow assessment, and capital structure analysis and have led hundreds of engagements related to the valuation of an entire business, a security, an interest in a business, or an asset. During my professional career, the New York Supreme Court, the United States Bankruptcy Court, the American Arbitration Association, and arbitrators operating under the rules of the International Chamber of Commerce have accepted me as a valuation and cash flow expert.

3. My curriculum vitae is attached as Appendix A to this declaration (the "**Declaration**").

4. My analysis is based on, and limited to, documents produced in the above-referenced matter and publicly available information. Should additional information or documentation be provided subsequent to the issuance of this Declaration, I reserve the right to amend my opinions as stated herein.

5. CashCall is a California corporation, headquartered in Orange, California. Together with its subsidiaries (collectively, the "**Company**"), it operated as a specialty finance lender in the business of marketing, originating, selling, and servicing unsecured consumer loans to individuals and businesses.

6. In August 2021, Mr. Reddam and CashCall agreed to settle a lawsuit they had filed against the law firm Katten Muchin Rosenman, LLP and one of its partners (the "**Katten Litigation**"). Pursuant to the Katten Litigation settlement, CashCall was to receive

settlement payments totaling [redacted] plus interest.[1] The settlement payments were an asset to CashCall and, as of September 30, 2021, the Company had recognized the settlement payments as if they received the entirety of the Katten Litigation settlement.[2] In October 2021, CashCall made a distribution to Mr. Reddam of approximately [redacted] to cover potential tax obligations arising from the increase in CashCall's taxable income as a result of the settlement payment pursuant to the Katten Litigation (the "**Tax Distribution**").

7. In Defendants' "**Motion for Summary Judgment**," they state that, "Plaintiff cannot establish that CashCall was insolvent at the time of the Tax Distribution or became insolvent because of the Tax Distribution… 'Insolvent' means that the fair value of all debts exceeds the fair value of all nonexempt assets."[3] Based on my review of the documents submitted to the Court for the Motion for Summary Judgment, it appears that Defendants are relying upon the declaration of CashCall's Chief Financial Officer ("**CFO**"), Delbert Meeks, for support that CashCall was solvent at the Tax Distribution. Specifically, Mr. Meeks stated that, "At the time CashCall made the 2021 Tax Distribution to Mr. Reddam, the sum of CashCall's debts did not exceed its assets, as reflected in the financial statements through September 30, 2021."[4]

8. In the remainder of this Declaration, and for ease of comparison, I assume the Defendants' position that the standard for assessing CashCall's solvency at the time of the Tax Distribution is by considering the fair value of assets less the fair value of liabilities,[5] as presented in the Company's September 30, 2021 financial statements (the "**September**

[1] Defendants' Motion for Summary Judgement or Summary Adjudication, November 3, 2025, Evidence Compendium Exhibit 1, at CASHCALL_DLT-0146552.
[2] CASHCALL_DLT-0146539.
[3] Defendants' Motion for Summary Judgement or Summary Adjudication, November 3, 2025, p. 15.
[4] Declaration of Delbert O. Meeks In Support of Summary Judgement, October 31, 2025, ¶10.
[5] Though defendants identify the standard as measuring against the **fair** value of liabilities (*see*, Defendants' Motion for Summary Judgement or Summary Adjudication, November 3, 2025, p. 15 and Declaration of Delbert O. Meeks In Support of Summary Judgement, October 31, 2025, ¶10), this is inaccurate. The balance sheet test for solvency performs a comparison to the **face** value of debts and the expected value of contingent and unliquidated liabilities (*see, e.g.,* ASA, Educational Foundation, and Shannon P. Pratt. *Valuing a Business: The Analysis and Appraisal of Closely Held Companies*, McGraw-Hill Education, 2022, Ch. 48; Weil, Roman L., et al. *Litigation Services Handbook: The Role of the Financial Expert*, John Wiley & Sons, Incorporated, 2017, 25-28).

2021 Financials").[6] The standard for solvency based on the balance sheet test generally focuses on a comparison of the fair value of assets less the **face** value of debts.[7] The amount by which the fair value of assets exceeds the face value of debts is herein referred to as the "**Solvency Cushion**."

9. Fair values of the contingent and unliquidated assets are generally added to the Solvency Cushion and fair values of the contingent and unliquidated liabilities are subtracted from the Solvency Cushion.[8]

10. The book value of assets less the book value of liabilities in CashCall's September 2021 Financials is [redacted].[9] A review of CashCall's September 2021 Financials shows that the majority of its assets are incorporated in the financials are already stated at fair value.

11. Under generally accepted accounting principles ("**GAAP**"), a contingent and unliquidated liability (including a contingent or unliquidated litigation liability) needs to be recorded in a company's financial statements if two conditions are met: (1) information available before issuance of the financial statements indicates that it is probable that a liability was incurred as of the date of the financial statements, and (2) the amount of that liability can be reasonably estimated.[10]

12. Although GAAP only requires companies to record a contingent or unliquidated liability if its occurrence is both probable and reasonably estimable, the treatment of contingent and unliquidated liabilities in solvency analyses is different: the threshold for the probability that a liability will be incurred is less strict than the GAAP requirement, and the determination of the amount of the liability is based on an fair value analysis instead

[6] CASHCALL_DLT-0146539.
[7] ASA, Educational Foundation, and Shannon P. Pratt. *Valuing a Business: The Analysis and Appraisal of Closely Held Companies*, McGraw-Hill Education, 2022, Ch. 48; Weil, Roman L., et al. *Litigation Services Handbook: The Role of the Financial Expert*, John Wiley & Sons, Incorporated, 2017, 25-28.
[8] ASA, Educational Foundation, and Shannon P. Pratt. *Valuing a Business: The Analysis and Appraisal of Closely Held Companies*, McGraw-Hill Education, 2022, Ch. 48; Weil, Roman L., et al. *Litigation Services Handbook: The Role of the Financial Expert*, John Wiley & Sons, Incorporated, 2017, 25-28.
[9] CASHCALL_DLT-0146539.
[10] ASC (Accounting Standards Codification) 450-20-25-2.

of GAAP's "reasonably estimable" requirement.[11] In the context of a solvency analysis, the standard is "known or knowable." A fair value analysis "should include information that is known by any party to the transaction, as well as any information that may not be apparent at the valuation date but would have been ***known or knowable*** at the time by the parties involved."[12] Information that is "knowable" may be information that the parties were not actually aware of but should have been.[13] Additionally, although, as a general rule, valuations should rely primarily on *ex ante* information (i.e., information available as of the valuation date, not information that was only available *ex post*),[14] "knowable" information also includes subsequent events that are reasonably foreseeable.[15] For example, a reasonably foreseeable event could be that a judge would rule in favor or against a defendant in litigation pending adjudication. Moreover, a fair value analysis necessarily needs to incorporate the expected value. The customary way to do this is to use a probability-weighted approach, whereby the valuator discounts the asset or liability by the probability of incurrence.[16]

13. Given this, in determining the fair value of CashCall's contingent or unliquidated litigation liabilities, it is necessary to consider them from the perspective of "known or knowable," not just probable and reasonably estimable. And, in doing so, it is also

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[11] Pratt, Shannon P., *Valuing a Business: The Analysis and Appraisal of Closely Held Companies*, McGraw-Hill Education, 2022, Ch. 48. *See also* Ratner, Ian, et al., *Valuing Contingent or Disputed Assets and Liabilities in Solvency Opinions,* The Review of Banking & Financial Services, 30:5 49-57 (May 2014) (accessed: https://www.alston.com/-/media/files/insights/publications/2014/05/valuing-contingent-or-disputed-assets-and-liabilit/files/valuing-contingent-or-disputed-assets-and-liabilit/fileattachment/ratner.pdf?rev=33b319a3d9a2496493c250326b912f71).

[12] Hitchner, James R., *Financial Valuation: Applications and Models*, John Wiley & Sons, Incorporated, 2017, p. 43 (emphasis added).

[13] Hitchner, James R., *Financial Valuation: Applications and Models*, John Wiley & Sons, Incorporated, 2017, p. 43. For example, a situation in which a seller was not aware that its financials were misstated prior to a transaction but should have been aware.

[14] Pratt, Shannon P., *Valuing a Business: The Analysis and Appraisal of Closely Held Companies*, McGraw-Hill Education, 2022, Ch. 35.

[15] Hitchner, James R., *Financial Valuation: Applications and Models*, John Wiley & Sons, Incorporated, 2017, p. 43.

[16] ASA, Educational Foundation, and Shannon P. Pratt. *Valuing a Business: The Analysis and Appraisal of Closely Held Companies*, McGraw-Hill Education, 2022, Ch. 48. *See also*, Ratner, Ian, et al., *Valuing Contingent or Disputed Assets and Liabilities in Solvency Opinions,* The Review of Banking & Financial Services, 30:5 49-57 (May 2014) (accessed: https://www.alston.com/-/media/files/insights/publications/2014/05/valuing-contingent-or-disputed-assets-and-liabilit/files/valuing-contingent-or-disputed-assets-and-liabilit/fileattachment/ratner.pdf?rev=33b319a3d9a2496493c250326b912f71).

necessary to probability-weight CashCall's contingent and unliquidated liabilities for the likelihood of incurrence.

14. Therefore, by claiming that "the sum of CashCall's debts did not exceed its assets,"[17] as per the September 2021 Financials, CashCall's CFO must be assuming that the financials included various contingent and unliquidated liabilities related to multiple active litigations that were contemporaneously known or knowable, including the class action lawsuit, *De La Torre v. CashCall, Inc.,* in San Mateo Superior Court, Case No. 19-CIV-01235 (the "**San Mateo Litigation**"), which as of the date of the September 2021 Financials, was tried and in which closing briefs had been submitted.

15. The CFO's statement also assumes that these contingent and unliquidated liabilities were probability weighted for the likelihood of incurrence. When asked about the San Mateo Litigation during his deposition, Mr. Meeks stated that CashCall had not assigned even a 1% chance of losing the San Mateo Litigation because it believed that the case was "meritless."[18]

16. On an ex-post basis, the CFO's understanding of the liability associated with the San Mateo Litigation proved to be inaccurate. The lack of analysis on an ex-ante basis also suffered from lack of rigor and is inconsistent with contemporaneous circumstances and defendants' contemporaneous actions. First, the court denied defendants' Motion for Summary Judgment, stating in part that there were "material disputes of law and fact," and that CashCall failed to meet its burden of proof.[19] Second, during the trial in the Spring of 2021, plaintiffs' experts in the San Mateo Litigation provided the court a range of restitution sought, between $243.4 million and $292.4 million.[20] I understand that although defendants in the San Mateo Litigation did not provide any alternate estimate of restitution,[21] they funded three different trial experts to refute plaintiffs' claims.[22] Third,

[17] Declaration of Delbert O. Meeks In Support of Summary Judgement, October 31, 2025, ¶10.
[18] Deposition of Delbert Meeks, October 10, 2025, at 81:4-82:19.
[19] Order Denying Motion for Summary Judgement, February 25, 2021, p. 5.
[20] Declaration of Arthur D. Levy In Opposition of Summary Judgement, April 20, 2026; Presented In Expert Materials in San Mateo Litigation, Ex. 35 and 36.
[21] Discussions with Counsel.
[22] Declaration of Arthur D. Levy In Opposition of Summary Judgement, April 20, 2026.

once a case such as the San Mateo Litigation goes to trial, it can be estimated that plaintiffs win approximately 41% of the time.[23]

17. The September 2021 Financials include a [redacted] litigation reserve.[24] Although to my knowledge CashCall has not provided any disclosure regarding how the [redacted] litigation reserve was allocated to the various matters that CashCall faced as of the September 2021 Financials, Mr. Meeks' deposition testimony[25] and an examination of CashCall's conduct thereafter, as shown in **Table 1** below, demonstrates that despite further crystallizations of the unliquidated liability due to the San Mateo Litigation, CashCall continued to fail to reserve anything for this matter.

[23] Table 4 (Other/unknown tort) in Cohen, Thomas H. "Tort Bench and Jury Trials in State Courts, 2005," U.S. Department of Justice, Bureau of Justice Statistics. November 2009, NCJ 228129. (accessed: https://bjs.ojp.gov/content/pub/pdf/tbjtsc05.pdf).

[24] Although the litigation reserve is calculated using the GAAP standard of probable and reasonably estimable (as opposed to the solvency standard of known and knowable), in arguing that "CashCall's debts did not exceed its assets, as reflected in the financial statements through September 30, 2021" (Declaration of Delbert O. Meeks In Support of Summary Judgement, October 31, 2025, ¶10), Mr. Meeks assumes that the September 2021 Financials, including the litigation reserve, consider all known and knowable contingent and unliquidated liabilities.

[25] Deposition of Delbert Meeks, October 10, 2025, at 81:4-82:19.

Table 1

All values in $ millions	**9/30/2021 Financials[26]**	**12/31/2021 Financials[27]**	**12/31/2022 Financials[28]**	**12/31/2023 Financials[29]**	**04/30/2024 Financials[30]**
Total Litigation Reserve	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Allocation to San Mateo Litigation	**$0[31]**	**$0**	*unknown*	*unknown*	*unknown*
San Mateo Litigation Unliquidated Liability	$243.4 - $292.4[32]	$243.4 - $292.4[33]	$245.5[34]	$245.5[35]	$245.5[36]
Reserve Shortfall	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

18. Although the San Mateo Litigation was filed in March 2019, the Company did not disclose this litigation in its 2020 financials.[37] Further, although the bench trial for the San Mateo Litigation had begun and concluded and post-trial briefs had been submitted prior to the date of the September 2021 Financials,[38] the CFO's testimony[39] confirms that no legal reserves with respect to the San Mateo Litigation were included therein. And, though the court in the San Mateo Litigation had issued a tentative decision in favor of the Plaintiff on January 20, 2022, the 2021 financials, which were finalized on April 19, 2022,

[26] CASHCALL_DLT-0146539.
[27] BT1090. The audit workpaper (BT1090) shows that there was no allocation to the San Mateo Litigation.
[28] CASHCALL_DLT-0137396 at -413.
[29] CASHCALL_DLT-0137415.
[30] CASHCALL_DLT-0146216.
[31] Deposition of Delbert Meeks, October 10, 2025, at 81:04-82:19.
[32] Presented In Expert Materials in San Mateo Litigation, Ex. 35 and 36.
[33] Presented In Expert Materials in San Mateo Litigation, Ex. 35 and 36.
[34] Tentative Ruling After Court Trial in San Mateo Litigation, January 20, 2022.
[35] Final Statement of Decision After Court Trial in San Mateo Litigation, August 22, 2023; Amended Judgement After Court Trial in San Mateo Litigation, November 7, 2023, p. 3.
[36] Final Statement of Decision After Court Trial in San Mateo Litigation, August 22, 2023; Amended Judgement After Court Trial in San Mateo Litigation, November 7, 2023, p. 3.
[37] CASHCALL_DLT-0137354 at -375; Defendants' Motion for Summary Judgement or Summary Adjudication, November 3, 2025, p. 3.
[38] Defendants' Motion for Summary Judgement or Summary Adjudication, November 3, 2025, p. 3.
[39] Deposition of Delbert Meeks, October 10, 2025, at 81:04-82:19.

provided no disclosure regarding the liability in its subsequent event disclosure.[40] Further still, CashCall's 2022 financials provided no discussion regarding this liability.[41]

19. On the contrary, I understand that Mr. Reddam and CashCall "did not believe that CashCall was about to incur any liability in [the San Mateo Litigation], let alone liability beyond CashCall's ability to pay."[42] This is not the correct standard by which to determine the expected value of these litigation liabilities at CashCall. In this instance, all the facts that gave rise to the liability (i.e., the facts of the San Mateo Litigation) had already occurred. The only unknown that remained at the time of the September 2021 Financials was the adjudication of the litigation. Since the only uncertainty is a judge's decision in this matter, CashCall should have applied a probability weight to the likelihood that the San Mateo Litigation would result in a judgment against CashCall and Mr. Reddam.[43]

20. Ultimately, in an August 2023 Final Statement of Decision, the Court awarded the plaintiffs in the San Mateo Litigation more than $245 million.[44] Had CashCall included a probability-weighted estimate of the litigation liabilities in its September 2021 Financials, even using the low-end of the plaintiffs' expert's restitution range ($243.4 million),[45] it would have had to conclude that the probability the Court would rule against CashCall would be less than [redacted] in order to remain balance sheet solvent as of the date of the September 2021 Financials.

