

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

No. 5:15-cv-231

GARY and ANNE CHILDRESS, THOMAS)
and ADRIENNE BOLTON, and STEVEN)
and MORGAN LUMBLEY *on behalf of*)
themselves and others similarly situated)

Plaintiffs,)

vs.)

BANK OF AMERICA CORPORATION,)
BANK OF AMERICA, N.A., and FIA Card)
Services,)

Defendants.)

**COMPLAINT – CLASS ACTION
JURY TRIAL DEMAND**

Plaintiffs GARY AND ANNE CHILDRESS, THOMAS AND ADRIENNE BOLTON, AND STEVEN AND MORGAN LUMBLEY (collectively “Plaintiffs”), individually and on behalf of a class of similarly situated persons, hereby file this Class Action Complaint, making the allegations herein upon personal knowledge as to themselves and their own acts, and upon information and believe and based upon investigation of counsel as to all other matters, as set forth herein.

INTRODUCTION

1. Since the beginning of the Iraq War, and through the present, members of our military services have been asked to make many sacrifices for our nation. One of these sacrifices is financial. Leaving behind family, friends and the comforts of civilian life to answer our country’s call to duty requires also leaving behind career, jobs, and financial security. The Servicemembers Civil Relief Act (“SCRA”), 50 U.S.C. App. §§ 501-596 was enacted to address this sacrifice. It seeks “to provide for, strengthen, and expedite the national defense through protection extended by this Act to servicemembers of the United States to enable such persons to

devote their entire energy to defense needs of the Nation.” 50 U.S.C. App. § 502(1). The SCRA guarantees that all debts incurred by a servicemember before being called to active duty will be reduced to 6% interest from the date of receipt of their orders, and during the ensuing active duty period as required by 50 U.S.C. App. § 527. It requires financial institutions to permanently forgive interest above these amounts.

2. Defendants Bank of America Corporation, Bank of America, N.A., and FIA Card Services (collectively “Defendants”) have failed to honor the active duty status of America’s fighting forces by charging an illegally high rate of interest to thousands of servicemembers during the time they were abroad serving our Nation, by allowing these unlawful interest charges to exaggerate servicemembers' principal balances, and then by charging compound interest on these exaggerated balances. Defendants concealed these violations of the SCRA from the thousands of military families who were victimized by Defendants' practices, such that these families were unable to discover the violations. Plaintiffs and other class members did not have any reason to believe that Defendants were violating their rights until this last year, when Defendants sent misleading correspondence to some military families, which led Plaintiffs to investigate Defendants’ compliance with the SCRA, revealing that Defendants' internal audits had uncovered wholesale violations of the SCRA and damages to thousands of military families.

3. The named Plaintiffs include three servicemembers who stood up for this Nation in military service. They, and their spouses, now seek to represent thousands of our Nation’s servicemembers in enforcing servicemembers' rights under the SCRA.

JURISDICTION AND VENUE

4. Plaintiffs invoke the jurisdiction of this Court pursuant to 28 U.S.C. § 1331 because this action, in part, arises under the laws of the United States, particularly the

Servicemembers Civil Relief Act (“SCRA”) 50 U.S.C. App. § 501 et. seq. 50 U.S.C. § 597(a) provide Plaintiffs and class members with a private right of action to remedy Defendants’ violations of the SCRA.

5. In addition, this Court has original jurisdiction pursuant to 28 U.S.C. § 1332(d)(2), and (6) because the aggregate claims of the proposed class members exceed \$5 million and at least one named Plaintiff is a resident of a different state than Bank of America. Upon information and belief to date, the matter in controversy in this action exceeds the sum or value of \$5,000,000, which includes actual monetary damages, out-of-pocket expenses, consequential monetary damages, the cost and value of injunctive relief, disgorgement of Defendants’ ill- gotten gains, and related damages, punitive damages and/or attorneys’ fees, and other damages.

6. The Court has jurisdiction over Defendants because Defendants conduct business activities which are the subject of the present complaint in North Carolina, and also maintain their corporate headquarters North Carolina.

7. Venue is proper in the United States District Court for the Eastern District of North Carolina. Defendants conduct business within said district, and business activities which are the subject of this Complaint occurred therein. Two named Plaintiffs reside in that district.

PARTIES

8. Plaintiffs file this case in their individual capacity, and as a class action on behalf of themselves and all others similarly situated. They and/or other class members who will be named as class representatives at the time a motion is filed to certify the proposed class will represent the class, which is composed of all persons in the United States who had an interest-

bearing obligation or liability to Defendants and/or related entities, subject to the Servicemembers Civil Relief Act (“SCRA”), and whose interest rate(s) on such obligations and/or liabilities were not properly reduced pursuant to 50 U.S.C. App. § 527, excluding persons who have previously released the claims asserted herein.

9. Plaintiffs Gary and Anne Childress reside at 3801 Oak Park Rd., Raleigh, NC 27612. They had one or more interest-bearing obligations to Defendants, including credit card debt, at the time Gary Childress was called to active service in Iraq as part of the Army National Guard in 2008. Defendants denied him his rights and benefits under the SCRA.

10. Plaintiffs Thomas and Adrienne Bolton reside at 8541 Denver Ave., Joint Base Louis-McChord, WA 98433. They had one or more interest-bearing obligation to Defendants, including credit card debt, at the time Thomas Bolton was deployed overseas to Iraq in 2005-2006 and 2008-2009. Defendants denied him his rights and benefits under the SCRA.

11. Plaintiffs Steven and Morgan Lumbley reside at 10005 Sterling Place Dr., Conroe, TX 77303. They also had one or more interest-bearing obligation to Defendants, including credit card debt, at the time Steven Lumbley was deployed to Iraq in 2007, and they still maintain a credit card with Defendants. Defendants denied him his rights and benefits under the SCRA.

12. The putative class consists of all persons in the United States who had an interest-bearing obligation or liability to Defendants and/or related entities, subject to the SCRA, and whose obligations were not properly handled pursuant to the SCRA.

13. Defendant Bank of America Corporation (“Bank of America Corp.”), a Delaware corporation, is a bank holding company and a financial services holding company with

headquarters in the Bank of America Corporate Center, 100 North Tryon Street, Charlotte, NC 28255.

14. Defendant Bank of America, N.A. (“BoA”), a wholly-owned subsidiary of Bank of America Corp., is a national banking association with its principal place of business located in Charlotte, North Carolina.

15. Defendant FIA Card Services is a wholly-owned subsidiary of Bank of America, N.A.

CLASS ACTION ALLEGATIONS

Class Definition

16. In accordance with Fed. R. Civ. P. 23, Plaintiffs bring this action in their individual capacity and as a class action on behalf of themselves and all others similarly situated. They and/or other class members who will be named as class representatives at the time a motion is filed to certify the proposed class will represent the class: all persons in the United States who had an interest-bearing obligation or liability to Defendants and/or related entities, subject to the SCRA, and whose interest charges on such obligations and/or liabilities were not properly reduced and/or forgiven pursuant to 50 U.S.C. App. § 527, but excluding persons who have executed a release of the rights claimed herein.

17. This class action satisfies the requirements of Fed. R. Civ. P. 23, including, but not limited to, numerosity, commonality, typicality, adequacy and predominance.

Impracticable Joinder

18. The class is composed of thousands of persons geographically dispersed throughout the United States, the joinder of whom in one action is impracticable, and the disposition of their claims in a class action will provide substantial benefits to both parties and

the Court. Defendants have the names and addresses of all of the class members or the information is readily obtainable from the Defendants' affiliates or companies with which they work.

19. Class treatment is particularly appropriate because Defendants conduct a business which, because of Defendants' nationwide presence, has reached to this jurisdiction and other parts of the country and because a federal statute was improperly applied by the Defendants.