21. As discussed above, it would have been appropriate to estimate that the likelihood of incurrence of the damages would be greater than [redacted], rendering CashCall insolvent at the time of the Tax Distribution. An informed buyer of CashCall who would have been knowledgeable of all of the circumstances associated with the San Mateo Litigation would

[40] CASHCALL_DLT-0137376 at -379.
[41] CASHCALL_DLT-0137396.
[42] 2025-09-24 CashCall Responses to Form Interrogatories Set One, p. 4.
[43] Ratner, Ian, et al., *Valuing Contingent or Disputed Assets and Liabilities in Solvency Opinions,* The Review of Banking & Financial Services, 30:5 49-57 (May 2014) (accessed: https://www.alston.com/-/media/files/insights/publications/2014/05/valuing-contingent-or-disputed-assets-and-liabilit/files/valuing-contingent-or-disputed-assets-and-liabilit/fileattachment/ratner.pdf?rev=33b319a3d9a2496493c250326b912f71).
[44] Defendants' Motion for Summary Judgement or Summary Adjudication, November 3, 2025, Evidence Compendium Exhibit 10.
[45] Presented In Expert Materials in San Mateo Litigation, Ex. 36.

have considered incurrence of damages at substantially greater than [redacted] which would have rendered the Company insolvent at the time of the Tax Distribution.

I declare under penalty of perjury laws of the State of California that the foregoing is true and correct. Executed this 20th day of April 2026 at Morristown, New Jersey.



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Allen Pfeiffer is a Managing Director at Kroll (formerly Duff & Phelps) and a Global Service Leader of Expert Services in Financial Services & Valuation Litigation. His practice is focused on providing valuation, solvency, fraudulent transfer, damages, cash flow assessment, capital structure analysis, structured securities and independent investigations.

Based in New York and New Jersey, Allen has nearly 30 years of experience advising both foreign and domestic buyers, sellers, joint venture partners, hedge funds, private equity funds, plaintiffs and defendants in mergers and acquisitions/corporate finance situations with regard to business valuation, damages, RMBS repurchase claims, strategic planning, raising financing, spin-offs, transaction support, bankruptcy, litigation, tax, financial reporting, solvency, valuing derivatives, fairness opinions, IP holding companies, restructurings and capital structure analysis.

He has led hundreds of engagements related to the valuation of an entire business, a security, an interest in a business or an asset. In addition to his testifying experience, he has worked often as a lead consultant to attorneys in the context of retrospective solvency and many other valuation and corporate finance matters. Allen also led the team as the financial advisors to the Bankruptcy Examiner for Lehman Brothers (Anton Valukas).

Allen is an adjunct professor of finance at the Sy Syms School of Business. Allen was consistently ranked in The Deal Pipeline Bankruptcy League Table U.S. Top Investment Bankers (by volume) each quarter from 2007 through 2014. Additionally, he has been accepted by the New York Supreme Court, the United States Bankruptcy Court, the American Arbitration Association and arbitrators operating under the rules of the International Chamber of Commerce as a valuation and cash flow expert.

Allen was a Managing Director with Standard & Poor's Corporate Value Consulting at the time of its merger with Duff & Phelps and was a member of the CVC practice of PricewaterhouseCoopers LLP at the time of its sale to Standard & Poor's. Prior to joining Coopers & Lybrand, Allen worked for an affiliate of Alex Brown and was an actuarial analyst at Kwasha Lipton, a benefit consulting firm.

Allen earned his M.B.A. in Finance, with distinct honors, at Columbia Business School and his B.A. in Economics and Mathematics, cum laude, at Yeshiva University. Allen also successfully completed four professional exams within his tenure as an actuary: multivariable calculus, probability theory, mathematical statistics and numerical equations.

Selected Experience – Bankruptcy Litigation

- Performed retrospective solvency analyses of a digital-assets lending company for 2022, evaluating distributions to its parent company;
- Retained to provide financial advice and forensic investigations in an international fraud case in bankruptcy court.
- Retained by defendant in a fraudulent conveyance case resulting from a billion-dollar spinoff.

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- Testified in deposition as an expert witness on the reasonableness of a business case and budget for a large retailer in a bankruptcy/contract dispute;
- Advised the U.S. government related to the viability of a proposed reorganization plan;
- Led analysis of solvency for a large fraudulent conveyance lawsuit filed against an international consumer products company; produced expert report and rebuttal report, assisted attorneys in preparation for depositions, drafting of certain motions, development of case strategy, preparation for and participation in trial and post-trial submissions;
- Led analysis of solvency for a preference lawsuit related to a multi-billion dollar pharmaceutical distribution company; produced expert report and rebuttal report, assisted attorneys in preparation for depositions, drafting of certain motions, development of case strategy and preparation for trial;
- Advised on a retrospective solvency analysis for a large retailer in a preference action;
- Led the retrospective solvency analysis of a supermarket business at various dates for a private equity fund and assisted counsel and insurance companies in effectuating a successful mediation;
- Testified as expert witness and financial advisor for RMBS Trustees at ResCap confirmation hearing;
- Testified as an expert witness related to the reasonableness of an FGIC settlement offer in the context of ResCap bankruptcy proceedings;
- Retained by Trustees in multi-billion dollar repurchase/put back claim in a major bankruptcy matter;
- Lead consultant to bank trustee related to multi-billion repurchase/ put-back claim associated with a bank merger;
- Lead financial advisor to the Bankruptcy Examiner for Lehman Brothers (Anton Valukas). Advised the attorneys relating to broad-reaching issues such as: valuation, solvency analysis, avoidance actions, dealings with secured lenders and the Barclays transaction. This led to a 2,200 page report released by the Examiner;
- Led analysis of solvency for a fraudulent conveyance lawsuit filed against a leading company related to a former multi-billion dollar real estate subsidiary company claiming damages in excess of $1 billion;
- Retained by a leading hedge fund in a dispute with a leading international financial services company;
- Financial Advisor to the Administrator of a UK entity including an independent third-party evaluation of historical valuation methodologies for a portfolio of 5,000+ assets as well as independent historical valuations on highly illiquid assets. Led full recovery and distribution to represented creditors in one of the largest bankruptcy filings in US history;
- Testified as an expert witness in Philadelphia Bankruptcy Court (Oct. 2003) on behalf of secured lenders regarding the solvency of a manufacturer of technology;

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- Analyzed the solvency and ability to compete of a large grocery retailer post pending dividend payment in light of the expectation of a recession.
- Testified in deposition as an expert witness in defense of an investment bank related to alleged damages in association with advice regarding the timing of a restructuring/bankruptcy of a mobile home manufacturer;
- Testified in arbitration on behalf of a tractor company in a dispute regarding the value of recovered assets in bankruptcy;
- Testified in deposition as an expert witness on behalf of a large cable company (MSO) against its joint venture partner with regard to cable systems in Puerto Rico;
- Led analysis of solvency at various transaction dates for a multi-billion dollar commercial real estate finance company in bankruptcy;
- Led analysis of solvency for a fraudulent conveyance lawsuit filed against a leading global company by a former subsidiary claiming damages in excess of $2 billion;
- Advised counsel for a multi-national bank in defense of their investment banking work performed for a multi-billion dollar planned joint venture;
- Advised counsel and several hedge funds on the valuation of the derivative features attached to convertible bonds for purposes of arriving at OID (original issues discount) in bankruptcy litigation;
- Led analysis with respect to solvency and valuation issues related to the merger and refinancing of a corporate finance advisory firm;
- Advised on the valuation of a hedge fund relative to the reasonableness of a major transaction prior to the filing for bankruptcy.

Selected Experience – Complex Litigation

- Served as an appraiser in a dissenting shareholder dispute concerning market efficiency and valuation of shares;
- Provided expert testimony in an arbitration on the valuation of the commercial real estate fund manager that focused on office real estate holdings after the industry experienced post COVID related work from home phenomena;
- Led a team that evaluated the contemporaneous commercial real estate appraisals that were used by the company to raise debt capital that had filed for bankruptcy;
- Led a team of consultants advising a grocery retailer through several temporary restraining orders and preliminary injunctions regarding the payment of a pre-merger dividend where various states argued that the grocer would be left with too little capital to compete while the merger was under regulatory review;

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- Advised a large pharmaceutical company that wanted to separate its generic and branded business where the generic business had legacy opioid liabilities;
- Led a team of consultants with respect to the impact of the COVID pandemic on cash flows of residential mortgage backed securities for mortgage services;
- Leading a team of consultants advising many top retailers on multi-billion dollar damages claim;
- Lead consultant in a litigation matter for a consumer products company related to a breach of contract associated with a major transaction;
- Testified in deposition on behalf of plaintiff in a commercial dispute relating to lost profits pertaining to a failed transaction in retail industry;
- Advised counsel on the appropriate care, transaction price and valuation methodologies in defense of a lead advisor investment bank in the technology and consumer product industry; produced expert report and rebuttal report and assisted attorneys in depositions;
- Advised counsel with respect to solvency and litigation issues in a large planned spin-off of a subsidiary in the consumer products industry;
- Led the analysis of the value of divisions of a large consumer products company in defense of an IRS probe related to a tax-free spin-off;
- Advising counsel for RMBS trustees in a damages litigation brought by investors;
- Testified in arbitration for a hedge fund related to the capital adequacy of the fund, reasonableness of projections and economic uncertainty in the financial crisis;
- Retained by leading international investment bank related to valuation and damages associated with a failed joint-venture to the telecom industry;
- Retained to provide the analysis of damages sustained by a new private equity advisory firm that was spun out of a leading international bank;
- Testified in trial with respect to the value of the founder's ownership interest in a technology company in conjunction with a matrimonial action;
- Testified as an expert witness in arbitration, International Chamber of Commerce (Sept. 2002) regarding the valuation of a minority interest in a European Internet service provider; also quantified damages;
- Testified as an expert witness in New York Supreme Court (Nov. 2002) regarding the value of the unregistered shares of a public Internet company; both sides in case unanimously accepted the testimony;
- Testified as an expert witness in arbitration (AAA) related to fair and reasonable terms and fair market value associated with a long-term agreement between a cable company and a content provider (Feb. 2004);

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- Testified as an expert witness in deposition and at a hearing. Produced an expert report on diminution of enterprise value, damages and lost profits to a cruise business due to the outbreak of disease caused by a vendor;
- Testified as a fact witness in deposition and advised counsel on behalf of private equity firm and a multi-billion dollar chemical company relating to an acquisition. Assessed the pro forma financial outlook and solvency of the combined entity;
- Advised a law firm in defense of a damages claim of lost income by a private equity firm from an alleged reduction of capital commitments from investors;
- Advised counsel related to the valuation of a multi-billion dollar leasing company;
- Advised counsel related to the value of the common equity of a technology company for a Delaware shareholder action;
- Advised counsel on the appropriate financing terms for a telecommunications transaction in preparation for a potential litigation;
- Led the analysis of damages sustained by a leading communications company in connection with a malpractice claim related to a multi-billion dollar transaction;
- Led the assessment of damages for an early-stage cable television company;
- Advised counsel on the relative value of two contracts and related clauses in the cable and entertainment industry.
- Advised majority shareholder group related to disputed terms of the purchase of controlling voting shares in a large Canadian company with dual-class ownership structure;
- Advised governmental agency relating to insider trading probe;
- Advised counsel relative to damages associated with a hedge fund (fund of funds);
- Advised counsel in preparation of a preliminary injunction hearing regarding the financial position of a regional airline company post-termination of a contract with a national airline;
- Advised counsel with respect to theories related to damages on a high-profile insurance matter;
- Led the analysis of value provided by executives in managing large company-invested hedge funds;
- Led the analysis of a multitude of derivative transactions for a litigation;
- Led the analysis of a merger between two market-leading companies and provided a retrospective fairness opinion; conversion ratio.