Risk of Inconsistent or Varying Adjudications

20. Prosecution of separate actions by class members would risk inconsistent or varying adjudications, which would establish incompatible standards of conduct for the Defendants.

21. Adjudications by individual members of the class would, as a practical matter, be potentially dispositive of the interests of other members of the class and substantially impair or impede their ability to protect their interests. Class-wide adjudication of these claims, therefore, is appropriate.

22. Defendants have acted on grounds generally applicable to the class, thereby making appropriate final injunctive relief and/or declaratory relief with respect to the class as a whole, rendering class-wide adjudication of these claims appropriate.

Common Questions of Law and Fact

23. There is a well-defined community of interests and there are common questions of law and fact affecting the parties to be represented. These questions, and other similar factual and legal questions common to the class, predominate over individual factual or legal questions. Common questions of law and fact include:

(a) Whether the Defendants improperly applied the SCRA to class members' accounts, thereby denying them the benefits to which they are entitled by law;

(b) Whether the Defendants violated the North Carolina Unfair and Deceptive Trade Practices Law, N.C. Gen. Stat. § 75-1.1 et. seq. and/or other applicable laws and regulations;

(c) Whether Defendants' violations of the SCRA constitute a per-se violation of the North Carolina Unfair and Deceptive Trade Practices Law, N.C. Gen. Stat. § 75-1.1 et. seq. (hereinafter "NC UNDTP Law");

(d) Whether "NC UNDTP Law" applies to every transaction stated herein, given that Bank of America is headquartered in North Carolina and the violations arose through its business in North Carolina;

(e) Whether Defendants' violations of the SCRA, and particularly Defendants' failure to forgive interest charges rather than adding it to the principal, caused the periodic statements sent to class members to overstate principal and interest, among other errors, in violation of the Truth in Lending Act ("TILA"), 15 U.S. C. § 1601 *et seq.*;

(f) Whether the Defendants knew, recklessly disregarded or reasonably should have known that their acts and practices were unlawful;

(g) Whether the Defendants' acts and practices were fraudulent and/or negligent;

(h) Whether the Defendants engaged in practices intending to deceive consumers;

(i) Whether the Defendants engaged in practices that were false and/or

deceptive to consumers, either intentionally or negligently;

(j) Whether Plaintiffs and the class are entitled to declaratory relief;

(k) Whether Plaintiffs and the class are entitled to injunctive relief;

(l) Whether Plaintiffs and the class are entitled to damages, consequential damages and/or punitive damages;

(m) Whether Defendants are entitled to an offset of damages for voluntary payments sent to some class members, when such payments were purported to be for poor customer service, but not as remediation for any unlawful practice or interest overcharges;

(n) Whether Plaintiffs and the class who had received such payments suffered damages when Defendants overstated the taxable component of the payments to the Internal Revenue Service, causing such class members to overpay taxes; and

(o) Whether Plaintiffs and the class are entitled to recovery of attorney's fees and costs.

Typicality

24. The individual Plaintiffs and the class representatives to be named are asserting claims that are typical of the claims of the entire class, and the class representatives will fairly and adequately represent and protect the interests of the class in that they have no interests antagonistic to those of the other members of the class.

Fair and Adequate Representation

25. The individual Plaintiffs have retained counsel who are competent and experienced in the handling of litigation, including class action litigation, and counsel will fairly and adequately represent and protect the interests of the class. Likewise, the class

representatives will fairly and adequately represent and protect the interests of the class as a whole.

Superiority of Class Action Procedure

26. The individual Plaintiffs and the members of the class have all suffered damages as a result of Defendants' unlawful and wrongful conduct. Absent a class action, Defendants will likely retain a substantial unlawful gain and their conduct will go un-remedied and uncorrected. Absent a class action, the class members will likely be deprived of adequate relief. In addition, absent equitable and injunctive relief, damages to class members and future servicemembers will continue. Class action treatment of these claims is superior to handling the claim in other ways.

27. Certification of the class is appropriate under Rule 23.

STATEMENT OF FACTS

28. Plaintiffs Gary and Anne Childress had one or more interest-bearing obligation to Defendants, including credit card debt, at the time Gary Childress was called to active service in Iraq as part of the Army National Guard in 2008. They notified Defendants of this fact and requested their interest rate be reduced subject to the SCRA.

29. Plaintiffs Thomas and Adrienne Bolton had one or more interest-bearing obligation to Defendants, including credit card debt, at the time Thomas Bolton was deployed to Iraq in 2005-2006 and 2008-2009. Plaintiffs notified Defendants of this fact and requested their interest rate be reduced subject to the SCRA.

30. Plaintiffs Steven and Morgan Lumbley had one or more interest-bearing obligations, to Defendants, including credit card debt, at the time Steven was deployed as part of the Army National Guard to Iraq. Plaintiffs notified Defendants of this fact and requested their

interest rate be reduced subject to the SCRA. The Lumbleys still maintain their credit card account with Defendants.

31. Plaintiffs properly advised Defendants of deployment as required by the SCRA and Defendants policies and requested the reduced interest rate to which they are entitled.

32. Defendants did not reduce Plaintiffs' interest rate on their obligations to 6% as required by the SCRA and otherwise violated the SCRA. Defendants failed to properly reduce the monthly payment pursuant to the SCRA and misapplied funds paid by Plaintiffs.

33. Defendants routinely failed to reduce servicemembers' or servicemember reservists' interest rates effective the date the military orders are received or even on the date of the orders calling the servicemember and/or servicemember reservist to duty despite the requirements of the SCRA.

34. Defendants did not forgive incurred interest, including certain fees and charges, as required by the SCRA and as a result Defendants overstated the principal and unlawfully charged interest on the overstated principal on a recurring basis. These violations caused damage to servicemembers, including the miscalculation of principal, interest, payoff amounts, and imposition of late fees and/or other charges.

35. Defendants provided no information to Plaintiffs or class members that would have allowed them to reasonably discover the violations and Defendants took efforts to conceal such violations from class members.

36. On a monthly basis, Defendants sent Plaintiffs and class members period statements that overstated the balances on the account, in violation of both the SCRA and the Truth in Lending Act, and charged interest on these unlawfully exaggerated balances.

37. Defendants have not maintained internal systems to adequately ensure

compliance with the SCRA. For example, but not by way of limitation, often servicemembers must contact Defendants repeatedly to request the interest rate reduction to which they are entitled.

38. After Defendants discovered that they had overcharged servicemembers in violation of the SCRA, Defendants never admitted their violations to the servicemembers, and never provided the servicemembers with any accounting of the overcharges.

39. Defendants conducted an internal audit on SCRA compliance.

40. Defendants' internal audit determined Defendants had failed to comply with the SCRA by overcharging interest on servicemembers' accounts and/or otherwise violating the SCRA.

41. Defendants never notified servicemembers of the SCRA violations or the overcharges.

42. Defendants never provided Servicemembers with an accounting of any overcharges including the dates in which the overcharge occurred and the total amounts or effects of the overcharge.

43. Instead, Defendants sent correspondence to some servicemembers, with a check, that misleadingly stated "Based upon a review of your accounts, we may not have provided you the level of service you deserve, and are providing you this check. There is nothing you need to do other than cash your check." The correspondence was sent in a plain envelope that appeared to many servicemembers as junk mail. For those class members who did open the letter and deposit the check, they accepted the voluntary payments and the cover letter at face value, as compensation for Defendants' poor level of service.

44. Later Plaintiffs received a tax form which suggested that Defendants believed that it was paying some of these costs as an interest refund.

45. Defendants' reporting to the Internal Revenue Service understated the economic harm caused to class members, exaggerating class members' tax liabilities and causing them further harm. Without an accounting, class members were without recourse to challenge Defendants' IRS reporting.