- Led the analysis of whether a material adverse change clause applied to the circumstances associated with the decline in 2000 venture capital funding levels;
- Advised a utilities company on the issuance of new securities – debt vs. equity considerations for cost of capital purposes in arbitration;
- Led analysis of a shareholder oppression lawsuit filed in New Jersey regarding the valuation of a privately held trucking company;
- Assisted attorneys in the valuation of a manufacturing company in a purchase price dispute;
- Advised plaintiff on the value of complex options and warrants for purposes of assessing damages in litigation

Transaction Advisory

- Led a due diligence team to advise on the solvency of a borrower in the structuring of a line of credit for a lender;
- Advised the board of directors with respect to valuation and liquidity in negotiating with lender groups.
- Advised an international private equity fund on the value of a major real estate subsidiary to be spun-off and the value of options held.
- Financial Advisor and fairness opinion for a going private transaction in China.
- Financial Advisor and fairness opinion for a large Mexican bank merger.
- Advised by large telecommunications company to value certain tangible and intangible assets related to an acquisition of a controlling stake in a company;
- Advised the board of a publicly traded company regarding company and broad economic trends in the mobile telecommunications industry;
- Advised an investment firm with respect to the price paid for an ownership interest in a telecommunications company, associated warrants and other deal terms;
- Advised on many buy-side valuation issues as part of due diligence efforts for a major telecommunications company;
- Advised the board of a public company related to the fairness of a reverse merger transaction;
- Advised government ministers in their consideration of the privatization of a telecommunications company, a bank and an airline;

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- Advised and presented to the board of directors and senior management of a leading technology company on the value of its total intellectual property portfolio for the application of the Delaware Law capital surplus test;
- Advised special committee of the board and largest minority shareholder with respect to the value of intellectual property of a technology company that received a buyout offer determined to be inadequate by the special committee;
- Advised a technology company in its negotiations with several international top-tier companies and several venture capital firms;
- Advised a technology company on valuation of the various levels of preferred stock prior to its successful initial public offering;
- Advised a technology company on the benefits of spin-off vs. divestiture;
- Advised on terms of transaction and negotiated on behalf of a technology company;
- Advised on valuation of subsidiary of a technology company for issuance of executive warrants;
- Advised on transactions and valuation matters related to more than ten major Israeli companies;
- Advised shareholder and founder on the value of his company for purposes of put option rights;
- Advised a large private equity fund with respect to the value of their illiquid investments for a corporate reorganization;
- Advised a large equity hedge fund with respect to the value of a partnership interest;
- Advised hedge fund executives on the discount associated with shares contributed to a GRAT;
- Advised the board of directors of a leading international company with respect to potential responses to a potential hostile takeover bid;
- Advised a private equity firm on the value of the intellectual property of a large electronics equipment manufacturer for purposes of refinancing;
- Advised a large hedge fund with respect to due diligence and the value of loan collateral;
- Advised on the issuance of a solvency opinion for “RemainCo” relative to two of the largest spin-offs in history;
- Assisted in the issuance of transaction opinions for several large transactions;
- Advised an international entertainment conglomerate with respect to pre-deal due diligence and valuation analysis;

- Provided independent valuation assessment of investments to board of directors of a major investment fund;
- Sell-side advisory work for a major international IT services company;
- Advised in the successful resolution of a joint venture in a buy/sell option discrepancy;
- For several companies, advised on the value of common shares for issuance of new warrants to management;
- Advised on the restructuring of five distinct businesses owned in a holding company;
- Advised on numerous fairness opinions as a member of review committees in Duff & Phelps and Standard & Poor's Corporate Value Consulting.

Strategic Planning

- Advised a telecommunications company relative to financial planning and funding for the launching of a CLEC business;
- Advised a private equity fund focused on technology and telecommunications with respect to the components of several transactions and assessing the value of its common stock;
- Advised on new e-commerce business opportunities and capital investments within large multi-national corporations;
- Advised a subsidiary of an international entertainment conglomerate with respect to the value of its contingent liabilities;
- Developed business case, strategy and valuations for many late stage start-ups;
- Corporate Finance liaison with the PwC Israel office;
- Valuation and advisory work associated with a dramatic operational turnaround of a multi-billion dollar company on behalf of an LBO fund over three years;
- Utilized real option valuation metrics to solve complex and uncertain value propositions;
- Advised on the strategic modeling and valuation regarding the combination of major professional sports teams in a joint venture.

Selected Experience – Valuation for Tax Restructuring and Reporting

- Valued dozens of subsidiaries worldwide in connection with the spin-off of major technology businesses for determining tax gain/loss;

- Led numerous tax restructuring engagements for a multi-billion dollar telecommunications company;
- Analyzing broker quote information in determining whether loans, after modifications, are considered publicly traded under the tax rules;
- Advised the owners of a sports team related to the allocation of purchase price to the sports arena for tax purposes;
- Valuation of the subsidiaries and assets of a chemical company as part of the consideration of the tax structure of a large contemplated transaction;
- Valuation of worldwide subsidiaries of a biotech company for the planning of intellectual property holding company restructuring;
- Determined the value of restricted stock discount and/or lack of marketability discount for dozens of companies;
- Valued several businesses for estate tax purposes.

Selected Experience – Valuation for Financial Reporting

- Valuation of the common equity and an embedded derivative for a privately held, telecommunications software company;
- Valued the Series C Preferred Stock of an independent marketer of natural gas and electricity;
- Led dozens of engagements related to purchase price allocations and intangible asset impairments - SFAS 141/SFAS 142, SFAS 121, SFAS 133 and APB 16;
- Participated on PwC task force committee to communicate with the SEC on the valuation of In-Process Research and Development;
- Drafted numerous SEC response letters for several major companies on valuation issues, in all cases avoiding financial restatements;
- Numerous engagements related to valuation of options in connection with SFAS 123 and as components of purchase price;
- Assessed discounts for blockage, minority holdings, lack of marketability and restricted stock.

Professional Affiliations, Presentations and Articles

- Professor at Sy Syms School of Business, 2016-2026, “Advanced Valuation and Restructuring”;
- Visiting Professor at University of Virginia – Darden Business School, 2018-2025;

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- President, senior executive board member and trustee at numerous charitable organizations;
- Strategic Advisory Board member ABI VALCON 2012-2025, co-chair of VALCON 2016;
- Panelist at numerous ABI VALCON conferences;
- Panelist on Financier Worldwide's 2016 Bankruptcy Litigation Roundtable;
- Lectured at several conferences in 2011 "Lessons Learned from Lehman Brothers Failure";
- Visiting Lecturer at Sy Syms Executive MBA program and Yeshiva University;
- Presented as part of a 2008 TMA panel in a conference entitles "Valuation: A Minefield for the Expert and Counsel";
- Authored 2006 Financier Worldwide article titled "Inadequate capital: examining the tests for fraudulent conveyance";
- Led development and presented many Continuing Learning Education courses for attorneys regarding legal and financial analysis issues related to fairness opinions, valuation, expert witnesses and fraudulent conveyance;
- Led PwC's and S&P's internal training programs in corporate finance and valuation each year from 1997 through 2002;
- For S&P in 2004-2005, designed curriculum for national training and analysis of complex client issues along with New York University professor Dr. Aswath Damodaran;
- Presented various topics at industry, accounting and valuation seminars and conferences; participant in ALI-ABA conferences, ABI conferences and other industry conferences;

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Trial and Arbitration Testimony

- ***In re: ATIF, INC., Debtors***
  United States Bankruptcy Court, Middle District of Florida, Fort Meyers Division
  Case No. 17-01712 (FMD)
  February 2021
  - Expert testimony on behalf of the creditor trustee regarding the solvency of ATIF, Inc. in a fraudulent transfer lawsuit.

- ***In re: Residential Capital, LLC, et al., Debtors***
  United States Bankruptcy Court, Southern District of New York
  Case No. 12-12020 (MG)
  November 2013
  - Expert testimony on behalf of RMBS Trustees and plan proponents at confirmation hearing.

- ***In re: Residential Capital, LLC, et al., Debtors***
  United States Bankruptcy Court, Southern District of New York
  Case No. 12-12020 (MG)
  August 2013
  - Expert testimony on behalf of the RMBS Trustees relating to the reasonableness of a settlement to resolved claims by several Trusts against a monoline insurer.

- ***Aris Multi-Strategy Fund, L.P. v. Quantek Opportunity Fund, L.P., et al***
  American Arbitration Association, New York
  Case No. 13 181 02839 03
  April 2011
  - Testified in arbitration for a hedge fund related to the capital adequacy of the fund, reasonableness of projections and economic uncertainty in the financial crisis.

- ***Lee v. Chou***
  Supreme Court of the State of New York, County of New York
  Index No. 350601/03
  October 2006
  - Testimony in a matrimonial action on behalf of the Defendant with respect to the value of Plaintiff's ownership interest in a business that he founded.

- ***Suraleb, Inc. v. Production Association "Minsk Tractor Works", Republic of Belarus.***
  Arbitration Institute of the Stockholm Chamber of Commerce
  December 2005
  - Testimony in arbitration on behalf of the Respondent, Minsk Tractor Works, as an expert witness related to the value of recovered assets in bankruptcy.

- ***CSC Holdings, Inc. v. Yankees Entertainment and Sports Network, LLC***
  American Arbitration Association, New York

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Case No. 13 181 02839 03
February 2004

- Testimony on behalf of the Claimant as an expert witness related to fair and reasonable terms and fair market value associated with a long-term agreement between Cablevision and YES Network.

- ***Official Committee of Unsecured Creditors (Exide Technologies), v. Credit Suisse First Boston***
  United States Bankruptcy Court, District of Delaware
  Case No. 02-11125
  October 2003
  - Testimony on behalf of the Defendant on the solvency of Exide Technologies in a fraudulent conveyance lawsuit.

- ***Commonwealth Associates, LP v. Smartserv Online, Inc.***
  Supreme Court of the State of New York, Southern District
  Index No. 600869/00
  November 2002
  - Testimony on behalf of the Plaintiff of restricted shares in a publicly traded Internet company.

- ***Banestyrelsen et al. v. France Telecom***
  International Chamber of Commerce
  Case No. 11351
  September 2002
  - Testimony on behalf of the Plaintiff of a minority equity investment in an international Internet service provider.

Deposition Testimony and Affidavits

- ***In re: Lehman Brothers Holdings Inc., et al***
  United States Bankruptcy Court, Southern District of New York
  Case No. 08-13555-scc
  September 2016 (Docket 53731)
  - Submitted affidavit in support of RMBS Trustees' response to the Plan Administrator's motion to disallow and expunge certain of the RMBS Trustees' submitted claims.

- ***In re: Lehman Brothers Holdings Inc., et al***
  United States Bankruptcy Court, Southern District of New York
  Case No. 08-13555-scc
  September 2015 (Docket 51004-2)
  - Submitted affidavit in support of RMBS Trustees status update to the Court in connection with a court mandated protocol to resolve 200,000+ individual claims.

- ***In re: Residential Capital, LLC, et al., Debtors***
  United States Bankruptcy Court, Southern District of New York
  Case No. 12-12020 (MG)
  August 2013

  - Expert testimony on behalf of the Trustees relating to the reasonableness of a settlement to resolved claims by several Trusts against a monoline insurer.

- ***NAF Holding, LLC v. Li & Fung (Trading) Ltd.***
  United States District Court, Southern District of New York
  Civil Action No. 10 Civ. 05762
  April 2012

  - Deposition testimony on behalf of the Plaintiff in a commercial dispute relating to lost profits pertaining to an unconsummated disputed transaction.

- ***Hexion Specialty Chemicals, Inc.; et. al. v. Huntsman Corp.***
  The Court of Chancery of the State of Delaware
  Civil Action No. 3841
  August 2008

  - Deposition testimony as a fact witness on behalf of the plaintiff assessing the pro forma financial outlook and solvency of the combined entity.

- ***OHC Liquidation Trust v. Credit Suisse First Boston, et al.***
  United States District Court for the District of Delaware
  Case No. 07-799
  March 2008

  - Deposition testimony on behalf of the Defense as an expert witness related to alleged damages in association with advice regarding the timing of a restructuring/bankruptcy of a mobile home manufacturer.

- ***In re: Adelphia Communications Corp., et al.***
  United States Bankruptcy Court, Southern District of New York
  Case No. 02-41729
  March 2006

  - Deposition testimony on behalf of the Debtors as an expert witness related to the value of a cable company in conjunction with the failed buyout of a joint venture partner.

- ***Celebrity Cruises, Inc., et al. v. Essef Corp., et al.***
  United States District Court, Southern District of New York
  Case No. 96-Civ-3135
  July 2005

  - Deposition and hearing testimony on behalf of the Plaintiff as an expert witness on diminution of enterprise value, damages and lost profits related to disease outbreak in the cruise industry.

- ***In re: Footstar, Inc., et al.***
  United States Bankruptcy Court, Southern District of New York
  Case No. 04-22350
  June 2005

  - Deposition testimony on behalf of Kmart Corporation, Respondent, as an expert witness related to reasonableness of income projections, in dispute against Footstar, Inc., et al. as Debtors.

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
NORTH JUSTICE CENTER

MINUTE ORDER

DATE: 07/10/2026 TIME: 04:30:00 PM DEPT: N15

JUDICIAL OFFICER PRESIDING: Nathan Vu
CLERK: R. Castro
REPORTER/ERM: None
BAILIFF/COURT ATTENDANT: J. Campirano

CASE NO: **30-2024-01421309-CU-NP-NJC** CASE INIT.DATE: 08/21/2024
CASE TITLE: **Torre vs. Reddam**
CASE CATEGORY: Civil - Unlimited CASE TYPE: Non-PI/PD/WD tort - Other

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EVENT ID/DOCUMENT ID: 74900864
EVENT TYPE: Under Submission Ruling

APPEARANCES

There are no appearances by any party.

The Court, having taken the above-entitled matter under submission on 05/11/2026 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules, a copy which is attached hereto and incorporated herein for reference.

Motion for Summary Judgment and/or Summary Adjudication

Defendants John Paul Reddam's and CashCall, Inc.'s Motion for Summary Judgment or Summary Adjudication is **DENIED.**

Plaintiff Eduardo De La Torre's evidentiary objections to the Declaration of Delbert O. Meeks are **OVERRULED** as to evidentiary objection numbers 1-2.

Defendants John Paul Reddam's and CashCall, Inc.'s evidentiary objections to the Declaration of Arthur D. Levy are **SUSTAINED** as to Paragraph 19 and is **OVERRULED** as to Exhibit 7.

Defendants John Paul Reddam's and CashCall, Inc.'s evidentiary objections to the Declaration of Allen Pfeiffer are **OVERRULED** as to Paragraph 7; Footnote 5; Paragraphs 8, 9, 12, 13, 14, 15, 16 except for the last sentence, and 17; Table 1, Paragraphs 18, 19, 20, and 21, and **SUSTAINED** as to the last sentence of Paragraph 16.

Defendants John Paul Reddam and CashCall, Inc. are reminded that all evidentiary objections "must be referenced by the objection number in the right column." (Cal. Rules of Court, rule 3.1354(b).)

Pending Motion

Defendant John Paul Reddam (Defendant Reddam) and Defendant CashCall, Inc., (Defendant CashCall) move for summary judgment on the Complaint for Avoidance and Recovery of Voidable Transfer [Civil Code §§ 3934 *et seq.*] (Complaint) filed by Plaintiff Eduardo De La Torre.

In the alternative, Defendants move for summary adjudication as to the 1st and 2nd Causes of Action of the Complaint.

Standard for Summary Judgment or Summary Adjudication

A party may move for summary judgment, which "shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." (Code Civ. Proc., § 437c, subd. (c).)

In addition, "[a] party may move for summary adjudication as to one or more causes of action within an action, one or more affirmative defenses, one or more claims for damages, or one or more issues of duty, if the party contends that the cause of action has no merit, that there is no affirmative defense to the cause of action, that there is no merit to an affirmative defense as to any cause of action, that there is no merit to a claim for damages, . . . or that one or more defendants either owed or did not owe a duty to the plaintiff or plaintiffs." (Code Civ. Proc., § 437c, subd. (f)(1).)

A "party moving for summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact . . . ." (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.) "A prima facie showing is one that is sufficient to support the position of the party in question." (*Id.* at p. 851.)

A defendant moving for summary judgment or summary adjudication satisfies the initial burden by submitting undisputed evidence "showing that a cause of action has no merit

[because] one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to the cause of action." (Code Civ. Proc. § 437c, subd. (p)(2); *Aguilar v. Atlantic Richfield Co.*, *supra,* 25 Cal.4th at pp. 850-51.) However, "[t]he defendant *must* indeed present evidence." (*Aguilar v. Atlantic Richfield Co.*, *supra,* 25 Cal.4th at p. 855, italics original.)

If a defendant fails to meet this initial burden, the plaintiff need not oppose the motion and the motion must be denied. (*Binder v. Aetna Life Ins. Co.* (1999) 75 Cal.App.4th 832, 840.)

If the moving party meets its burden, the burden then shifts to the party opposing summary judgment to show, by reference to specific facts, the existence of a triable, material issue as to a cause of action or an affirmative defense. (*Aguilar v. Atlantic Richfield Co.*, *supra,* 25 Cal.4th at p. 855; *Villacres v. ABM Industries, Inc.* (2010) 189 Cal.App.4th 562, 575.)

The nonmoving party must present substantial evidence in order to avoid summary judgment. (*Sangster v. Paetkau* (1998) 68 Cal.App.4th 151, 163.) "In some instances . . ., 'evidence may be so lacking in probative value that it fails to raise any triable issue.'" (*Whitmire v. Ingersoll-Rand Co.* (2010) 184 Cal.App.4th 1078, 1083-1084, quoting *Advanced Micro Devices, Inc. v. Great American Surplus Lines Ins. Co.* (1988) 199 Cal.App.3d 791, 795.)

When the moving party has met its initial burden and the responding party fails to file an opposition or establish a triable issues of material fact, the court may grant summary judgment or summary adjudication. (*Tire Distributors, Inc. v. Cobrae* (2005) 132 Cal.App.4th 538, 543.)

Nonetheless, in ruling on a motion for summary judgment or summary adjudication, "the court must 'consider all of the evidence' and 'all' of the 'inferences' reasonably drawn therefrom, and must view such evidence and such inferences in the light most favorable to the opposing party." (*Aguilar v. Atlantic Richfield Co.*, *supra*, 25 Cal.4th at p. 843, citations omitted.) Courts "'construe the moving party's affidavits strictly, construe the opponent's affidavits liberally, and resolve doubts about the propriety of granting the motion in favor of the party opposing it.'" (*Unilab Corp. v. Angeles-IPA* (2016) 244 Cal.App.4th 622, 636, quoting *Seo v. All-Makes Overhead Doors* (2002) 97 Cal.App.4th 1193, 1201–1202.)

A court may not make credibility determinations or weigh the evidence on a motion for summary judgment or adjudication, and all evidentiary conflicts are to be resolved against the moving party. (*McCabe v. American Honda Motor Corp.* (2002) 100 Cal.App.4th 1111, 1119.) "The court . . . does not resolve issues of fact. The court seeks to find contradictions in the evidence, or inferences reasonably deducible from the evidence, which raise a triable issue of material fact." (*Johnson v. United Cerebral Palsy/Spastic Children's Foundation of Los Angeles and Ventura Counties* (2009) 173 Cal.App.4th 740, 754, citation omitted.) "[S]ummary judgment cannot be granted when the facts are susceptible [of] more than one reasonable inference . . ." (*Rosas v. BASF Corp.* (2015) 236 Cal.App.4th 1378, 1392.)

1st Cause of Action (Avoidance and Recovery of Actual Fraudulent Transfer Cal Civ. Code §§ 3934 *et. seq.*)

In the 1st Cause of Action, the Complaint alleges that Defendant CashCall transferred

assets to Defendant Reddam with "actual intent to hinder, delay, or defraud Plaintiff and the Class [sic] a creditor of CashCall." (Compl., ¶¶ 18, 30.)

Civil Code section 3439.04 provides that:

> A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation as follows:
>
> (1) With actual intent to hinder, delay, or defraud any creditor of the debtor.

(Civil Code, § 3439.04, subd. (a)(1).)

Generally, "whether a conveyance was made with fraudulent intent is a question of fact." (*Annod Corp. v. Hamilton & Samuels* (2002) 100 Cal.App.4th 1286, 1294, citing *Bulmash v. Davis* (1979) 24 Cal.3d 691, 699.)

In determining this issue on summary judgment, "'the court must 'consider all of the evidence' and 'all' of the 'inferences' reasonably drawn therefrom . . . .'" (*Annod Corp. v. Hamilton & Samuels*, *supra*, 100 Cal.App.4th at p. 1298, quoting *Aguilar v. Atlantic Richfield Co.*, *supra*, 25 Cal.4th at p. 843.)

"[I]n the fraudulent conveyance context, '[p]roof of fraudulent intent often consists of '*inferences* from the circumstances surrounding the transaction . . . ." (*Annod Corp. v. Hamilton & Samuels*, *supra*, 100 Cal.App.4th at p. 1298, quoting *Eddy v. Temkin* (1985) 167 Cal.App.3d 1115, 1122, italics original.)

"Over the years, courts have considered a number of factors, the 'badges of fraud' described in a Legislative Committee comment to section 3439.04, in determining actual intent." (*Filip v. Bucurenciu* (2005) 129 Cal.App.4th 825, 834, citations omitted.)

"[T]hose factors are now codified at section 3439.04, subdivision (b) . . . ." (*Ibid.*)

That provision states that:

> In determining actual intent under paragraph (1) of subdivision (a), consideration may be given, among other factors, to any or all of the following:
>
> (1) Whether the transfer or obligation was to an insider.
>
> (2) Whether the debtor retained possession or control of the property transferred after the transfer.
>
> (3) Whether the transfer or obligation was disclosed or concealed.
>
> (4) Whether before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit.
>
> (5) Whether the transfer was of substantially all the debtor's assets.
>
> (6) Whether the debtor absconded.

(7) Whether the debtor removed or concealed assets.

(8) Whether the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred.

(9) Whether the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred.

(10) Whether the transfer occurred shortly before or shortly after a substantial debt was incurred.

(11) Whether the debtor transferred the essential assets of the business to a lienor that transferred the assets to an insider of the debtor.

(Civil Code, § 3439.02, subd. (b).)

As the Court of Appeal has explained:

> [T]hese factors do not create a mathematical formula to establish actual intent. There is no minimum number of factors that must be present before the scales tip in favor of finding of actual intent to defraud. This list of factors is meant to provide guidance to the trial court, not compel a finding one way or the other.

(*Filip v. Bucurenciu*, *supra*, 129 Cal.App.4th at p. 834.)

Here, Defendants point to evidence that the assets that were transferred came from the settlement of a lawsuit that was unrelated to the dispute between Plaintiff and Defendants. (See Def.s' Separate Statement of Undisputed Material Facts (Separate Statement), Undisputed Material Facts 7, 9-13.)

In addition, Defendants submit evidence that the proceeds from the settlement of the unrelated lawsuit were paid to Defendant CashCall in order to minimize tax liability for Defendants. (See *id.*, Undisputed Material Facts 14, 17-18.)

Defendants also show that, because Defendant CashCall is an S-Corporation and Defendant Reddam is the sole shareholder of Defendant CashCall, Defendant Reddam is responsible to pay for vast majority of Defendant CashCall's income taxes. (See *id.*, Undisputed Material Facts 2-5.)

Therefore, Defendant CashCall transferred money to Defendant Reddam so that Defendant Reddam could pay the taxes on the settlement payments that had been received by Defendant CashCall. (See *id.*, Undisputed Material Facts 19-20, 23-24.)

Defendants presented evidence that the litigation between Plaintiff and Defendants (San Mateo Litigation) "played no role in [Defendant] CashCall's decision to make the Tax Distribution to Reddam or the amount of the Tax Distribution" and that "[Defendant] CashCall had made distributions to Reddam on numerous prior occasions to account for anticipated tax obligations arising out of CashCall's taxable income." (*Id.*, Undisputed Material Facts 21, 25.)

Thus, Defendants have made a *prima facie* case that they had no actual intent to hinder, delay, or defraud any creditor when Defendant CashCall made the transfer to Defendant

Reddam.

The burden then shifts to Plaintiff to show, by reference to specific facts, the existence of a triable, material issue whether Defendants had actual intent to hinder, delay, or defraud.

Plaintiff points to evidence of several badges of fraud:

(1) the transfer was made to an insider, Defendant Reddam, who was the sole shareholder Defendant CashCall, (Separate Statement, Undisputed Material Fact 1);

(2) the amount transferred was a significant portion of Defendant CashCall's overall assets and was greater than necessary to pay Defendant Reddam's tax liability, and Defendant CashCall did not request a refund of overpayment, (Pltf.'s Response to Separate Statement and Additional Facts in Opp'n to Def.s' Mot. for Summ. J. (Opp'n Separate Statement), Additional Disputed Facts 44-45, 47, 63);

(3) the transfer was made while litigation was pending between Plaintiff and Defendants, after the parties had completed a trial that spanned more than two months and Plaintiff had requested more than $243 million, and shortly before the parties made closing arguments and the court issued a tentative ruling, (Separate Statement, Undisputed Material Facts 10-11, 23, 31-32; Opp'n Separate Statement, Additional Disputed Fact 57); and

(4) the transfer was made with no consideration, (see *id.*, Undisputed Material Facts 23-24 [Defendants referring to the transfer as a "distribution"; Corp. Code, § 166 [defining "distribution" to mean "the transfer of cash or property by a corporation to its shareholders without consideration"; Opp'n Separate Statement, Additional Disputed Facts 67).

Plaintiff also relies on evidence that casts doubt on Defendant CashCall's ability to pay any substantial judgment arising from the San Mateo Litigation.

For example, while it is undisputed that Defendant CashCall had no plans to cease doing business, (see Separate Statement, Undisputed Material Fact 28), at the time of the transfer of assets to Defendant Reddam, Defendant CashCall had not engaged in its primary business (making consumer loans) in three years, (see Opp'n Separate Statement, Disputed Material Fact 47; Pltf.'s Evid. In Opp'n to Def.'s Mot. for Summ. J. (Pltf.'s Evid.), Exh. 1 at p. 19:19-20:11, 96:2-11; Exh. 4 at p. 27:1-25; Exh. 5 74:8-19), and that even now, Defendant CashCall only originates 5-10 loans per month, (see *id.*, Exh. 5 at p. 74:8-19).

Further, Plaintiff Points to the fact that Defendant CashCall had no plan to pay for the potential liability arising from the San Mateo Litigation. (See Opp'n Separate Statement, Additional Disputed Facts 64.)

Defendants rely upon *Annod Corp. v. Hamilton & Samuels*, in which the Court of Appeal affirmed the trial court's grant of summary judgment even though Plaintiff had pointed to several "badges of fraud." (See *Annod Corp. v. Hamilton & Samuels*, *supra*, 100 Cal.App.4th at p. 1299 ["Even the existence of several 'badges of fraud' may be insufficient to raise a triable issue of material fact."].)

However, *Annod Corp. v. Hamilton & Samuels* is distinguishable because the evidence supporting an inference of fraud is substantially more robust in this case than in *Annod Corp. v. Hamilton & Samuels*, as shown above.

In addition, Defendants have not presented significant "evidence negativing any inference of fraud," which was present in *Annod Corp. v. Hamilton & Samuels*.

For example, the plaintiff in *Annod Corp. v. Hamilton & Samuels* argued that the payments had been made to insiders (the partners of a law firm) and that the defendant making the payment (the law firm) was insolvent at the time the payments were made. (See *Annod Corp. v. Hamilton & Samuels*, *supra*, 100 Cal.App.4th at p. 1294.)

However, defendants presented evidence that the payments were made to the partners so that they would continue to work for the law firm, that the partners' work generated revenue for the law firm far in excess of the payments that were made to the partners, and that the payments were less than what the partners earned after leaving the law firm. (See *id.* at pp. 1295-1297; see, e.g., *id.* at p. 1296 [referring to one partner who generated revenues in excess of $480,000; received payment of only $92,144 for that work; and earned $400,000 per year after leaving law firm].)

Thus, any inference of fraud from the fact that payments were made to insiders while the law firm was insolvent was dispelled by the fact that the payments were made to the partners in order to generate more in revenue for the law firm.

By contrast, Plaintiff has presented evidence here that Defendant CashCall received no consideration for the transfer to Defendant Reddam, and that even if the transfer was made to allow Defendant Reddam to pay income tax liabilities on the settlement payment, the amount transferred exceeded the amount needed to pay the income tax liability.

Further, although the plaintiff in *Annod Corp. v. Hamilton & Samuels* pointed to the fact that the defendants were "the target of actual and/or potential lease litigation at the time" of the payments, (*id.* at p. 1294), there was no evidence that the payments were made shortly before the issuance of any ruling imposing liability on the defendants. In fact, it appears that all of the payments were made before or shortly after the plaintiff had filed suit. (See *id.* at p. 1291 [stating that plaintiff sought return of payments made between August 1995 and February 1996, and that plaintiff had filed suit in November 1995].)

Defendants also point to the fact that the distribution occurred before the court's ruling imposing liability on Defendant CashCall in the San Mateo Litigation, and thus, that Defendants could not have known of the liability at the time they made the transfer.

However, in order for a factfinder to draw an inference of fraud, Defendants did not need to be certain of the liability at the time of the distribution. Rather, Defendants only needed to know of the possibility that significant liability would be imposed upon Defendant CashCall as a result of the San Mateo Litigation.

Defendants contend that the San Mateo Litigation was wholly without merit and therefore, Defendants were not concerned that the litigation would lead to the imposition

of any liability.

However, as noted above, Plaintiff has presented evidence which creates a triable issue of material fact whether Defendants were concerned about the San Mateo Litigation, such as the fact that the matter was tried over a period of more than two months, at the end of which Plaintiff requested more than $243 million.

Therefore, the court will deny the motion with respect to the 1st Cause of Action.

2nd Cause of Action (Avoidance and Recovery of Constructive Fraudulent Transfer Cal Civ. Code §§ 3934 *et. seq.*)

In the 2nd Cause of Action, the Complaint pleads that Defendant CashCall made a constructively fraudulent transfer to Defendant Reddam because "[Defendant] CashCall was insolvent on the date that the Transfer was made or became insolvent as a result of the Transfer, or was engaged in a business or transaction or was about to engage in a business or transaction for which any property remaining with [Defendant] CashCall was unreasonably small capital." (Compl., ¶¶ 34-35.)

Civil Code section 3439.04 provides that:

> A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation as follows:
>
> . . .
>
> (2) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor either:
>
> (A) Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction.
>
> (B) Intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due.

(Civil Code, § 3439.04, subd. (a)(2).)

Further, Civil Code section 3939.05 states that:

> A transfer made or obligation incurred by a debtor is voidable as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

(Civil Code, § 3439.05, subd. (a).)

Finally, Civil Code section 3439.02 defines insolvency:

(a) A debtor is insolvent if, at a fair valuation, the sum of the debtor's debts is greater than the sum of the debtor's assets.

(b) A debtor that is generally not paying the debtor's debts as they become due other than as a result of a bona fide dispute is presumed to be insolvent. The presumption imposes on the party against which the presumption is directed the burden of proving that the nonexistence of insolvency is more probable than its existence.