46. When Plaintiffs Anne and Gary Childress investigated, Defendants' customer service representatives admitted that Defendants' internal audit determined that servicemembers had been overcharged, which for the first time put them on notice of the violation.

47. The Defendants' actions and omissions, including their failure to properly apply the SCRA, caused damage to the Plaintiffs, including payment of additional, unnecessary, and improper interest and/or other Defendants-imposed charges and fees.

48. The damages to servicemembers were significant in part because Defendants have instituted policies and practices which result in servicemembers taking out loans at higher interest rates than many other consumers. Damages caused by Defendants' violations of the SCRA were compounded at these high interest rates, contributing to the financial woes of many families with a servicemembers abroad. At the same time, these high interest rate debts bestowed significant wrongful gain to Defendants.

ALLEGATIONS AS TO DISCOVERY

49. Due to Defendants' concealment of its violations of the SCRA, and the self-concealing nature of the violations, Plaintiffs and class members had no ability to reasonable discover the violations until after Defendants' misleading correspondence in 2014 gave cause to investigate. The fact that these violations were self-concealing is evident by the fact that Bank of

America has gotten away with this nationwide practice of overcharging active military servicemembers for over a decade.

50. The violations described herein are ongoing. Defendants' violations of the SCRA resulted in overstatement of the principal balances owed by Plaintiffs and class members, and monthly interest being charged on this overstated principal. Thus, each and every month in which Defendants failed to forgive the debt as required by the SCRA constituted an ongoing violation of the SCRA and the NC UNDTP Law, causing escalating damages to the servicemembers.

51. Each month, Defendants sent incorrect periodic statements to Plaintiffs and class members, constituting an ongoing violation of the SCRA, TILA, the NC UNDTP Law, and other laws and regulations.

52. Defendants further violated these laws when in 2014 they sent misleading correspondence to servicemembers that was designed to conceal Defendants' violations of the SCRA. Defendants' 2014 actions, including its misleading letters and failure to provide an accounting of the violations, and its incorrect tax reporting to the Internal Revenue Service, constituted a further violation and caused further damages to class members.

53. Finally, the policies behind SCRA, and the facts described herein, require an equitable tolling of any statute of limitations. Defendants have overcharged servicemembers for over a decade, and these servicemembers' active duty status hindered their ability to discover these violations. Defendants should not be allowed to retain resulting unlawful financial gains.

CLAIMS

54. Pursuant to notice pleading, Plaintiffs hereby allege each and every cause of action and remedy at law or in equity supplied by the facts alleged in this Complaint. Those

causes of action and remedies at law or in equity include the following:

COUNT 1

Violation of the Servicemembers Civil Relief Act: Wrongful Interest Charged

55. Plaintiffs incorporate each and every allegation contained in the preceding paragraphs as if set forth again herein.

56. Plaintiffs have a private right of action for violations of the SCRA pursuant to 50 U.S.C. App. § 597(a). The SCRA, formerly known as the War and National Defense Soldiers' and Sailors' Civil Relief Act of 1940, guarantees that all debts incurred by a servicemember and/or servicemember reservist before being called to active duty will be reduced to 6% interest from the date of receipt of their orders, and during the ensuing active duty period as required by 50 U.S.C. App. § 527. Several classes of fees and charges qualify as interest. Any interest above the 6% must be forgiven and not deferred.

57. Defendants were aware of the provisions and requirements of SCRA. Defendants knew, recklessly or intentionally disregarded, or reasonably should have known, about their failure to comply with SCRA, and about the falsity and deceptive nature of their policies, procedures, and decisions.

58. The Defendants did not properly apply SCRA to servicemembers and/or servicemember reservists, causing harm to Plaintiffs and the class. Specifically, Defendants overcharged interest and failed to forgive interest as required by the SCRA. As a result, Defendants overstated servicemembers' principal balances and compounded interest on exaggerated balances.