Here, Defendants contend that there is no triable issue of material fact that, at the time the transfer was made to Defendant Reddam, Defendant CashCall was not insolvent and that remaining assets were not unreasonably small.

Defendants submit the declaration of Defendant CashCall's Chief Financial Officer stating that, at the time of the transfer to Defendant Reddam, Defendant CashCall's debts were not greater than its assets and that it was paying its debts as they came due. (See Decl. of Douglas O. Meeks in Supp. of Def.s' Mot. for Summ. J. (Meeks Decl.), ¶ 10; Separate Statement, Undisputed Material Fact 27.)

Defendants also point to the fact that, at the time of the transfer, Defendant CashCall no plans to initiate bankruptcy proceedings. (See *id.*, Undisputed Material Fact 29.)

Defendants further established that, at the time of the distribution to Defendant Reddam, Defendant CashCall had no plans to cease doing business and that it continues to do business to date. (See *id.*, Undisputed Material Facts 28, 30.)

This might be sufficient to meet Defendants' burden to make out a *prima facie* case with respect to Defendant CashCall's solvency, but it does not meet the burden with respect to establishing that Defendant CashCall was sufficiently capitalized

If a plaintiff has pleaded several theories, the defendant has the burden of demonstrating there are no material facts requiring trial on any of them. (*Carlsen v. Koivumaki* (2014) 227 Cal.App.4th 879, 889.)

Here, because Defendants have not made a *prima facie* case with respect to one of the two theories underpinning the 2nd Cause of Action, the court will deny the motion with respect to the 2nd Cause of Action.

However, even if Defendants' evidence was sufficient to make out a *prima facie* case, the court would still deny the motion because Plaintiff has provided evidence creating a triable issue of material fact as to both insolvency and capitalization.

Plaintiff submits the declaration of its expert witness, who states that Defendant CashCall's Chief Financial Officer's assessment of its solvency did not properly account for the contingent liability existing due to the pending litigation between Plaintiff and Defendants. (See Decl. of Allen Pfeiffer in Opp'n to CashCall's Mot. for Summ. J. (Pfeiffer Decl.), ¶¶ 7-21.)

For example, Plaintiff's expert witness calculates Defendant CashCall's book assets in September 2021 (shortly before the transfer to Defendant Reddam) to be about $25.8 million, which was only about 10% of the restitution requested by Plaintiff in the San Mateo Litigation. (See Pfeiffer Decl., ¶¶ 10, 16.)

Further, Plaintiff presents evidence that, while the settlement payment brought a large amount of money into Defendant CashCall's "nearly dry financial coffers," Defendant CashCall used the money to pay off significant debts, in addition to transferring a substantial portion to Defendant Reddam. (See Opp'n Separate Statement, Additional Disputed Facts 45, 47-48.)

Defendants argue that they reasonably and properly valued the meritless litigation between Plaintiff and Defendants and that Plaintiff's expert opinion "ignores the novelty" of that litigation, which is evidenced by the fact that the 9th Circuit certified a question of first impression to our Supreme Court. (See Reply Br. In Supp. of Def.s' Mot. for Summ. J. or Summ. Adj. at p. 9:15-17.)

However, this is evidence that should be presented to a factfinder at trial to determine whether Defendants actually believed that the risk of liability from the San Mateo Litigation was zero. It does not negate the fact that there is a dispute of material fact.

In any case, in August 2018, the Supreme Court decided the novel issue. (See *De La Torre v. CashCall, Inc.* (2018) 5 Cal.5th 966, 975 [ruling that "[a]n interest rate on consumer loans of $2,500 or more may be deemed unconscionable under Financial Code section 22302."].)

Plaintiff may reasonably argue that, because the distribution to Defendant Reddam occurred more than three years after the Supreme Court's decision, that at the time of the distribution, Defendants valued the contingent liability presented by the San Mateo Litigation at more than zero.

Therefore, the court will deny the motion with respect to the 2nd Cause of Action.

Summary Judgment

Summary judgment, as opposed to summary adjudication, is not proper unless there is no merit or no defense to the entire action or proceeding. (See Code of Civil Procedure section 437c, subd. (a).)

Thus, if any cause of action survives, a grant of summary judgment is improper. (See Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2002) ¶¶ 10:26 to 10:27, p. 10–9.)

Here, because the court has denied summary adjudication as to both causes of action, the court will deny the motion for summary judgment.

The court clerk shall give notice of this ruling.

ENDORSED FILED
SAN MATEO COUNTY
JAN 19 2024
Clerk of the Superior Court
By ANDREA DALEY
DEPUTY CLERK

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CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

Attorneys for Plaintiff Eduardo De La Torre and the Certified Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDUARDO DE LA TORRE, on behalf of all other similarly situated and the general public,

Plaintiff,

v.

CASHCALL, INC. a California corporation; and DOE 1 through DOE 25, inclusive,

Defendants.

CASE NO.: 19-CIV-01235

PRELIMINARY APPROVAL OF AWARD

[~~PROPOSED~~] ORDER GRANTING PLAINTIFF'S ~~MOTION FOR~~ ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARD

Date: January 19, 2024
Time; 9:00
Dept.: 2

NO APPEARANCES

COMPLEX CASE—CLASS ACTION

Document received by the CA 1st District Court of Appeal.

The matter before the Court is Plaintiff's Motion for Attorney's Fees, Expenses, and Plaintiff Service Awards, which Plaintiff filed on December 7, 2023. Defendant CashCall, Inc., filed a response to the motion in which it took no position on Plaintiff's motion. The Court asked for supplemental declarations from certain of the Plaintiff's Counsel firms to further document the expenses they sought to be reimbursed. Upon receipt of these supplemental declarations, the Court deems this matter appropriate for ruling ~~without a hearing~~ and oral argument was waived.

In his motion, Plaintiff seeks an order: (1) awarding Class Counsel attorneys' fees in the amount of 20% of the $245,515,389 restitution fund previously awarded the Class out of the fund, or a total of $49,103,077.80; (2) awarding Class Counsel litigation expenses out of the fund in the amount of $664,995[1]; and (3) awarding Eduardo De La Torre a service award out of the fund in the amount of $20,000 for his work on the case.

For the reasons stated below, the Court grants the relief Plaintiff seeks and approves preliminarily approves and Plaintiff's Amended Proposed Plan of Distribution, submitted to the Court with the Motion for Attorney's Fees on December 7, 2023.

I. PLAINTIFF'S MOTION FOR FEES, COSTS, AND A SERVICE PAYMENT

Plaintiff's request for fees is based on the common fund doctrine: "when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out of the fund." (*Serrano v. Priest* ("*Serrano III*") (1977) 20 Cal.3d 25, 34.) This practice is known as "fee spreading," because the cost of the litigation is "spread" among those benefited, as opposed to "fee shifting," such as under Code of Civil Procedure § 1021.5, where the burden of fees is shifted to the party who did not prevail. (*Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 489.) "'Courts recognize two methods for calculating attorney fees in civil class actions: the lodestar/multiplier method and the percentage of recovery method.'" (*Id.* at 502 [quoting *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254].)

[1] This amount increased by $360 from Plaintiff's original request due to an error in one Plaintiff's Counsel's original submission.

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The common fund doctrine, authorizing an award of percentage of fund fees, is well established in California:

> California has long recognized, as an exception to the general American rule that parties bear the costs of their own attorneys, the propriety of awarding an attorney fee to a party who has recovered or preserved a monetary fund for the benefit of himself or herself and others. In awarding a fee from the fund or from the other benefited parties, the trial court acts within its equitable power to prevent the other parties' unjust enrichment. (*Serrano v. Unruh* ("Serrano IV") (1982) 32 Cal.3d 621, 627; *Serrano III*, *supra*, 20 Cal.3d at p. 35; *Farmers etc. Nat. Bank v. Peterson* (1936) 5 Cal.2d 601, 607, 55 P.2d 867; *Fox v. Hale & Norcross S. M. Co.* (1895) 108 Cal. 475, 476–477, 41 P. 328; *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 27, 97 Cal. Rptr. 2d 797 (*Lealao*).)

(*Laffitte*, 1 Cal. 5th at pp. 488-489.) Where the recovery creates a common fund, California courts use a percentage method to determine fees to be paid out of a fund, as opposed to a lodestar analysis. (*Laffitte*, 1 Cal.5th at p. 503.) While the court has discretion to crosscheck the percentage of recovery against the Plaintiff's lodestar, "it is not required." (*Consumer Privacy Cases* (2009) 175 Cal.App.5th 545, 557 [citing *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 49-50]; *see also Karton v. Ari Design & Construction* (2021) 61 Cal.App.5th 734, 745 ["The court has stressed it has not mandated a blanket 'lodestar only' approach."].)

Here, Class Counsel, through the litigation, has successfully created a large fund for the benefit of the Class. In the interest of justice, fees should be paid out of the recovery benefitting Class Members. (*Serrano IV*, *supra*, 32 Cal.3d at p. 627.) Common fund fees are generally measured not by *effort*, but by the *result obtained*, and are borne by the beneficiaries of counsel's success—the Class members here. As in the case of lodestar fees, the Court can and does consider the risks counsel took, the length of the litigation, and the amount of effort expended in setting the percentage of fund. (*Serrano III*, *supra*, 20 Cal.3d at p. 49.) But the anchor of common fund fees remains the result obtained, not the market value of the services rendered. The judgment here created a $245,515,389 restitutionary fund for the benefit of the Class, which is the type of common fund from which it is appropriate to award attorneys' fees on a percentage basis.

A. The requested percentage is reasonable

Plaintiff's Counsel's requested 20% fee is less than awards in other class action cases and is warranted under the relevant factors. When determining the reasonableness of a fee request,

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California courts consider various factors ranging from "the novelty and difficulty of the questions involved," the attorneys' "skill," and "the contingent nature of the fee award." (*Serrano III*, *supra*, 20 Cal.3d at p. 49.)

The California Supreme Court has noted that "courts use a 25 percent fee figure as a 'starting benchmark,'" but that fees "at or above the benchmark" are appropriate where counsel incurs "risks" in bringing the action and achieve a good result. (*Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260, 265; *see also Barbosa v. Cargill Meat Solutions Corp.* (2013) 297 F.R.D. 431, 448 ["The typical range of acceptable attorneys' fees in the Ninth Circuit is 20 percent to 33.3 percent of the total settlement value, with 25 percent considered a benchmark percentage."]; *Beaver v. Tarsadia Hotels* (S.D. Cal. September 28, 2017) 2017 WL 4310707, at *9 [citing *Laffitte* for the proposition that "California courts routinely award attorneys' fees of one-third of the common fund"].)[2] Even in high-value settlements, courts may award one-third fees for attorneys who expend considerable time and skill to litigate risky but worthwhile cases. *See, e.g.*, *Laffitte*, *supra*, 1 Cal.5th at p. 487, 488.

The requested 20% fee here appropriately compensates Class Counsel for a hard-fought trial victory that was by no means assured. In *Laffitte*, the Supreme Court approved a *one-third* award of a multi-million-dollar settlement in a case involving eight and half years of litigation, three summary judgment motions, and a motion for class decertification—all of which were subject to the "inherent risk" of contingency litigation. (*Laffitte*, *supra*, 1 Cal.5th at p. 487.) Although counsel's efforts in *Laffitte* were substantial, Class Counsel here has litigated this matter for twice as long, certified the Class in state and federal court, litigated an appeal and novel questions of California law before both the Ninth Circuit and the California Supreme Court, successfully defended CashCall's post-trial decertification motion, and secured their clients' restitution not from a settlement, but only after a thirteen-day bench trial.

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[2] *See e.g.*, *In re Pac. Enters. Sec. Litig.* (9th Cir. 1995) 47 F.3d 373, 379 [affirming 33% fee award]; *In re Activision Sec. Litig.* (N.D. Cal. 1989) 723 F.Supp. 1373, 1379 [32.8% award]; *In re Cal. Indirect Purchases* (Alameda Super. Ct. Oct. 22, 1998) 1998 WL 1031494, at *9 [Robinson, J] [awarding 30% fee and citing 11 actions in which California trial courts had awarded fees of 30% or greater].

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A 20% fee is warranted to compensate Class Counsel for their efforts for multiple reasons. First, the risk that Class Counsel accepted in this case when they initiated it fifteen years ago was greater than the typical contingency fee risk. California courts recognize that attorneys who take cases on contingency may expect higher fees than attorneys who will be paid—win or lose—regularly throughout the case. (*See Ketchum*, 24 Cal. 4th at p. 1133 ["A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases"]; *Cazares v. Saenz* (1989) 208 Cal.App.3d 279 [noting that fees in contingent cases "with a 50 percent chance of success should be twice the amount of a noncontingent fee for the same case"].)

Class Counsel litigated this case for more than fifteen years without any guarantee of success, and indeed, with many indications that their efforts could be futile. The central question at issue was a novel question of law that the Ninth Circuit certified to the California Supreme Court, *after* the district court had granted summary judgment for CashCall on the unconscionability claim. The ultimate success for the Class was also not brokered via a settlement agreement but won after a lengthy trial.

Second, the 15-year path to Judgment for the Class required significant time and labor from Class Counsel, all of whom are from small firms. Class Counsel litigated vigorously—and successfully—against a sophisticated, experienced team of attorneys from Manatt Phelps, a comparatively large law firm. Relatedly, the skill, experience, reputation, ability, and quality that Plaintiff's Counsel has shown in this action favor substantial compensation. The Class benefited from the experience that Class Counsel brought to this case, as indicated by the excellent trial outcome achieved.

Finally, awarding the requested fee would still preserve substantial restitution for the Class members who are eligible for a monetary award. With the proposed 20% fee, Class Member's receiving restitution would still be entitled to nearly 80% of the collected restitution due them after deduction of fees and expenses awarded.

The Court may award a percentage of recovery fee without considering Plaintiffs' lodestar.

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(*Laffitte, supra*, 1 Cal.5th at pp. 503-504; *see also Chavez v. Netflix* (2008) 162 Cal.App.4th 43, 66 n.11 ["Empirical studies show that, regardless of whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery."].) Class Counsel nevertheless provided the Court their lodestar data, which totals nearly $6 million.[3]

When the case was refiled in state court, Class Counsel proposed and CashCall agreed that the discovery and evidence produced in the federal litigation could be used in the state-court action. The Court agreed. (See Case Management Order #2, filed May 8, 2019 (¶ 1)). As a consequence, little time was spent redoing the work that was previously done to produce the same results. Adopting these procedures was efficient and also conserved judicial resources. Class Counsel excluded from its lodestar time spent on the conditioning claims in the federal case, which was settled in that action.

As such, the Court concludes that Class Counsel's requested fee of 20% of the common fund created in this case (a total of $49,103,077.80) is warranted here.

B. Class Counsel is entitled to their litigation-related expenses

Under the common fund doctrine, Class Counsel are also entitled to recover their litigation expenses. It is reasonable for attorneys' expenses to be paid from the common fund for the same reason that it is reasonable to pay attorney fees from that fund: it was created by counsel's efforts and its benefit is shared by the members of the Class. (See *Rider v. County of San Diego* (1992) 11 Cal.App.4th 1410, 1423 n.6.); *Laffitte, supra*, 1 Cal.5th at p. 488-489 [noting that, absent a fee-shifting statute, "the general American Rule [is] that parties bear the costs of their own attorneys"]; *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110 ["The common fund doctrine recognizes the common law historic power of equity to permit the trustee of a fund or property, or a party preserving or recovering a fund for the benefit of others in addition to himself, to recover his costs, including his attorneys' fees."].)

Plaintiffs submit expenses in the amount of $664,995.84. (*see* Tindall Decl., ¶ 4; *see also*

[3] *See* Levy Decl., ¶75; Sturdevant Decl., ¶30; Riggin Decl., ¶¶5-7; Tindall Decl., ¶¶14-15; Connolly Decl., ¶14.

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Supplemental Declarations of Connolly, ¶ 3; Levy, ¶ 1; Riggin, ¶ 2-3; Sturdevant, ¶ 1; *see also* Connolly Decl., ¶ 2, in which he acknowledges a $360 undercounting in his previous declaration.) These expenses were incurred for reasonable litigation costs—including expert expenses, deposition and trial transcripts, and Class notice costs. *Id.*

C. A $20,000 service award for Class representative Eduardo De La Torre is warranted for his service to the Class

"[Service] awards to class representative are fairly typical in class action cases," and "are intended to compensate class representatives for work done on behalf of the class, [and] to make up for financial or reputational risk undertaken in bringing the action." (*In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1393–1394, *as modified* July 27, 2010 [internal quotations and citation omitted]; see also *Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 958.) "Since without a named plaintiff there can be no class action, such compensation as may be necessary to induce him to participate in the suit could be thought the equivalent of the lawyers' nonlegal but essential case-specific expenses, such as long-distance phone calls, which are reimbursable." (*Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804.)

Courts consider various criteria when determining if a service award is warranted, including:

1) the risk to the class representative in commencing suit, both financial and otherwise;

2) the notoriety and personal difficulties encountered by the class representative;

3) the amount of time and effort spent by the class representative;

4) the duration of the litigation; and

5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation.

(*Cellphone Termination Fee Cases, supra*, 186 Cal.App.4th at pp. 1393-1395.)

A service award of $20,000 is fair under consideration of these factors. Mr. De La Torre has litigated this case for more than 15 years, during which time he worked extensively with Class Counsel, provided documents and written discovery responses, testified at both his deposition and

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trial, was involved in settlement negotiations and mediation and stayed abreast of case developments throughout the journey through the federal and state court systems. Mr. De La Torre participated in periodic telephone calls and emailed with counsel to confer about the case. He also attended some of the trial even when he was not appearing to provide the Court with his trial testimony.

The amount requested is comparable to awards in similar cases in California. Service awards of "[$15,000] or even larger are common in class action cases." (*Andrews v. Plains All American Pipeline* (C.D. Cal. Sept. 20, 2022) No. CV 15-4113 PSG (JEMx), 2022 WL 4453864, at *5.) This is particularly true where the service award represents a fraction of one percent of the gross settlement. (*Ibid.* [citing cases that considered service awards that were 1-3% of the gross settlement].) Here, a $20,000 service award would represent less than one one-hundredth of one percent (0.01%) of the $245,515,389 judgment. In a recent federal case where the class representative assisted litigation efforts "spanning almost a decade," a service award of $20,000 was "reasonable and proper." (See *Vietnam Veterans of America v. Central Intelligence Agency* (N.D. Cal. Oct. 4, 2018) No. 09-cv-00037-CW, 2018 WL 48227397, at *1.)

The $20,000 requested service award for Mr. De La Torre is fully warranted given the time he spent on the unconscionability cases, all the way through appeals and trial, the duration of the combined litigation, the significant results obtained for the Class on the unconscionability claim, partially through his efforts and the dedication to the Class that he has shown.

D. Plaintiff's Amended Proposed Plan of Distribution

With the motion for Attorneys' Fees and Costs, Plaintiff also submitted an Amended Proposed Plan of Distribution. The Proposed Plan of Distribution is hereby approved.

II. CONCLUSION

For the reasons stated above, and good cause appearing therefor, the Court makes the following Order:

in that the Court grants preliminary approval of award

1. Plaintiff's request for attorney's fees is GRANTED, and Plaintiff's Counsel ~~are awarded~~ for $49,103,077.80 in attorney's fees to be paid out of the total judgment fund created for the Class;

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2. Plaintiff's request for litigation costs is GRANTED, and Plaintiff's Counsel ~~are awarded~~ $664,9955.84 to be paid out of the total judgment fund created for the Class;

3. Plaintiff's request for a service payment is GRANTED, and Plaintiff ~~is awarded~~ $20,000 to be paid out of the total judgment fund created for the Class (in addition to any portion of the total judgment fund to which Plaintiff is entitled as a Class Member); and

4. Plaintiff's Amended Proposed Plan of Distribution is approved.

IT IS SO ORDERED.

~~DATED: January ___, 2024~~

Hon. Marie S. Weiner
Superior Court Judge

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As the Judgment is on Appeal and no payment has been made or received, the Court's approval of the Amended Plan of Distribution and the Court's approval of the Plaintiffs' counsel's requests for attorneys' fees and reimbursement of costs is PRELIMINARY APPROVAL. Members of the Certified Class are entitled to received written Notice of the Judgment, the Amended Plan of Distribution, and the preliminary approval of the Fee and Cost award, including the incentive award to the named Plaintiff, and the opportunity to file Objections thereto. A Notice to the Class, the setting of an Objection deadline and the setting of a Hearing on Final Approval must be done AFTER the Appeal is completed and final, and any Judgment is paid or otherwise recovered.

DATED: January 19, 2024

HON. MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

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ARTHUR D. LEVY
ATTORNEY

September 9, 2026

Mr. Schuyler G. Carroll (by email)
MANATT, PHELPS & PHILLIPS, LLP
27 Times Square
New York, NY 10036
Email: scarroll@manatt.com

Re: In re CashCall, Inc., S.D. Cal. Bankruptcy Case No. 26-03102-JBM11

Dear Schuyler:

I am writing to request that if the fraudulent transfer claim is pursued in the bankruptcy, the estate consider retaining De La Torre's counsel of record in the UVTA case as litigation counsel to pursue that case for the benefit of the estate. We have been litigating the UVTA case for over two years and have no conflicts vis-à-vis Mr. Reddam. Our interests in maximizing the recovery are entirely consistent with the interests of the estate.

That we represent a creditor is not a ground for denying our retention. 11 U.S.C. § 327(c). Section 327(c) exempts my co-counsel and me from the adverse interest limitation of section 327(a) that would otherwise apply to us due to our representation of the *De La Torre* Class in collecting the Class Judgment. Our pursuit of the UVTA case is consistent with the interests of the estate and creditors, and not adverse. It is only adverse as to Mr. Reddam.

There are numerous advantages this proposal provides to the estate:

- Ms. Gladstone reported at the Meeting of Creditors that she is interviewing conflicts counsel to represent CashCall on an hourly fee basis. We have represented Mr. De La Torre in the UVTA action based solely on the 20% fee based on actual collections the San Mateo Court has tentatively allowed us in the Class Action. We would proceed accordingly and not charge the estate any hourly or contingency fees for our services. This would significantly reduce the estate's administrative expenses.

- We have already litigated the case through summary judgment. This has included pre-filing investigation, discovery, taking five depositions, a successful discovery motion, retaining a valuation expert, and opposing the summary judgment motion. All of this has required us to develop and marshal the evidence in support of the claim. We are already intimately familiar with the evidence and legal issues, have already retained and

The Pacific Building, 610 16th Street, Suite 420, Oakland, California 94612
Telephone: 415.702.4551 E-mail: arthur@yesquire.com Web: www.yesquire.com

worked with an expert, and need not devote time to duplicating that work, as hourly counsel would have to. The record of our work in the UVTA case speaks for itself.

- We have proven ourselves well able to proceed with trial of the case. Please see our summary judgment motion opposition, which shows our legal research and development and presentation of the evidence. The court denied the motion.

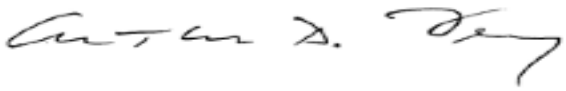
- We have successfully litigated the Class Action in federal court, the Ninth Circuit, the California Supreme Court, the San Mateo Superior Court, the First District Court of Appeal, and the California Supreme Court. The results of this nearly 20-year effort are clear: a successful trial in which the trial judge awarded $245 million in restitution, and affirmance in full on appeal.

- Our professional profiles were submitted in support of our fee motion in the Class Action. Your firm, as counsel of record in that case, already has those filings, as well as all filings in the prior federal case, the San Mateo Case, the Court of Appeal, and Supreme Court, and the UVTA case.

We ask that CashCall take these advantages into account and that if the fraudulent transfer claim is going to be pursued, we be considered as candidates to litigate against Mr. Reddam for the benefit of the estate and to continue as we vigorously have been in the pending UVTA case.

Thank you.

Very truly yours,



Arthur D. Levy

cc: Haeji Hong, US Trustee (by email)
Mary Warren, CFPB (by email)
Christina Coll, CFPB (by email)

From: **Arthur Levy** arthur@yesquire.com
Subject: Fwd: Letter re Fraudulent Transfer Claim attached
Date: September 11, 2026 at 1:58 PM
To: Carroll, Schuyler SCarroll@manatt.com
Bcc: Arthur Levy arthur@yesquire.com

AL

Schuyler—

I received this email directly from Ms. Gladstone this afternoon.

Before filing to apply for approval of the appointment of counsel to represent the estate, I request that your client consider and respond to the substance of my proposal.

Its "choice" of counsel is subject to requesting appointment and to court approval of the appointment in the best interests of creditors.

Nothing is final until the Court approves the choice.

Thank you.

Arthur

> Begin forwarded message:
>
> **From:** Leslie Gladstone <leslieg@flgsd.com>
> **Subject:** **Letter re Fraudulent Transfer Claim attached**
> **Date:** September 11, 2026 at 1:17:07 PM PDT
> **To:** "arthur@yesquire.com" <arthur@yesquire.com>
> **Cc:** Craig Jalbert <cjalbert@vlpc.com>
>
> Hello Mr. Levy,
>
> Your letter (attached) and email (below) were forwarded to me and Craig Jalbert for our response. We certainly appreciate you reaching out with your offer of representation. At this point, however, we have already chosen counsel to represent the estate; the employment application is being filed today I believe. The counsel chosen has a great deal of experience in prosecuting avoidance actions and appearing in our bankruptcy court here in San Diego. I sincerely hope that we can have your cooperation in forwarding any requested information so that we can maximize efficiency for the Estate.
>
> Thank you. Leslie Gladstone, Cash Call CRO



LESLIE T. GLADSTONE, Esq.
5656 La Jolla Blvd., La Jolla, CA 92037
Direct: (858) 294-0220 Main: (858) 454-9887
LeslieG@flgsd.com **FLGSD.com**

STATEMENT OF CONFIDENTIALITY:
The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, or the person responsible for delivering the e-mail to the intended recipient, be advised you have received this message in error and that any use, dissemination, forwarding, printing, or copying is strictly prohibited. Please reply to the sender immediately to notify us of the error and destroy all copies of this message and any attachments. Thank you for your cooperation.

From: Arthur Levy <arthur@yesquire.com>
Sent: Wednesday, 09 September 2026 18:35:00
To: Carroll, Schuyler <SCarroll@manatt.com>
Cc: Hong, Haeji (USTP) <Haeji.Hong@usdoj.gov>; Warren, Mary (CFPB) <Mary.Warren@cfpb.gov>; Coll, Christina (CFPB) <christina.coll@cfpb.gov>
Subject: Letter re Fraudulent Transsfer Claim attached

[EXTERNAL] Please do not reply, click links, or open attachments unless you recognize the source of this message and know the content is safe.

Arthur D. Levy
Pacific Building
610 - 16th Street
Suite 420
Oakland, California 94612
Telephone: (415) 702-4551
Facsimile: (415) 814-4080

Letter to Schuyler Carroll 2026.09.08.pdf

Arthur D. Levy
Pacific Building
610 - 16th Street
Suite 420
Oakland, California 94612

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE COUNTY

Eduardo De La Torre, an individual,
Plaintiff,
vs.
De La Torre v. Reddam et al., and DOES 1 through 25,
Defendants.

NO. 30-2024-01421309-CU-NP-NJC

STENOGRAPHIC DEPOSITION OF
DELBERT MEEKS
FRIDAY, OCTOBER 10, 2025

STENOGRAPHIC REPORTER: JENNIFER DE LA PUENTE, CSR NO. 14920

EXAMINATION

BY MR. LEVY:

Q. Mr. Meeks, you are still the CFO of CashCall?

A. Yes.

Q. And you've held that positions since 2004, I believe?

A. August of 2004.

Q. And before that, maybe not immediately before that, but you were employed with KPMG; is that correct?

A. Early in my career, I was in public accounting, yes.

Q. And what kind of work did you do for KPMG?

A. Auditor.

Q. So you're familiar with auditing standards?

A. At that time, yes.

Q. Are you still familiar with auditing standards?

A. Loosely.

Q. Okay. How long did you work for KPMG?

A. Three years.

Q. What years were those?

A. '86 through '89.

Q. And since you became the CFO of CashCall, one of your responsibilities has been working on the audits that have been done of the financial statements; correct?

A. It's owned by a company called Ralis Services Corp.

Q. It was owned by Ralis?

A. It is owned by Ralis.

Q. R-a-l-i-s.

A. Yes.

Q. And who owns Ralis?

A. J. Paul Reddam.

Q. And has that always been the case that Absolutely Zero is owned by Ralis?

A. Absolutely Zero is its second name. In February of 2021 it was Owning. Owning, its name and its operations were sold. And the remaining entity was named Absolutely Zero.

Q. And the business of Owning was mortgage origination?

A. Yes.

Q. While Owning was owned by Ralis, where was its offices located?

A. Orange.

Q. The Orange office building?

A. The Orange building, yes.

Q. And the next one is Settle It. Have you ever had a position with Settle It?

A. I believe I was CFO there. I believe I was CFO

on that one.

Q. Do you recall what period of time?

A. I do not.

Q. And what is the ownership of Settle It?

A. Settle It no longer exist.

Q. During that period that it was in existence, who owned it?

A. I don't recall.

Q. Did Mr. Reddam ever have any interest in it?

A. I don't recall.

Q. Loan Exchange, have you ever had a position with Loan Exchange?

A. Yes, CFO.

Q. During what period of time?

A. From inception to current.

Q. What is the ownership of Loan Exchange?

A. It was owned by a gentleman by the name of Min Choi. And as of last November, it is now owned by Absolutely Zero.

Q. During the period before Absolutely Zero took over the ownership, did Mr. Reddam have any interest in Loan Exchange?

A. Not that I recall.

Q. Is Absolutely Zero still owned by Ralis Servicing?

A. Yes.
Q. Do you currently have a position with -- strike that.
Have you ever had a position with Ralis Servicing?
A. Yes.
Q. What was the position?
A. CEO, CFO.
Q. During what period of time were you CEO?
A. From inception to current.
Q. And what was the date of inception?
A. I don't recall.
Q. What about CFO; from inception to current?
A. From inception to current.
Q. And where is Ralis Servicing's office located?
A. Orange. The Orange building.
Q. The next company listed on this Exhibit 31 is Recovery Remedies. Have you ever had a position with that company?
A. No.
Q. Do you know who owns that company?
A. It's no longer in existence.
Q. During the period it was in existence, who owned it?
A. I don't -- I don't recall.

A. I do not know where their home offices are located, no.

Q. Do you know where any of their offices are located?

A. I just know that they have people -- that payroll function is down in Bonsall, California. And that's what we basically provide for them is payroll services.

Q. Has Ralis Services provided services to any company that Mr. Reddam did not have any interest in?

A. LoanMe, One Point Servicing Solutions, Loan Exchange. I don't know the ownership structure of LNRES or Lender's Choice Escrow or OBR.

Q. Now, during the trial of the De la Torre Case in 2021 you testified that CashCall was "in wind-down mode."

Do you remember that?

A. I do not.

Q. Was CashCall in wind-down mode in 2021?

A. No. Not that I recall.

Q. Did CashCall have a wind-down portfolio?

A. Yes. They had for a period of time had stopped origination of consumer loans.

Q. I'm sorry?

A. They had stopped originating consumer loans for

a period of time, and so there were no new originations going into the portfolio which would say it's a wind-down portfolio.

Q. So is that a wind-down portfolio of, you know, all loan originations?

A. Loan originations would have stopped. So there is no new loans going into the portfolio.

Q. Okay. As of December 31st, 2021, what business was CashCall doing other than new loan originations?

A. I don't recall if they were doing any other business besides that.

Q. Currently, what lines of business is CashCall actively engaged in?

A. CashCall is originating consumer loans.

Q. When did that restart?

A. This is just an estimate or a guess, about year and a half, two years ago.

Q. So if I understand correctly, you're saying that CashCall was not originating any consumer loans as of the end of 2021 but sometimes later it resumed originating loans?

A. That is my recollection. I'm just going on memory.

Q. Other than originating loans, what other business is CashCall currently engaged in?

A. None that I'm aware of.
Q. Is CashCall still originating loans today?
A. Yes.
Q. How many loans does CashCall originate now on an annual basis?
A. I don't know the annual basis. It's much, much smaller than what it used to be back in the day. I can't even venture a guess on what they're doing on an annual basis.
Q. Would you say that it's less than a thousand annually?
A. I don't even want to venture a guess.
Q. Okay. How many employees are there in the CashCall office at the current time?
Well, let me ask this, it's better --
MR. SEILING: You want to know how many employees does CashCall have currently?
MR. LEVY: Yeah, that's the right question.
BY MR. LEVY:
Q. How many employees does CashCall have currently?
A. I don't know the exact number today.
Q. Okay. Can you estimate it?
A. 15, 20.
Q. And at the end of 2021, how many did it have?

A. I don't recall.
Q. Less than 15 to 20 or more?
A. I don't recall.
Q. The CashCall office is located in the Anaheim -- I'm sorry, in the Orange office building --
A. In the Orange.
Q. Is CashCall a Subchapter S Corporation?
A. I believe so but without my paperwork here in front of me because there's different entities that we deal with, I believe so. But I couldn't say with a hundred percent surety. I'd have to look at the audit reports and there's footnotes that would tell you exactly what kind of a corporation they are.
Q. Are you familiar with the term S Corporation?
A. Yes.
Q. And what does that mean? What is an S Corporation?
A. From my perspective, an S Corporation, the tax liability and the end results rolls up into the owner of that structure through his taxes and he's responsible for those liabilities. So the results roll up to him or her.
Q. So if there are profits of the S corporation, those are passed through to the shareholder; correct?
A. Yes. There is an S Corp tax rate. I think

not to answer.

(Witness instructed not to answer.)

BY MR. LEVY:

Q. Turning to page 13, there's notes receivable related party. There's reference to a loan with principal amount of 1.4 million and accrued interest of 410,000.

Do you see that there?

A. Yes.

Q. Do you recall who that loan was with?

A. I do not.

Q. Do you know whether that loan was paid or not?

A. I don't recall.

Q. Do you recall that there was a loan made to settle it by CashCall in the amount of approximately 1.4 million?

A. I don't recall.

Q. Let's turn to page 15, "The Leases."

So I believe you testified to this earlier, but the lease values that appear on the balance sheet, they were made in accordance with Topic 842?

A. I believe it's Topic 842, yes.

Q. Do you know what that is?

A. I don't. I don't. It's the auditor's.

(The reporter requested clarification.)

BY MR. LEVY:

Q. And there's a reference to a lease of office space in the Bahamas.

Did CashCall have an office in the Bahamas?

A. I believe they do, yes. I believe it's for Paul when he's out in the Bahamas living.

Q. Pardon?

A. I believe it's for Paul when he is in the Bahamas living. When he spends time there.

Q. How long has CashCall had an office in the Bahamas?

A. I don't recall.

Q. Is Mr. Reddam currently living in the Bahamas?

A. He has a home in the Bahamas, but his place of residency is here.

Q. Have you ever visited the Bahamas office?

A. Once, yes.

Q. How large is it?

A. I don't recall. It's an office. It's just an office space.

Q. Is there any staffing in that office?

A. There's not.

Q. Okay. So turning to page 17 under, "Legal."

It states here that CashCall was ordered to pay a judgment of approximately 10.3 million to the CFPB.

Do you see that there?

A. Yes.

Q. Was that judgment paid by CashCall?

A. Yes.

Q. Was it paid in March 2018 as indicated here?

A. I see it. Again, I am assuming that's correct. I don't have the data in front of me to validate it. But if it's in the audit report and the auditors put it there, I'm assuming it's correct.

Q. Okay. Was it your understanding as of the time of this audit that that judgment was under appeal by the CFPB with the United States Court of Appeals Ninth District -- Ninth Circuit?

A. I don't recall.

Q. Did you know that at the time in considering what the reserve for litigation should be?

MR. SEILING: Do you understand the question?

THE WITNESS: No. If you could explain your question a little bit more. When you say, did you know or -- I mean -- I'm not quite sure what your question is.

BY MR. LEVY:

Q. In making a litigation reserve, did you take account of the CFPB case?

A. I believe it is listed in the documents of a

Q. What about the McDonald case, four and a half million dollars?

A. No.

Q. And you don't know what the Baker Tilly adjustment of 1,877,349 was based on; right?

A. Yes. It's based on the difference of what they said the reserve should be and what the general ledger reflected.

Q. That's the entry. Okay. I understand. I think we're saying the same thing.

But Baker Tilly increased the litigation reserve by about $1.8 million, but you don't know why that was done; is that correct?

A. This is just the detail of how they came up to their calculation.

Q. Okay. Now, there's nothing in here for the De la Torre case; right?

A. I do see nothing for the De la Torre case.

Q. So they audited financial statements for 2021 made no provision for liability in the De la Torre class action; is that correct?

A. Correct.

Q. Why was that?

A. The auditors as well as internally --

MR. SEILING: I don't want you to get into

anything with the attorneys. So, you know, if you can answer that without attorney-client privilege, great. Go ahead.

THE WITNESS: My belief is that the case had no merit.

BY MR. LEVY:

Q. So you assigned a zero probability to liability in that case; right?

A. Based on this report, based on Baker Tilly; correct.

Q. But you did not take into account the tentative decision that the judge had rendered this remark as Exhibit 6; right?

A. I don't recall seeing that decision. But I don't recall either the conversations that were had that made me come to the conclusion that there was no merit.

Q. How does CashCall management internally set the litigation reserve on it's general ledger?

A. By my review, my discussions, and my determination.

Q. Who else is involved?

A. Baker Tilly.

Q. Well, CashCall had posed a legal approval of about 5.3 million; right?

A. Correct.

Q. What is the process that you follow at CashCall in coming up with that number?

A. It's my determination of looking at the legal exposures that CashCall has.

Q. And how do you make that determination? What do you take into account?

A. Based of my review or discussions with inside or outside attorneys.

Q. So it's based on the advice of legal counsel?

A. It's -- again, there are discussions with legal counsel, and then I'm the one that determines what will be accrued for.

Q. And what do you take into account?

A. Those discussions, other projected whether the case has merit or not or whether it is just a frivolous case that we believe has no merit.

Q. Well, let's leave aside anything you get from legal counsel. What else do you take into account? Is there anything that's not privileged that you take into account?

A. Well, no. All legal discussions -- I'm not an attorney. So they are the ones that are dealing with the legal cases. The status of the legal case and the belief of the outcome of the legal case.

Q. So you base your calculations entirely on

consultations with legal counsel; right?

A. That is the foundation of what I do, yes.

Q. Okay. Beyond that foundation, what do you do?

A. I look at the fact of what I would say is based on history. For example, in the CFPB case there were a lot of other cases from the state perspective and I look at it from that perspective and I put my best estimate down and book it.

Q. And what about the CashCall [sic] case? Leaving aside what you might've been told by the attorneys --

MR. SEILING: You mean, the De la Torre case.

BY MR. LEVY:

Q. In the De la Torre case. In the De la Torre case, leaving aside what you were told by attorneys which is privileged, you know, what additional information or input did you obtain?

A. There is no additional input to obtain.

Q. Okay. How did you form your opinion that the case had no merit as of the date of the audited financial statements in April of 2022?

A. Based on my determination of looking at it, my involvement in what I've had in the case, as well as my discussion with Baker Tilly.

MR. LEVY: Let's mark this as Exhibit 42.

(WHEREUPON, EXHIBIT 42 WAS MARKED FOR IDENTIFICATION.)

BY MR. LEVY:

Q. This is Exhibit 42.

This is a legal accrual summary memo from Baker Tilly. I take it you haven't seen this before?

A. I have not.

Q. Okay. Directing your attention to the third page of the exhibit, it states that the 7.2 million-dollar accrual was, "To cover existing settlements to date and potential additional exposure."

Is that an accurate statement?

A. Yes.

Q. So it appears from Exhibit 41 that the RNew Hampshire cl.

Ase and the McDonald case had already settled; correct?

A. Yes. By the time the status, as you notice in the column head, the status as of March 31st, 2022, which I think we can agree is three months after the year end of December 31st of 2021.

So there's three additional months of which transactions could have occurred that we didn't have privy to or vision to at the end of the year.

Q. But De la Torre case wasn't one of them; right?

A. It's not listed here.

Q. Okay. So the New Hampshire case and the McDonald's case, those amounts 224,000 approximately and 4.5 million, those were amounts that CashCall had committed to pay to settle that litigation; right?

A. I just read their notes as saying, in Exhibit 41 --

MR. SEILING: Do you independently recall that?

THE WITNESS: I do not independently recall the settlement of the dollar amounts of the case or any of these cases.

BY MR. LEVY:

Q. Now, are you familiar with this ASE 450, this reference on the first page? Do you know that?

A. Vaguely. Roughly. Not in great detail.

Q. So with respect to the De la Torre liability, did you consider the likelihood of an adverse event occurring as probable, remote, possible or otherwise; which of those?

A. I could just go back and since we did not include any reserve for it, very remote, if slight. Even slight.

Q. Did you consider nonexistent?

A. Not that it was nonexistent, that it was meritless.

Q. So would you say remote?

A. The possible -- the remote. The chance of future event occurring is slight.

Q. Did you consider including in the lost reserve, some percentage of the amount that was being claimed in the De la Torre litigation as part of litigation reserve?

A. No, because it was outrageous.

Q. What was outrageous?

A. It had no merit. The case itself, the amount of what -- the amount of what you were showing me on those schedules, I can just say of what I don't know exactly what I thought then but I could tell you the same thing as I thought now, it is -- I would not even take an estimate based on that and do anything with it.

Q. So the restitution estimates were about 250 million. You wouldn't even assign 1 percent or $250,000 to that?

A. No, because we believe the case is meritless.

MR. LEVY: Let's mark this as Exhibit 43.

(WHEREUPON, EXHIBIT 43 WAS MARKED FOR IDENTIFICATION.)

BY MR. LEVY:

Q. I direct your attention to page 6 which is in the discussion of the De la Torre case.

A. That is my signature.

Q. Do you recall that in 2019, CashCall gave a promissory note to Owning Corporation for $20 million?

A. I vaguely recall there was a note, yes, for CashCall to take and borrow against this note.

Q. When you say borrow against, what do you mean?

A. With CashCall had cash needs or what have you, this was sort of a line of credit from Owning, as far as I understand.

MR. LEVY: Let's mark this as Exhibit 53.

(WHEREUPON, EXHIBIT 53 WAS MARKED FOR IDENTIFICATION.)

BY MR. LEVY:

Q. I am sorry about that.

A. That's okay.

Q. It's just printing out these exhibits, they came out in portrait rather than landscape.

A. That's okay.

Q. But I think that's pretty clear.

So this document was identified to us as relating to the loan we just looked at, Exhibit 52. Okay?

A. Okay.

Q. Do you recall that CashCall did draw on that 20 million-dollar credit line represented by Exhibit 52?

A. I do know that CashCall did draw down on this line, yes.

Q. So according to this spreadsheet --

If you look at the third pages, there are various credit amounts.

Do you see those there?

A. Yes.

Q. Those represent draws on the credit line; right?

A. That's correct.

Q. What was that money used for?

A. Operating expenses at CashCall.

Q. Was it used to fund the Katten litigation?

A. I don't know.

Q. So the total amount of advances appears to be about $28 million.

Can you tell us as the CFO, why these draws were taken by CashCall?

A. There's a promissory note there that allows CashCall to draw down from the -- that cash facility. And from this -- again, I'd have to look at the financials and the expenses of CashCall that would be disclosed in their statements of what their expenses were.

Q. So it --

A. This covers their operating expenses.

Q. As you sit here now, you can't tell us what these draws or any of them were actually used for; right?

A. Again, just a general assumption that they were used for the operating expenses at CashCall.

Q. During 2019, 2020, and 2021, was CashCall strapped for cash?

A. CashCall was no long originating loans and the portfolio was decreasing. So the amount of cash infusion is less and less and less.

Q. So why -- if you look at the debit amounts, why during 2019, for example, was five and half -- I'm sorry.

If you look at the credit amounts on page 3, why were all of these draws being taken on that line of credit?

A. Again, as I mentioned earlier, it would have been probably for their operating expenses and/or funding if they were financing and originating loans at that time.

You see that, when you come down, there's a debit amount of 5.5 million that closed the line which means possibly that CashCall received funding from a third-party for those loans and paid back the note.

Q. Can you say that these credit amounts that are listed on page 3 were actually advanced to CashCall?

A. They're draws by CashCall, yes.

Q. How do you know that?

A. Because it's in this account. It says, "On a loan to CashCall," in the description.

Q. So you say that you know these amounts were advanced, but you just don't know what they were for?

A. Again, as I have told you, they are either for operating expenses or origination of loans. That's my speculation without having any of the data or detail in front of me.

MR. SEILING: This is a summary spreadsheet. And if you'd like to show him more specific entries, go ahead.

MR. LEVY: I think you can stop talking, Brad, because I'm moving off of that exhibit. How's that?

MR. SEILING: Sure. Whatever.

MR. LEVY: Okay.

MR. SEILING: I will say for the record that we object to your use of that testimony because the witness has said he would like to see backup.

Would you like to see backup to answer the question --

THE WITNESS: In order for me to answer the

that from your question.

MR. LEVY: In December 2021. I'm sorry. You must be getting as bad as I am.

THE WITNESS: I don't know.

BY MR. LEVY:

Q. Traditionally, have you benchmarked CashCall against comparable companies?

A. No.

Q. Why not?

A. CashCall was a -- owned by an individual and as long as the individual is happy, I'm happy.

Q. Has CashCall ever had a budgetary process?

A. Yes.

Q. Can you describe that, please?

A. We -- we do forecasting models/budget models in certain years, certain months, based on the requirements of the company and based on the requirements of the owner.

Q. Is that formalized in a document?

A. No.

Q. Has that been done in the last five years?

A. No.

Q. Is there a reason why you haven't had a budgetary process in the last five years?

A. Just wasn't requested or required.

A. No.

Q. With regards to this distribution that was on October 26th, was Mr. Reddam pressuring you to make this distribution?

A. No. Not at all.

Q. So was it you who first decided that a tax distribution would be made out of the Katten settlement payments to Mr. Reddam?

A. I don't know if it was myself that first decided, but it would have been a conversation between myself and Elizabeth, the tax person.

She details what the taxes are and what he would need from a material event like this in CashCall.

Q. Okay. So you authorized this distribution, did you not, of $45.2 million?

A. I did the calculation of this distribution and had Shawna prepare and then carried them until approved.

Q. And you contacted Elizabeth Emrick for the tax rates?

A. The 37.6 and 13.3.

Q. What did you ask her for?

A. The federal and state rates at which Paul was taxed at.

Q. Those are personal income tax rates; right?

A. Yes.

Q. At the time that this distribution was made, October 26, 2021, was there any tax deadline pending for Mr. Reddam to pay personal income taxes?

A. I don't recall the exact date. I just know that quarterly estimated payments have to be made and they had to be to a certain percentage of what your actual ends up being, otherwise you can be subject to penalty and interest charges from the IRS and the State.

Q. Did you know when Mr. Reddam's estimated tax payment was due at this time in October of 2021?

A. I do not know the date -- the exact date.

Q. Did you have any concern that Mr. Reddam was going to be penalized for making a late estimated tax payment?

A. My concern is getting him the money. His -- and then his work starts with his tax person to determine the time, dates, and the payments.

Q. Did you check to see when his estimated tax payment was due?

A. It is not under my privy.

Q. And I take it from your testimony, you didn't contact Mr. McGrath in connection with this distribution to ask him how much Mr. Reddam would owe in estimated taxes?

A. No.

Q. Did you ask Ms. Emrick whether the federal rate of 37.6 percent was a marginal tax rate; that is, the tax rate on the top dollar of earnings or an average rate?

A. I asked Ms. Emrick to supply me with the federal and state tax rate at which Paul is subject to. Other than that, these are the rates I got from her and these are the rates that we used.

Q. Why did you make this distribution in late October as opposed to later in the year?

A. The cash came in on, I believe, September 14th or the middle of September. It is a September transaction. The books take a week or two or more to close. And once that was determined that the book and the year-to-date income and what it was and we had numbers in which could do the calculation, that's when we did the transfer.

MR. SEILING: I think his question is -- is slightly different. It's -- I think your question was why didn't you do this later than October 26; is that right?

THE WITNESS: The -- the concern was, if there was a third quarter estimated payment because the cash came in in September. And that could affect whatever his required third-quarter payment would have to be.

I am not -- I don't concern myself on the tax side with the dates or the timing. But that was the concern and why we did it when we did it, to make sure that he didn't get any penalty or interest charges on that transaction.

BY MR. LEVY:

Q. That was your concern; right?

A. That was my concern. And my concern went along with whatever the tax people did, that was up to them.

Q. By tax people, you are referring to Elizabeth?

A. Elizabeth and Michael McGrath that would be on the tax side.

Q. But you didn't know when his estimated payment was due, did you?

A. It's not my concern.

MR. LEVY: And let's mark this one next in order, Exhibit 62.

(WHEREUPON, EXHIBIT 62 WAS MARKED FOR IDENTIFICATION.)

BY MR. LEVY:

Q. Have you seen this before?

A. No.

Q. This is CashCall document 145453 that was entitled: "JPR Distributions."

MR. SEILING: You -- you might recognize this

one from a spreadsheet before.

THE WITNESS: Yeah, it looks like just a transaction dump of a bank -- of an account in the general ledger of the transactions that would have gone through that account.

BY MR. LEVY:

Q. I'll represent to you that this is what was produced to us.

A. Okay.

Q. I think it was in spreadsheet form.

I might -- Mr. Seiling is correct.

MR. SEILING: It was.

BY MR. LEVY:

Q. But, you know, we can get involved with displaying spreadsheets on the screen, but I thought I would print it out and give you the production number. But --

MR. SEILING: This is one of the advantages of a Zoom deposition as you can put that spreadsheet up on the screen.

MR. LEVY: Yeah, well.

THE WITNESS: And I can have my feet up on the couch.

MR. LEVY: Yeah. Okay. Yeah, you are right.

THE WITNESS: I will tell you, it is accurate

based on Exhibit 12 in number that's reflected in distributions.

BY MR. LEVY:

Q. Okay. So that's my bottom-line question, Mr. Meek, so I appreciate you're being forthcoming.

Are these the distributions that were made to Mr. Reddam up to the date of the September 30th, 2021, financials?

A. The total of the transactions of 141 million agrees to the financial side, so I would say they support each other, yes.

Q. And when they're listed as tax distributions, those are tax distributions; right?

A. I believe so, yes, that's what I remember.

Q. And the ones that are not listed as tax distributions, those are just general distributions to the shareholder; is that correct?

A. No, there's not been general distributions to the shareholder. I'd have to go back and look at the individual transactions of what occurred.

Most everything that we distributed to Paul has been for taxes. And I'm just noticing at the end here in 2019, 206,299.01. That's a very particular amount that I don't recall what that is for.

Q. So you have not made a distribution other than

tax distributions to Mr. Redden?

A. Not that I recall.

Q. Okay. So the 45 million-dollar distribution to Mr. Reddam in October 2021, that transferred 45 million plus dollars from CashCall to Mr. Reddam; correct?

A. Yes.

Q. Okay. What did CashCall get in return for that?

A. CashCall is an S Corp that rose up to Paul Reddam who has to pay the personal taxes on the income of CashCall. CashCall got the remaining portion of that settlement as income in cash and usage of that cash.

Q. Well, my question is: What benefit did CashCall get for making a 45 million-dollar tax distribution to Mr. Reddam?

A. Well, I would assume that CashCall was allowed to remain in business because the IRS would have come after Paul who would then would have to come after the company. They have to pay taxes. That's what we do in the U.S.

Q. Now, the income at the end of the year, as you pointed out to me from Exhibit 1, was lower than the calculation on October 26, 56.4 million; correct?

A. Yes.

Q. But, did you contact Mr. Reddam and tell him

that he should be making -- paying back CashCall because the tax distribution was excessive?

A. I did not consider the tax distribution excessive, and that is up to Mr. Reddam and Ms. Emrick.

Q. Okay, well. The tax distribution was based on $88.9 million?

A. Yes.

Q. In income; correct?

A. Correct.

Q. And the actual income, at least book income, at the end of the year was only 56.4 million?

A. Correct.

Q. But you didn't ask Mr. Reddam to refund the difference to you?

A. $18 million of that adjustment, that would -- if you look at your December financials, on that month --

MR. SEILING: You're not answering his question --

THE WITNESS: Sorry?

MR. SEILING: He just said, did you ask Mr. Reddam to refund it? That's the -- that's the only question you answer.

THE WITNESS: No.

///

BA20260196094

STATE OF CALIFORNIA
Office of the Secretary of State
STATEMENT OF INFORMATION
CORPORATION

California Secretary of State
1500 11th Street
Sacramento, California 95814
(916) 657-5448

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-FILED-

File No.: BA20260196094

Date Filed: 1/26/2026

Entity Details

Corporation Name	ABSOLUTELY ZERO CORPORATION
Entity No.	4115314
Formed In	CALIFORNIA

Street Address of Principal Office of Corporation

Principal Address	ONE CITY BLVD. WEST, SUITE 1900 ORANGE, CA 92868

Mailing Address of Corporation

Mailing Address	ONE CITY BLVD. WEST, SUITE 1900 ORANGE, CA 92868
Attention	

Street Address of California Office of Corporation

Street Address of California Office	ONE CITY BLVD. WEST, SUITE 1900 ORANGE, CA 92868

Officers

Officer Name	Officer Address	Position(s)
Del Meeks	ONE CITY BLVD WEST SUITE 1900 ORANGE, CA 92868	Secretary, Chief Financial Officer
JOHN PAUL REDDAM	ONE CITY BLVD. WEST, SUITE 1900 ORANGE, CA 92868	Chief Executive Officer

Additional Officers

Officer Name	Officer Address	Position	Stated Position
None Entered			

Directors

Director Name	Director Address
John Paul Reddam	One City Blvd. West, Suite 1900 Orange, CA 92868

The number of vacancies on Board of Directors is: 0

Agent for Service of Process

California Registered Corporate Agent (1505)	NATIONAL REGISTERED AGENTS, INC. Registered Corporate 1505 Agent

Type of Business

Type of Business	MORTGAGE COMPANY

Email Notifications

Opt-in Email Notifications	Yes, I opt-in to receive entity notifications via email.

Labor Judgment

B4360-7727 01/26/2026 10:29 AM Received by California Secretary of State

No Officer or Director of this Corporation has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code.

Electronic Signature

☒ By signing, I affirm that the information herein is true and correct and that I am authorized by California law to sign.

J. Paul Reddam	*01/26/2026*
Signature	Date

B4360-7728 01/26/2026 10:29 AM Received by California Secretary of State

BA20251935384

STATE OF CALIFORNIA
Office of the Secretary of State
STATEMENT OF INFORMATION
CORPORATION

California Secretary of State
1500 11th Street
Sacramento, California 95814
(916) 657-5448

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-FILED-

File No.: BA20251935384

Date Filed: 9/29/2025

Entity Details

Corporation Name	RALIS SERVICES CORP
Entity No.	3735065
Formed In	CALIFORNIA

Street Address of Principal Office of Corporation

Principal Address	ONE CITY BLVD WEST STE 1900 ORANGE, CA 92868

Mailing Address of Corporation

Mailing Address	ONE CITY BLVD WEST STE 1900 ORANGE, CA 92868
Attention	

Street Address of California Office of Corporation

Street Address of California Office	ONE CITY BLVD WEST STE 1900 ORANGE, CA 92868

Officers

Officer Name	Officer Address	Position(s)
DELBERT O MEEKS	ONE CITY BLVD WEST STE 1900 ORANGE, CA 92868	Chief Executive Officer, Chief Financial Officer
Shawna Parks	ONE CITY BLVD WEST STE 1900 ORANGE, CA 92868	Secretary

Additional Officers

Officer Name	Officer Address	Position	Stated Position
None Entered			

Directors

Director Name	Director Address
John Paul Reddam	ONE CITY BLVD WEST STE 1900 ORANGE, CA 92868

The number of vacancies on Board of Directors is: 0

Agent for Service of Process

California Registered Corporate Agent (1505)	NATIONAL REGISTERED AGENTS, INC. Registered Corporate 1505 Agent

Type of Business

Type of Business	PROVIDER OF SERVICES

Email Notifications

Opt-in Email Notifications	Yes, I opt-in to receive entity notifications via email.

Labor Judgment

No Officer or Director of this Corporation has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code.

B4050-5767 09/29/2025 5:50 PM Received by California Secretary of State

Electronic Signature

☒ By signing, I affirm that the information herein is true and correct and that I am authorized by California law to sign.

Delbert Meeks	*09/29/2025*
Signature	Date

B4050-5768 09/29/2025 5:50 PM Received by California Secretary of State

BA20252328330

STATE OF CALIFORNIA
Office of the Secretary of State
STATEMENT OF INFORMATION
CORPORATION

California Secretary of State
1500 11th Street
Sacramento, California 95814
(916) 657-5448

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-FILED-

File No.: BA20252328330

Date Filed: 12/2/2025

Entity Details

Corporation Name	CASHCALL, INC.
Entity No.	2210310
Formed In	CALIFORNIA

Street Address of Principal Office of Corporation

Principal Address	ONE CITY BLVD. WEST SUITE 1930 ORANGE, CA 92868

Mailing Address of Corporation

Mailing Address	ONE CITY BLVD. WEST SUITE 1930 ORANGE, CA 92868
Attention	

Street Address of California Office of Corporation

Street Address of California Office	ONE CITY BLVD. WEST SUITE 1930 ORANGE, CA 92868

Officers

Officer Name	Officer Address	Position(s)
Delbert O Meeks	ONE CITY BLVD. WEST SUITE 1930 ORANGE, CA 92868	Secretary
JOHN PAUL REDDAM	ONE CITY BLVD. WEST SUITE 1930 ORANGE, CA 92868	Chief Executive Officer
+ Delbert Meeks	ONE CITY BLVD. WEST SUITE 1930 ORANGE, CA 92868	Chief Financial Officer

Additional Officers

Officer Name	Officer Address	Position	Stated Position
None Entered			

Directors

Director Name	Director Address
John Paul Reddam	ONE CITY BLVD. WEST SUITE 1930 ORANGE, CA 92868

The number of vacancies on Board of Directors is: 0

Agent for Service of Process

California Registered Corporate Agent (1505)	NATIONAL REGISTERED AGENTS, INC. Registered Corporate 1505 Agent

Type of Business

Type of Business	CONSUMER LENDING

Email Notifications

Opt-in Email Notifications	Yes, I opt-in to receive entity notifications via email.

Labor Judgment

B4210-5517 12/02/2025 10:47 AM Received by California Secretary of State

No Officer or Director of this Corporation has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code.

Electronic Signature

☒ By signing, I affirm that the information herein is true and correct and that I am authorized by California law to sign.

J. Paul Reddam	*12/02/2025*
Signature	Date

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