59. Plaintiffs incurred damages as a result of Defendants' act and/or omissions. For

many class members, this harm is ongoing.

COUNT TWO
Violations of North Carolina Unfair and Deceptive Trade Practices Law (N.C. Gen. Stat. § 75-1.1 et. seq.)

60. Plaintiffs incorporate each and every allegation contained in the preceding paragraphs as if set forth again herein.

61. Defendants' actions described herein constitute a violation of the North Carolina Unfair and Deceptive Trade Practices Law (hereinafter "NC UNDTP Law"). NC UNDTP states in relevant part:

If any person shall be injured or the business of any person, firm or corporation shall be broken up, destroyed or injured by reason of any act or thing done by any other person, firm or corporation in violation of the provisions of this Chapter, such person, firm or corporation so injured shall have a right of action on account of such injury done, and if damages are assessed in such case judgment shall be rendered in favor of the Plaintiff and against the Defendant for treble the amount fixed by the verdict.

N.C. Gen. Stat. § 75-16. Furthermore, "any act, contract, combination in the form of trust, or conspiracy in restraint of trade or commerce which violates the principles of the common law is hereby declared to be in violation of G.S. 75-1." N.C. Gen. Stat. § 75-2.

62. Defendants' acts and practices described herein were deceptive, unfair, and/or misleading.

63. Each of Defendants' violation of the SCRA and TILA constitute a *per se* violation of the NC UNDTP Law.

64. Defendants violated the NC UNDTP Law when it sent misleading correspondence to many servicemember in 2014, which suggested that certain payments were being made for poor service, when in fact Defendants had decided to make such payments

because of its violation of the SCRA.

65. The individual Plaintiffs and class members were caused to suffer damages as a result of Defendants' acts and omission, including ascertainable losses through the increased principal balances and interest charged. Further, by sending servicemembers misleading information in 2014 and 2015, Plaintiffs and class members were deprived of information necessary to make decisions about their accounts – including whether to deposit Defendants' payments, and how to calculate taxes on such payments if they did deposit them. Then, Defendants' inaccurate reporting of the interest overcharges to the Internal Revenue System caused Plaintiffs and class members additional damages.

66. The Plaintiffs and class members are entitled to damages, treble damages, and attorneys' fees.

COUNT THREE **Negligence**

67. Plaintiffs incorporate each and every allegation contained in the preceding paragraphs as if set forth again herein.

68. Defendants owed a duty to class members to fully and accurately disclose information about class members' loans and SCRA issues, and had a duty to comply with SCRA and properly apply it in their acts, practices, policies and procedures.

69. Defendants breached that duty by failing to fully and accurately disclose to the class members the correct and/or required information about their accounts and interests rates and SCRA issues.

70. Defendants knew, recklessly disregarded, or reasonably should have known, about their failure to fully accurately disclose information about loan terms, SCRA issues, and their failure to comply with SCRA.

71. Defendants were negligent in their acts and/or omission, and the breach of their duties and their negligence was the proximate cause of the damages sustained by the Plaintiffs.

72. Defendants' breach of their duty caused damage to the class members.

COUNT FOUR
Negligent Misrepresentation

73. Plaintiffs incorporate each and every allegation contained in the preceding paragraphs as if set forth again herein.

74. The Defendants negligently provided false and/or misleading information to class members concerning their accounts and/or interest rates applied to their accounts.

75. The class members reasonably relied upon the Defendants' false and/or misleading information and their misrepresentations.

76. Defendants knew, recklessly disregarded, or reasonably should have known that their improper acts, practices, and/or omissions would damage the Plaintiffs.

77. The class members suffered harm and damages as a direct and proximate result of their reasonable reliance upon Defendants' false and/or misleading statements and/or negligent misrepresentations.

78. As a direct result of the Defendants' improper fraudulent and/or negligent actions, the Plaintiffs and all class members sustained an ascertainable loss as well as other damages. As a result, the Plaintiffs and the class members seek relief.

COUNT FIVE
Truth in Lending Act

79. Plaintiffs incorporate each and every allegation contained in the preceding paragraphs as if set forth again herein.

80. Defendants' periodic statements sent to Plaintiffs exaggerated the principal

balance owed, exaggerated and miscalculated the interest, in violation of the Truth in Lending Act.

81. Defendants' violations deceived Plaintiffs, concealed Defendants' SCRA violations, and caused damages to Plaintiffs.

COUNT SIX
Equitable Relief

82. Plaintiffs incorporate each and every allegation contained in the preceding paragraphs as if set forth again herein.

83. The Plaintiffs have no complete, speedy, and adequate remedy at law with respect to Defendants' business practices as described herein. Plaintiffs, and/or the general public, will suffer immediate, continuing, and irreparable injury as a proximate cause of Defendants' actions absent injunctive and equitable relief by this Court.

84. A permanent injunction is required to make certain that the Defendants will comply with the SCRA and end the practices described herein.

85. The Defendants should be ordered to audit all applicable accounts to ascertain that SCRA requirements have been and will be properly applied to class members and future customers.

86. The Defendants should be ordered to notify class members of the violations, provide an accounting of the overcharges to each class member, to remediate damages, and to disgorge all ill-gotten gain.

COUNT SEVEN
Unjust Enrichment

87. Plaintiffs incorporate each and every allegation contained in the preceding paragraphs as if set forth again herein.

88. The Defendants' improper and unlawful activities, including misrepresentations and improper acts, practices, and/or omissions in violation of SCRA, resulted in the unjust enrichment of Defendants.

89. The Plaintiffs and class members have been damaged in the amount that the Defendants were unjustly enriched. Their damage was caused by the Defendants' acts and omissions.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs on behalf of themselves as well as on behalf of all other persons similarly situated, respectfully pray for the following relief:

- A. an Order certifying the class, appointing the named Plaintiffs and/or class members as class representatives and Plaintiffs' lawyers as class counsel;
- B. declaratory relief establishing that Defendants have violated the SCRA, the NC UNDTP Law, TILA and other applicable statutes and rules;
- C. an Order granting temporary, preliminary, and/or permanent equitable and injunctive relief;
- D. an Order requiring disgorgement of Defendants' ill-gotten gains to pay restitution to Plaintiffs and all members of the class;
- E. an award of compensatory damages, consequential damages, treble damages and/or punitive damages;
- F. an award of pre-and post-judgment interest;
- G. an award of attorney's fees and costs;
- H. that Plaintiffs have a trial by jury; and

I. such other relief as the Court may deem appropriate.

This 1st day of June, 2015.

SHANAHAN LAW GROUP, PLLC

By: /s/ Kieran J. Shanahan
Kieran J. Shanahan, NCSB# 13329
Brandon S. Neuman, NCSB# 33590
128 E. Hargett Street, Third Floor
Raleigh, North Carolina 27601
Telephone: (919) 856-9494
Facsimile: (919) 856-9499
kieran@shanahanlawgroup.com
bneuman@shanahanlawgroup.com

Future Pro Hac Vice Applicant:

Knoll D. Lowney, WSBA# 23457
Meredith Crafton, WSBA# 46558
2317 E. John Street
Seattle, Washington 98112
Telephone: (206) 860-2883
Facsimile: (206) 860-4187
knoll@igc.org
meredithc@igc.org

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

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

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

DEFENDANTS

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

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

Attorneys (If Known)

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

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

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

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

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

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

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

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

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

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

Civil Action No. _____

PROOF OF SERVICE

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

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

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

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

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

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____ .

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

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Civil Action No. _____

PROOF OF SERVICE

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

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

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

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

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

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____ .

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

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Civil Action No. _____

PROOF OF SERVICE

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

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

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

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

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

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____ .

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

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: