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13
14 **SUPERIOR COURT OF CALIFORNIA**

15 **COUNTY OF CONTRA COSTA**

16 **TERESA DOSKOCZ**, individually and on behalf)
17 of all others similarly situated,)
18 Plaintiff,)

19 vs.)

20 **ALS LIEN SERVICES**, a California corporation)
21 dba Association Lien Services and **DOE 1**
through DOE 20, inclusive)

22 Defendants.)
23

Case No:

CLASS ACTION COMPLAINT FOR:

1. Fair Debt Collection Practices Act,
15 U.S.C. § 1692, *et seq.*
2. California Business & Professions Code
§ 17200

DEMAND FOR JURY TRIAL

1 Plaintiff TERESA DOSKOCZ, individually, and on behalf of a proposed class of all others
2 similarly situated, and demanding a jury trial, brings this action against defendant ALS LIEN SERVICES,
3 and alleges, on information and belief (except as to those allegations relating to plaintiff herself, which are
4 asserted on personal knowledge), as follows:

5 **I. INTRODUCTION**

6 1. This is a consumer class action challenging the unlawful and unfair business practices of
7 defendant debt collector ALS Lien Services (“ALS”). This action is subject to the terms and conditions
8 stated in the Stipulation and Order of Dismissal Without Prejudice between the Parties entered in *Doskocz*
9 *v. Association Lien Services*, Case No. 3:15-CV-01525-JD in the United States District Court for the
10 Northern District of California, a prior action between the Parties. A true and correct copy of that
11 Stipulation and Order is attached as Exhibit D.

12 2. ALS gains control of homeowner accounts by offering Home Owner Associations (HOAs)
13 collection services to the HOA, with the caveat that the HOA must stop communicating with the
14 homeowner and cede control and oversight over the account to ALS. Once ALS takes over an account, it
15 gouges the homeowner by piling on collection fees and costs and then preventing homeowners from
16 bringing their HOA accounts current without first paying ALS’s fees. ALS then preys on homeowners by
17 leaving them with the unconscionable options of either paying fees or facing foreclosure. Through these
18 practices, ALS puts distressed homeowners in a spiral of debt, compounding their financial stress and
19 putting their home ownership at risk.

20 3. It is a basic principle that a creditor, and therefore its agent, cannot take action against a
21 debtor without legal basis – whether under contract or statute – for doing so. ALS’s collection practices
22 ignore this basic rule. ALS also threatens and takes legal action against consumers without the contractual
23 or statutory right to do so.

24 4. Plaintiff Teresa Doskocz’s experience provides a prime example of ALS’s egregious
25 practices. ALS actually engaged in five different collection activities against her that are prohibited to the
26 principal HOA, and therefore prohibited to ALS as well. As described in detail *infra*, these prohibited
27 practices were:

28 a. Applying homeowner payments to collection costs before applying payments to

1 the HOA's assessments;

2 b. Charging Plaintiff excessive late fees;

3 c. Charging Plaintiff excessive interest;

4 d. Charging homeowners a fee for making partial payments; and

5 e. Threatening foreclosure when there was no right to foreclose.

6 5. Plaintiff, for herself and on behalf of all similarly situated Californians, seeks relief against
7 ALS and an end to its predatory collection practices.

8 **II. VENUE**

9 6. A substantial part of the events and conduct giving rise to the violations of law complained
10 of herein occurred in or emanated from Contra Costa County, specifically at Plaintiff's townhouse, and
11 within the Danville Green Homeowners' Association, which are located in Danville, Contra Costa
12 County, California. The wrongs complained of herein originated or emanated from Danville and
13 elsewhere within Contra Costa County, and Defendant conducts substantial business in Contra Costa
14 County.

15 **III. PARTIES**

16 7. Plaintiff Teresa Doskocz ("Plaintiff" or "Ms. Doskocz") is and at all times mentioned
17 herein was a resident of Danville, Contra Costa County, California. She owns a townhouse within the
18 Danville Green Homeowners' Association and as such is a member of that HOA and subject to the
19 HOA's Covenants, Conditions, and Restrictions, including its requirements for the payment of monthly
20 HOA dues and assessments for late HOA dues payments.

21 8. ALS Lien Services is a California corporation believed to be organized under the laws of
22 California with its principal place of business in Los Angeles, California. At all times mentioned herein,
23 ALS regularly engages in debt collection activities to collect debts of homeowners' associations
24 throughout the State of California, including Contra Costa County, and uses instrumentalities of interstate
25 commerce and the mails in doing so.

26 9. Defendants Does 1 through 20 are persons or entities whose true names and capacities are
27 currently unknown to Plaintiffs, and who are therefore sued by fictitious names. Each of these fictitiously-
28 named defendants is in some manner responsible for the practices alleged. Plaintiff will amend this

1 complaint to allege the true names and capacities of these fictitiously-named defendants when they have
2 been both identified and the factual basis for their liability has been ascertained.

3 **IV. FACTUAL ALLEGATIONS**

4 **A. The California Legislature Established Protections for Homeowner Association**
5 **Members Specifically to Prevent the Type of Abuses Perpetrated by Defendant**

6 10. The Davis-Stirling Common Interest Development Act (“Davis-Stirling Act”), passed into
7 law in 1985, establishes rules and regulations governing the operation of a common interest development
8 (“CID”) and the respective rights and duties of a homeowners’ association (“HOA”) and its members in
9 the governance of the CID. Cal. Civ. Code § 4000, *et seq.*

10 11. Davis-Stirling Act protections are particularly important because HOA debt is subject to
11 foreclosure without a prerequisite judgment or any other form of judicial oversight or due process. The
12 Davis-Stirling Act therefore “provides several protections to delinquent homeowners that may aid them in
13 becoming current on their assessments, thus avoiding foreclosure.” *See* Sen. Com. on Judiciary, Analysis
14 of Sen. Bill No. 561 (2011-2012 Reg. Sess.) Mar. 29, 2011, p.1-2. Indeed, the legislative history of the
15 Davis-Stirling Act indicates the intent to protect owners’ equity in their homes when they fail to pay
16 relatively small assessments to their common interest development associations. Sen. Com. on Judiciary,
17 Analysis of Sen. Bill No. 137 (2005-2006 Reg. Sess.) Mar. 29, 2005, p. 1.

18 12. The following are five critical homeowner protections afforded under the Davis-Stirling
19 Act that limit abusive charges to homeowners and aid their ability to repay their debt:

- 20 a. A HOA must first apply homeowner payments towards delinquent assessments
21 before applying them to interest or collection expenses. “[O]nly after the
22 assessments owed are *paid in full* shall the payments be applied to the fees and
23 costs of collection, attorney’s fees, late charges, or interest.” Civil Code §5655(a)
24 (emphasis added).
- 25 b. A HOA cannot charge a homeowner late fees “exceeding 10 percent of the
26 delinquent assessment or ten dollars, whichever is greater...” Civil Code §
27 5650(b)(2).
- 28 c. A HOA cannot charge more than 12 percent annual interest on delinquent

1 assessments, fees and costs of collection, and attorneys' fees. Civil Code §
2 5650(b)(3).

3 d. A HOA must accept partial payments on delinquent balances from the homeowner.
4 Civil Code §5655(a).

5 e. A HOA cannot foreclose unless the homeowner owes more than \$1,800 in
6 delinquent assessments—exclusive of penalties and fees—or is more than 12
7 months delinquent. Civil Code § 5720.

8 13. Together, these protections ensure that homeowners are not gouged by their HOAs for
9 delinquency-related fees and that they aren't subjected to the threat of foreclosure based on fees and
10 practices in violation of the Davis-Stirling Act.

11 14. The protections relating to the order and application of payments ensure that homeowners
12 are only vulnerable to foreclosure when they are substantially behind, either in dollar amounts or in time,
13 on their substantive contributions to the homeowners' association, in the form of HOA assessments. By
14 requiring HOAs to apply payments first to assessment, the law ensures that homeowners face foreclosure
15 only for failure to contribute to the HOA, and not simply for failure to pay collection costs.

16 15. The HOA's relationship to a homeowner is based in contract—under the Covenants,
17 Conditions and Restrictions (CC&Rs) that are incidental to the purchase of a home within a Common
18 Interest Development (CID). The CC&Rs, among other things, obligate a homeowner to make certain
19 monthly payments for the maintenance of the CID, and define the collection rights of the HOA in the
20 event that a homeowner fails to make required payments. All California CC&Rs are necessarily limited
21 by and incorporate the Davis-Stirling Act, under the fundamental legal principles that existing legal
22 standards are implied by law into a contract, and that a contract that runs counter to the law is invalid.
23 Thus, California HOA's are bound to act in conformity with the Davis-Stirling Act under law and
24 contract.

25 **B. Defendant's Business Practices**

26 16. ALS is a company that contracts with dozens of HOAs throughout the state of California
27 to represent the HOAs in collecting delinquent assessments from homeowners. In these contracts, ALS is
28 the agent of the HOAs, and each HOA is a principal.

1 17. ALS has no contractual relationship with the home-owning members of the HOAs and,
2 therefore, has no independent legal basis to take action against the homeowners. Rather, Defendant's
3 ALS rights against homeowners are entirely derived from ALS's principal—the HOA.

4 18. As an agent of the HOA, ALS's rights are coextensive with those of the HOA. ALS may
5 conduct collection activities to the extent that the HOA may do so. Conversely, ALS may not engage in
6 collection activities that the HOA cannot do itself.

7 19. Despite the limits of its agency, ALS routinely demands payment of charges from HOA
8 members that the HOA cannot demand and engages in collection practices that would be prohibited to the
9 HOA. Specifically, as detailed in the following sections, ALS engages in five different collection
10 activities against Plaintiff and putative class members that are prohibited to the principal HOA by contract
11 and law, including the Davis-Stirling Act:

- 12 a. ALS applies payments received from HOA members, including Plaintiff, to its
13 own fees first when the HOA had no right to apply payments towards any fees
14 before fulfilling delinquent assessments;
- 15 b. ALS effectively charges HOA members, including Plaintiff, late fees that exceed
16 that which the HOA could statutorily demand;
- 17 c. ALS effectively charges HOA members, including Plaintiff, interest that exceeds
18 that which the HOA could statutorily demand;
- 19 d. Imposing fees for partial payments, thus rejecting partial payments without
20 imposition of a partial payment fee; and
- 21 e. ALS threatens HOA members, including Plaintiff, with foreclosure when the HOA
22 has no right to foreclose.

23 20. The purpose of ALS's collection practices is to artificially inflate homeowners' balances
24 above the \$1,800 foreclosure threshold, to cause homeowners to stay in default longer, and to cause
25 homeowners to incur more late fees and interest penalties.

26 21. For example, ALS uses the threat of foreclosure and its astronomical fees to coerce
27 homeowners into payment plans such that payments will be applied first to ALS's fees before the
28 underlying HOA assessments.

1 22. ALS then effectively charges homeowners late fees that exceed the amount of late fees that
2 the HOA may charge (10% of the delinquent assessment for that month or \$10, whichever is greater).

3 23. ALS also regularly charges interest on homeowner accounts at effective rates that exceed
4 the interest that the HOA may charge (12% annual interest on delinquent assessments, reasonable fees and
5 costs of collection, and reasonable attorney's fees). ALS does this by preventing payments from being
6 applied first to assessments owed and artificially inflating the delinquent amounts that accrue interest.

7 24. If the homeowner attempts to make a payment for less than the full amount demanded
8 outside of a pre-approved plan, ALS charges homeowners a “partial payment” fee and continues to
9 threaten foreclosure. This is unlawful because ALS’s only right to collect fees is derived from the HOA,
10 and the HOA is required by law to accept partial payments.

11 25. ALS threatens homeowners with foreclosure regardless of whether the homeowner owes
12 more than \$1,800 in principal debt or where the debt is less than twelve (12) months delinquent.

13 26. Thus, ALS’s entire business model hinges on extracting un-owed amounts and asserting
14 rights that it does not have against homeowners like Plaintiff to bully them into submission.

15 **C. Plaintiff’s Experience**

16 27. Plaintiff Teresa Doskocz owns and lives in a townhouse in Danville, California and is a
17 member of the Danville Green Homeowners’ Association.

18 28. The Danville Green Homeowners’ Association has contracted with ALS for ALS to act as
19 the HOA’s agent in collecting HOA assessments from delinquent homeowners.

20 29. Ms. Doskocz and her family have experienced substantial hardship in the last few years.
21 In late 2008, Ms. Doskocz was diagnosed with breast cancer and has endured ongoing cancer therapy.
22 Then, in July 2014, Mr. Doskocz was a passenger in a car accident, causing him to take time off of work
23 as well as to endure ongoing medical issues. Therefore, throughout her collections experience with ALS,
24 Ms. Doskocz dealt with extraordinary medical costs for herself and other family members, and continues
25 to do so.

26 30. In addition to substantial medical costs, the Doskoczs had been struggling to maintain a
27 steady stream of income. Mr. Doskocz works for a family metal fabricating business. When business is
28 doing poorly, there are periods when Mr. Doskocz does not get paid much or in a timely manner. Such

1 was the case during the Fall of 2013.

2 31. Between August 2013 and September 2013, the Daskoczs fell two (2) months behind on
3 their HOA assessments.

4 32. During this period, the Daskocz's HOA assessments were approximately \$280 per month.

5 33. Ms. Daskocz paid her October 2013 assessment. However, on or around October 31,
6 2013, Ms. Daskocz received a delinquency notice from her HOA. The notice stated that Mrs. Daskocz
7 was still \$616 behind on her HOA account (the amount included August and September assessments and
8 late fees for those months). The notice stated that the \$616 payment was due by November 1, 2013 and
9 that it could be paid via the HOA's online payment site.

10 34. About ten days later, on or around November 11, 2013, Ms. Daskocz tried to make a
11 payment for the total balance owed to the HOA via the HOA's online payment system. Ms. Daskocz
12 found she was locked out of the HOA's online system. Unable to pay online, Ms. Daskocz mailed a
13 check for the \$616.00 to her HOA at its usual address in Vallejo on or around November 13, 2013.

14 35. Ms. Daskocz continued to check her bank account and noticed that the HOA was not
15 cashing her check. Ms. Daskocz started to get concerned that the HOA was now refusing to accept any
16 payments.

17 36. Towards the end of November 2013, Mrs. Daskocz received a letter from the collection
18 company Association Lien Services ("ALS") that was dated November 7, 2013. A true and correct copy
19 of this letter is attached as Exhibit A. In the letter, ALS stated "We are advised that as of the date of this
20 letter, you owe the Association the sum of \$1,239.08." The letter also informed Ms. Daskocz that she
21 either needed to pay the amount in full within thirty (30) days or she could request a payment plan that
22 would include all amounts demanded. The letter then highlighted that "your Association and/or the
23 Association's management company will not accept any payments from you until your account with ALS
24 is closed." At the end of the letter, ALS stated that the HOA could authorize ALS to record a Notice of
25 Delinquent Assessment Lien against Ms. Daskocz's home if she did not the amount demanded in full, and
26 stated immediately below in bold oversized letters that "IMPORTANT NOTICE: IF YOUR SEPARATE
27 INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR
28 ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION." Taken in the context of ALS's

1 threat to record a lien, this statement was false, deceptive, and a threat to take collection action that ALS
2 and the HOA could not legally take because the least sophisticated consumer would reasonably
3 understand the statement to mean that if the full amount ALS demanded was not paid in full within the
4 time allowed, ALS could or would immediately foreclose and the homeowner would be placed in
5 imminent jeopardy of losing his or her home, when in fact the HOA had no right to foreclose based on the
6 amounts demanded in the letter.

7 37. On or around November 29, 2013, Mrs. Doskocz wrote to ALS, explaining that she had
8 already sent the \$616 check to the HOA and that the pre-lien notice did not account for this payment.
9 Shocked by the increase in charges but determined to avoid a lien against her townhouse, and seeing no
10 other option, Mrs. Doskocz asked to enter into a payment plan.

11 38. Sometime in the first half of December 2013, Mrs. Doskocz received a response from
12 ALS, acknowledging that they had her \$616 check. Concerned about how the \$616 check was being
13 handled, Mrs. Doskocz immediately called ALS. An ALS representative reiterated that she owed nearly
14 \$2,000, including ALS's costs and fees. The representative confirmed that Mrs. Doskocz had two
15 options: pay the amount in full or enter into a payment plan. Able and willing to make a partial payment,
16 but unable to pay the nearly \$2,000 in full, Mrs. Doskocz asked that her original \$616 check be cancelled
17 and for a payment plan.

18 39. Despite her agreement to a payment plan, on December 23, 2013, ALS nevertheless
19 recorded a lien against Mrs. Doskocz's home. A true and correct copy of this lien is attached as Exhibit B.
20 The lien claimed a total of \$2,030.06. Only \$812 of that amount was for HOA assessments. The
21 remaining \$1,218.06 of the lien balance was for "late fees, attorney's fees and costs, & interest."

22 40. On January 22, 2014, Mrs. Doskocz was given and signed a 6-month payment plan with
23 ALS. ALS charged a \$150 fee for the 6-month plan. At the time the plan was entered, Ms. Doskocz's
24 monthly assessments were \$280 per month. While under the plan, Mrs. Doskocz's monthly payments
25 were \$669.26 per month, to be paid monthly from January through June 2014.

26 41. Ms. Doskocz timely made monthly payments of \$669.26 from January through May 2014.
27 During this period, ALS never applied more than one half of each payment to Ms. Doskocz's actual
28 assessments. Rather, payments were applied first towards ALS's collection fees and costs.

1 42. If ALS had applied Ms. Doskocz's payments first towards assessments owed her HOA
2 account would have been current as of April 2014. Moreover, by May 2014, Ms. Doskocz would have
3 had a \$665 surplus in her account to be applied to future current assessments.

4 43. Under ALS's improper handling, however, between January and May 2014, Ms. Doskocz
5 paid \$1,300 towards late fees, interest, and ALS's collection costs and only \$1,900 towards assessments.
6 By June 2014, ALS claimed that she still had a delinquent balance of \$629.07.

7 44. In a June 17, 2014 letter, ALS told Ms. Doskocz that a final plan payment of \$629.07 was
8 due by June 30, 2014. The letter also stated that, if she could not make the final payment, she could
9 request another payment plan. Thus, Ms. Doskocz contacted ALS to ask if she could split the amount
10 demanded between June and July.

11 45. On July 31, 2014, ALS sent Ms. Doskocz another 6-month payment plan. The letter stated
12 that she now owed the HOA \$1,074.90, which was comprised entirely of fees and costs. The letter also
13 stated that she would have to pay another \$150 plan fee.

14 46. Ms. Doskocz received the July 31st plan on or around August 17, 2014. She immediately
15 e-mailed ALS account manager, Alvin Okoreeh, expressing that she would prefer to pay the balance more
16 quickly and avoid additional fees. That same day, she sent ALS a check for \$537.45 (half of the
17 \$1,074.90 amount demanded).

18 47. On August 27, 2014, Ms. Doskocz received a letter from Alvin Okoreeh. He confirmed
19 receipt of Mrs. Doskocz's \$537.45 payment and stated that a \$40.00 fee had been charged as a penalty for
20 her partial payment.

21 48. On August 29, 2014, Ms. Doskocz wrote a letter to her HOA. The letter asked if she could
22 pay the remaining \$537.45 of delinquent assessments on September 16th and the regular monthly
23 assessments for September on the 19th (she stated that she would include a 28.00 late fee with her regular
24 assessments for that month). Finally, Ms. Doskocz asked that, once her payments were made, the HOA
25 release the lien on her property.

26 49. Ms. Doskocz's request to the HOA was granted. Thus, on September 16, 2014, she paid
27 ALS the final \$537.45 demanded. Moreover, on September 19, 2014, Ms. Doskocz paid her September
28 2014 current assessments, including a late charge of \$28.00. And, beginning in October 2014, Ms.

1 Dorskocz resumed sending her current assessments directly to the HOA.

2 50. Nevertheless, on October 17, 2014, Ms. Dorskocz received a letter from ALS. A true and
3 correct copy of this letter and statement is attached as Exhibit C. Included with this letter was a
4 “Statement of Account Details,” showing how ALS had applied Ms. Dorskocz’s payments and what
5 charges ALS claims on her account since October 1, 2013. The letter stated that “As of today’s date, you
6 owe your Association \$830.73,” and that Ms. Dorskocz needed to pay \$840.73 within 10 days of the notice
7 or else ALS would proceed with foreclosure by recording a notice of default. These statements were
8 false and deceptive and threatened to take collection action that could not legally be taken. Neither the
9 HOA nor ALS had any legal right to record a Notice of Default against her home, or otherwise commence
10 foreclosure proceedings, based on the amounts demanded in the letter.

11 51. Sometime in November 2014, Ms. Dorskocz requested an updated account statement from
12 ALS and Danville Green HOA. She has yet to receive any updated accounting. The lien on her property
13 has also yet to be released as of the date of this Complaint.

14 52. Plaintiff is informed, and on that basis believes, that ALS subjected other similarly situated
15 homeowners in California to similar unlawful and unfair collections practices from four years prior to the
16 date of this complaint to the present, including, but not limited to: demanding and collecting excessive late
17 charges and interest from homeowners; threatening foreclosure when homeowners owed less than \$1,800
18 in principal debt and were less than one year delinquent; and applying payments to its own fees before
19 delinquent assessments were paid in full.

20 **V. CLASS ACTION ALLEGATIONS**

21 53. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as
22 though fully set forth herein.

23 54. Plaintiff brings this action on behalf of herself and all other similarly situated residents
24 of California as a class action pursuant to California Code of Civil Procedure section 382. The Class
25 that Plaintiff seeks to represent is defined as follows:

26
27 All current and former California homeowners whose HOAs contracted with ALS for the
28 collection of delinquent HOA fees and who were charged at least one collection fee, late
fee, partial payment fee, payment plan fee, or other similar fee that ALS imposed at any

1 time from four years before the filing of this action to the date of Judgment in this action.

2 Excluded from the Class are: Defendant, its officers, directors and employees, and any entity in which
3 ALS has a controlling interest, the agents, affiliates, legal representatives, heirs, attorneys at law,
4 attorneys in fact or assignees thereof.

5 55. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or necessary
6 to amend the definition of the Class. Plaintiff will formally define and designate a class definition when
7 they seek to certify the Class alleged herein.

8 56. **Numerosity.** The members of the defined class are so numerous that individual joinder of
9 all Class Members is impracticable. Plaintiff is informed and believes, and on that basis alleges, that ALS
10 contracts with hundreds of different HOAs, and that as a result, the Class is numerous, although the
11 precise size of the Class has not yet been ascertained. More information about the precise size of the class
12 will be contained in records in the possession or control of Defendant.

13 57. **Commonality.** Class-wide common questions of law and fact exist and predominate over
14 questions affecting only individual Class members. Common questions include, but are not limited to:

- 15 a. Did ALS apply payments to its own collection costs before homeowners
16 delinquent assessment balances were satisfied?
- 17 b. Did ALS charge homeowners for late fees that exceed the late fees that the HOA
18 may charge (10% of the delinquent assessment for that month or \$10, whichever is
19 greater)?
- 20 c. Did ALS charge interest on delinquent accounts in an amount that exceeds the
21 interest that the HOA may charge (12% annual interest)?
- 22 d. Did ALS refuse to accept partial payments from delinquent homeowners without
23 imposition of a partial payment fee?
- 24 e. Did ALS threaten homeowners with foreclosure regardless of whether the
25 homeowner owed more than \$1,800 in principal debt?
- 26 f. Does ALS's practice of collecting and/or attempting to collect the foregoing
27 amounts (including excessive interest, fees, charges and expenses incidental to the
28 principal obligation) violate the FDCPA and/or constitute unfair and unlawful
business practices?

1 g. Does ALS's practice of taking and/or threatening to take a non-judicial action to
2 effect dispossession of property where it has no present right to possession and/or
3 there is no present intention to take possession of the property violate the FDCPA
4 and/or constitute unfair and unlawful business practices?

5 58. **Typicality.** Plaintiff's claims are typical of the claims of the class. She was subjected to
6 the same violations of state and federal law and seeks the same types of damages, restitution, and other
7 relief on the same theories and legal grounds as the members of the class she seeks to represent.

8 59. **Adequacy of Representation.** Plaintiff is an adequate representative of the Class because
9 (a) her interests do not conflict with the interests of the individual Class members she seeks to represent;
10 (b) she has retained counsel who are competent and experienced in complex class action litigation; and (c)
11 she intends to prosecute this action vigorously. Plaintiff and her counsel will fairly and adequately protect
12 the interests of the Class.

13 60. **Superiority of Class Action.** A class action is superior to other available means for the
14 fair and efficient adjudication of the claims of Plaintiff and the Class. Each Class Member has been
15 damaged and is entitled to recovery by reason of Defendant's unlawful and unfair practices set forth
16 above. Class action treatment will allow those similarly situated persons to litigate their claims in the
17 manner that is most efficient and economical for the parties and the judicial system.

18 61. **Ascertainability.** The Class is ascertainable because its members can be determined from
19 defendants' business records and/or the above definition of the Class is sufficient to enable members of
20 the Class to identify themselves as members of the Class.

21 62. Class certification is also appropriate under California Code of Civil Procedure section 382
22 because questions of law and fact common to the proposed Class predominate over any question affecting
23 only individual members of the proposed Class, and because a class action is superior to other available
24 methods for fair and efficient adjudication of this litigation. Defendant's common and uniform practices
25 subjected the proposed Class to excessive and unauthorized fees and charges under ongoing threat of
26 foreclosure and lawsuits. Many Class Members' individual claims are too small to practically permit
27 pursuit on an individual basis, even though the Class Members' rights have been violated by Defendant's
28 practices. In addition, class treatment is superior because it will obviate the need for unduly duplicative

1 litigation that might result in inconsistent judgments as to the legality of Defendant’s practices.

2 **VI. CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**

4 **FEDERAL FAIR DEBT COLLECTION PRACTICES ACT (“FDCPA”)**

5 **15 U.S.C. § 1692, et seq.**

6 63. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as
7 though fully set forth herein.

8 64. Defendant is a “debt collector” within the meaning of 15 U.S.C. § 1692a(6). Plaintiff is a
9 “consumer” within the meaning of 15 U.S.C. § 1692a(3). The monies allegedly owed by Plaintiff are
10 “debt” within the meaning of 15 U.S.C. § 1692a(5).

11 Defendant purports to collect accounts from Plaintiff as an agent on behalf of HOAs to which
12 Plaintiff belongs. Thus, Defendant’s rights against Plaintiff are entirely derived from those of the
13 principal HOA. The rights of the HOA, in turn, are defined by the CC&Rs and limited by the Davis-
14 Stirling Act.

15 **A. Defendant Fails to Apply Payments First to Delinquent Assessments**

16 65. California Civil Code § 5655(a) states that “...only after the assessments owed are paid in
17 full shall the payments be applied to the fees and costs of collection, attorney’s fees, late charges, or
18 interest.” See *Huntington Continental Townhouse Assn., Inc. v. Miner*, 230 Cal. App. 4th 590, 599 (Cal.
19 App. 4th Dist. 2014). The HOA does not have the right to apply payments toward any other fee or cost of
20 collection unless the assessments owed area already paid in full. ALS applied Plaintiff’s payments,
21 beginning in January of 2014, towards its own fees and costs when Plaintiff’s HOA account still had
22 assessments owed. By diverting homeowner payments from the principal debt balance to its own claimed
23 fees, ALS artificially raised the principal debt balance above the statutory minimum for foreclosure. Had
24 ALS applied Ms. Doscocz’s payments first towards assessments owed, her account would have been
25 current as of April 2014. Thus, ALS violated the following provisions of the FDCPA:

- 26 a. Threatening to take an action that could not legally be taken or was not intended to
27 be taken in violation of § 1692e(5); and
28 b. Using false representations or deceptive means to collect or attempt to collect a

1 debt in violation of § 1692e(10).

2 66. As a result of Defendant's violations of the FDCPA, Plaintiff and other Class members
3 have suffered damages.

4 67. Plaintiff therefore seeks relief as described below.

5 **B. Defendant Attempts to Collect Late Fees Greater than 10% or \$10**

6 68. California law (Civil Code § 5650(b)(2)) limits the late fees that a HOA may charge a
7 delinquent homeowner to either 10% of the delinquent assessment for that month or \$10, whichever is
8 greater. The HOA (and its agent) has no legal basis to claim late fees above the limits of Civil Code §
9 5650(b)(2). Had ALS applied Ms. Doskocz's payments from January to April 2014 first towards
10 assessments owed, her account would have been brought current and there would be no further delinquent
11 assessments owed. Thus, beginning in April 2014, no late fees or interest should have been charged to
12 Ms. Doskocz's account. Nevertheless, the ALS Statement of Account Details from October 17, 2014
13 shows that ALS repeatedly charged Ms. Doskocz late fees after April 2014, including in the months of
14 July, August, and September of 2014. In doing so, ALS violated the following provisions of the FDCPA:

- 15 a. Falsely representing the nature, character and amount of the debt, in violation of §
16 1692e(2)(A);
- 17 b. Using false representations or deceptive means to collect or attempt to collect a
18 debt in violation of § 1692e(10); and
- 19 c. Collecting amounts not expressly authorized by the agreement creating the debt
20 and/or not permitted by law in violation of § 1692f(1).

21 **C. Defendant Attempts to Collect Greater than 12% Interest**

22 69. California law (Civil Code § 5650(b)(3)) also limits interest that a HOA may charge a
23 delinquent homeowner to 12% annual interest. The HOA (and its agent) has no legal basis to claim
24 interest above the limits of Civil Code § 5650(b)(3). ALS overcharged interest on Ms. Doskocz's account
25 after April 2014 – the period in which she would have been current but for ALS's misapplication of
26 payments. As such, ALS charged Plaintiff interest exceeding that which the HOA had a right to claim
27 and, thus, violated the following provisions of the FDCPA:

- 28 a. Falsely representing the nature, character and amount of the debt, in violation of §

1 1692e(2)(A);

2 b. Using false representations or deceptive means to collect or attempt to collect a
3 debt in violation of § 1692e(10); and

4 c. Collecting amounts not expressly authorized by the agreement creating the debt
5 and/or not permitted by law in violation of § 1692f(1).

6 **D. Defendant Fails to Accept Partial Payments**

7 70. California law (Civil Code § 5655(a)) states that **any** payments made by the homeowner
8 **shall** first be applied towards delinquent HOA assessments. The HOA is, therefore, compelled to accept
9 partial payments from homeowners and not just payments in full satisfaction of amounts owed. *See*
10 *Huntington Continental Townhouse Assn., Inc. v. Miner*, 230 Cal. App. 4th 590, 601-603 (Cal. App. 4th
11 Dist. 2014). On or around August 27, 2014, Ms. Doskocz received a letter from ALS, stating that a
12 \$40.00 fee was charged to her account for making a partial payment. ALS, thus, rejected partial payments
13 without imposition of a partial payment fee. In doing so, ALS violated the following provisions of the
14 FDCPA:

15 a. Threatening to take an action that could not legally be taken or was not intended to
16 be taken in violation of § 1692e(5); and

17 b. Using false representations or deceptive means to collect or attempt to collect a
18 debt in violation of § 1692e(10).

19 **E. Defendant Threatens Foreclosure Where Delinquent Assessments Are Less than \$1,800**

20 71. Under California law (Civil Code §5720(b)), a HOA may not collect a delinquent regular
21 or special assessment through judicial or non-judicial foreclosure unless the assessments owed exceed
22 \$1,800 or are more than 12 months delinquent. On October 17, 2014, ALS threatened to proceed with the
23 foreclosure process – filing a notice of default - on her home unless she paid the full amount ALS
24 demanded within 10 days. At the time Defendant threatened Plaintiff with foreclosure, Plaintiff's
25 assessment balance had not exceeded the \$1,800 threshold and was not more than 12 months delinquent.
26 In fact, had ALS not unlawfully imposed its fees and misapplied payments, Ms. Doskocz's HOA account
27 would have had a surplus of approximately \$930 at that point. Thus, Defendant threatened foreclosure
28 when the HOA, and therefore the Defendant, had no right to foreclose. In doing so, ALS violated the

1 following provisions of the FDCPA:

- 2 a. Threatening to take an action that could not legally be taken or was not intended to
- 3 be taken in violation of § 1692e(5);
- 4 b. Using false representations or deceptive means to collect or attempt to collect a
- 5 debt in violation of § 1692e(10); and
- 6 c. Taking and/or threatening to take a non-judicial action to effect dispossession of
- 7 property where it has no present right to possession and/or there is no present
- 8 intention to take possession of the property in violation of § 1692f(6)(A) and (B).

9 **SECOND CAUSE OF ACTION**

10 **VIOLATION OF BUS. & PROF. CODE § 17200, *et seq.***

11 72. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as
12 though fully set forth herein.

13 73. Defendant has engaged in, and continues to engage in, unlawful, unfair, and fraudulent
14 business practices pursuant to Bus. & Prof. Code § 17200, *et seq.*

15 74. Defendant has engaged in unlawful business practices by violating the FDCPA (15 U.S.C.
16 §§ 1692e, 1692f) as alleged above.

17 75. Defendant has engaged in fraudulent business practices by, among other conduct:

- 18 a. Falsely representing the nature, character and amount of the debt owed by Plaintiff;
- 19 b. Falsely representing the compensation which it could lawfully receive; and
- 20 c. Threatening to take an action that could not legally be taken or was not intended to
- 21 be taken.

22 76. Defendant has engaged in, and continues to engage in, unfair business practices including,
23 but not limited to:

- 24 a. Requiring homeowners to pay its fees before permitting homeowners to pay down
- 25 the actual amount of their debt;
- 26 b. Refusing to accept payments from homeowners unless homeowners agree to waive
- 27 important legal rights;
- 28 c. Threatening homeowners with foreclosure and/or a civil lawsuit unless they agree

1 to pay all of ALS fees;

2 d. Foreclosing and suing homeowners based on unlawfully inflated debts; and

3 e. Entering into agreements with HOAs that are specifically intended to circumvent
4 statutory protections for members of HOAs.

5 77. Plaintiff and Class members have suffered an injury in fact and lost money and/or property
6 as a result of Defendant's actions.

7 78. Defendant has wrongfully appropriated money and/or property belonging to Plaintiff and
8 Class members as a result of Defendant's unlawful and unfair business practices.

9 79. Defendant will continue its unlawful and unfair practices unless restrained and enjoined by
10 this Court.

11 80. Plaintiff therefore seeks relief as described below.

12 **VII. PRAYER FOR RELIEF**

13 81. Plaintiff prays for relief for herself individually and all similarly situated Class members as
14 follows:

15 a. That the Court determine that this action may be maintained as a class action
16 pursuant to California Code of Civil Procedure section 382 and appointing the
17 named Plaintiff as Class Representative and their counsel as Class Counsel;

18 b. That the Court enter a judgment declaring ALS's acts and practices complained of
19 herein to be unlawful and unfair;

20 c. That the Court award Plaintiff and the Plaintiff Class actual and statutory damages
21 in an amount according to proof for ALS's violations of the FDCPA;

22 d. That ALS be ordered to make restitution to Plaintiff and the Plaintiff Class
23 pursuant to California Business & Professions Code § 17203;

24 e. That the Court grant a preliminary and permanent order enjoining ALS and its
25 agents, employees, affiliates and/or subsidiaries, from collecting or attempting to
26 collect monies not authorized by law from Plaintiff and Plaintiff Class, or from
27 otherwise engaging in the unlawful and unfair acts and practices alleged herein;

28 f. That the Court award Plaintiff the costs of this action, including the fees and costs

1 of experts, together with reasonable attorney's fees, cost and expenses under 15
2 U.S.C. § 1692(k) and otherwise provided under law;

3 g. That the Court grant Plaintiff and the Plaintiff Class pre-judgment interest on all
4 sums collected;

5 h. And such other and further relief as this Court may deem appropriate.

6 Dated: August 4, 2017

ARTHUR D. LEVY

7
8 By: 

ARTHUR D. LEVY

9 Attorney for Plaintiff and the Proposed Class

10 *[All Counsel for Plaintiff appear on the caption*
11 *page]*

12 **DEMAND FOR JURY TRIAL**

13 Please take notice that Plaintiff Teresa Doskocz demands a trial by jury in this action of each
14 and every issue so triable.

15 Dated: August 4, 2017

ARTHUR D. LEVY

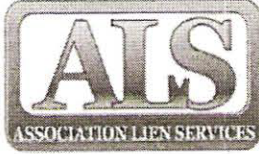
16
17 By: 

ARTHUR D. LEVY

18 Attorney for Plaintiff and the Proposed Class

19 *[All Counsel for Plaintiff appear on the caption*
20 *page]*

EXHIBIT A



The Assessment Lien Collection Specialist
P.O. Box 64750
Los Angeles, CA 90064-0750
☎: (310) 207-2027
☎: (310) 207-5654

VIA CERTIFIED AND REGULAR MAIL

November 7, 2013

PRE-LIEN LETTER

Teresa Anne Doskocz
1173 San Ramon Valley Blvd.
Danville, California 94526

Re: 1173 San Ramon Valley Blvd., Danville, California 94526 - Delinquent Assessments
Danville Green Homeowners Association, Inc. - Teresa Doskocz
ALS No. [REDACTED]

Dear Mrs. Doskocz:

Danville Green Homeowners Association, Inc. (the "Association") has referred your delinquent account to Association Lien Services ("ALS") to collect your unpaid regular and/or special assessments ("assessments"). This notice advises you that you are delinquent in the payment of your assessments, late fees, interest, and collection costs to the Association, and if your delinquency is not paid, unless disputed in writing, a lien will be recorded against your property.

Amount of Debt

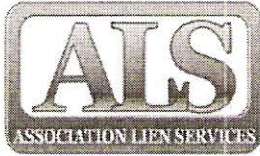
We are advised that as of the date of this letter, you owe the Association the sum of \$1,239.08. Additional charges, interest and costs of collection will continue to accrue until the balance owed is paid in full.

Enclosed with this letter is an accounting, which details how your balance was calculated. The enclosed accounting provides the amount due as of the date of this letter and the amount that will be due thirty (30) days from the date of this letter \$1,545.56. We have also enclosed a copy of the Association's current collection policy. Civil Code Sections 1366 and 1367.1 require that you pay all delinquent assessments, late charges, interest and collection costs, including reasonable attorneys' fees in full, to bring your account current.

Pursuant to the Association's governing documents and California Civil Code sections 1366 and 1367.1, you are required to pay all delinquent assessments, late charges, interest and collection costs, including reasonable attorneys' fees in full, to bring your account current. **PAYMENT MUST BE MADE IN THE FORM OF A CASHIER'S CHECK OR MONEY ORDER MADE PAYABLE TO ASSOCIATION LIEN SERVICES AND MUST BE SENT TO THE P.O. BOX ADDRESS ABOVE.** To make a payment by overnight delivery, please use the Express Mail service offered by the United States Post Office and send your payment to the P.O. Box address listed above. **PERSONAL CHECKS WILL NOT BE ACCEPTED.**

Please note that until your account with ALS is paid, any invoices you receive from the Association or its management company may not include all of the amounts you owe and, therefore, may not reflect the correct

Association Lien Services is attempting to collect a debt. Any information obtained will be used for that purpose.



The Assessment Lien Collection Specialist

P.O. Box 64750

Los Angeles, CA 90064-0750

☎ : (310) 207-2027

☎ : (310) 207-5654

amount due. Your Association and/or the Association's management company will not accept any payments from you until your account with ALS is closed. Your payment, unless disputed, must be received by ALS at the Post Office Box listed above no later than thirty (30) days from the date of this letter to avoid further collection action.

Payment Plans

You have the right to submit a written request for a meeting with the Board of Directors to discuss a payment plan for the above debt. The Board will meet with you within 45 days of the postmark of your written request, if you mail the request within fifteen (15) days of the postmark date of this letter. If there is no regularly scheduled Board meeting within that period, the Board may designate a committee of one or more of its members to meet with you.

Alternatively, you may request a payment plan by contacting ALS within thirty (30) days of the date of this letter. You are not required to meet with the Board to arrange for a payment plan. All payment plan requests will be considered by the Board on a case-by-case basis. The Board is not obligated to approve your request for a payment plan.

All payment plans must provide for full payment of the delinquent amounts set forth above, additional charges incurred during the repayment period, including any fees and/or costs related to the administration of the payment plan. A lien will be recorded to secure the amounts owed during the repayment period.

Procedures for Disputing Debt

If you believe that any of the amounts set forth in the above accounting are incorrect, or otherwise dispute the debt or any portion thereof, please forward a written explanation of the reasons for your dispute to ALS. If an error has been made, appropriate steps to correct the error will be taken. If it is determined that your assessments were timely paid to the Association, you will not be required to pay the late charges, interest, or collection costs which have accrued.

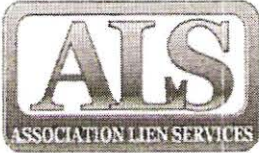
Unless you contact this office within thirty days of the date that you receive this letter, we will assume that the debt stated above is valid. If you notify us in writing within that thirty-day period that you dispute the debt, or any portion thereof, we will obtain verification of the debt and will mail the same to you.

You may submit a written request for dispute resolution pursuant to the Association's Internal Dispute Resolution Policy (IDR), whereby the Board of Directors or a designee of the Board will meet with you to confer regarding your debt, in an attempt to resolve the dispute. You also have the right to request alternative dispute resolution (ADR) with a neutral third party pursuant to Civil Code §1369.510. In order to request ADR, you must serve a Request for Resolution, which complies with the requirements of Civil Code §1369.530. The cost of ADR shall be shared by you and the Association. (Civil Code §1369.540)

Any written requests for IDR or ADR should be submitted to ALS. ALS will forward your request to the Board of Directors of the Association. In the event you choose to dispute the debt, other than through IDR, and the debt is found to be valid, you may be charged a fee of \$125 to pay for the costs of investigating and verifying the debt. Please be advised that disputing the debt may not stop the collection process.

You have the right to inspect certain Association records, pursuant to Corporations Code §8333.

Association Lien Services is attempting to collect a debt. Any information obtained will be used for that purpose.



The Assessment Lien Collection Specialist

P.O. Box 64750

Los Angeles, CA 90064-0750

☎ : (310) 207-2027

✉ : (310) 207-5654

Lien; Foreclosure of Lien; Personal Obligation to Pay

IF ALS DOES NOT RECEIVE FULL PAYMENT OF ALL DELINQUENT ASSESSMENTS, INTEREST, LATE CHARGES, COSTS OF COLLECTION, INCLUDING ATTORNEYS' FEES AND INTEREST WITHIN 30 DAYS FROM THE DATE OF THIS LETTER, UNLESS DISPUTED IN WRITING, THE BOARD MAY AUTHORIZE ALS TO RECORD A NOTICE OF DELINQUENT ASSESSMENT LIEN ("LIEN") AGAINST YOUR PROPERTY. The Notice of Delinquent Assessment is a lien against your home. If the Lien is prepared, you will be responsible for paying an additional fee of \$375.00, along with any mailing costs, recording and other costs authorized under the Civil Code. Should you still fail to pay your balance in full, the Board reserves its right to exercise any and all legal remedies available to the Association under applicable law.

IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION.

If the foreclosure process begins, you are legally obligated to pay all fees and costs associated with that process. Should you fail to pay all delinquent assessments, late charges, costs of collection, including all lien and foreclosure process costs and fees, attorneys' fees and interest, you may lose your property.

If you pay monies owed now, you can minimize the amounts, which will be charged to your account. This is not the first in a series of collection letters. You will not receive any additional notices other than those required by law. If you have any questions regarding this letter, please contact one of our account managers at the telephone number or address listed above.

You can contact ALS by email at Caitlyn@alslien.com.

Sincerely,

ASSOCIATION LIEN SERVICES

A handwritten signature in black ink, appearing to read 'Tracy Neal', is written over the typed name and title.

Tracy Neal
Attorney at Law

Enclosures

cc: **Danville Green Homeowners Association, Inc.**

Association Lien Services is attempting to collect a debt. Any information obtained will be used for that purpose.

Schedule A
Statement Of Account Summary
Date of Notice: November 7, 2013

Danville Green Homeowners Association, Inc. (the "Association")
c/o Association Management Company
6601 Koll Center Pkwy. Ste. 135
Pleasanton, California 94566

ALS No.: [REDACTED]
Account #: Teresa Doskocz

AMOUNT DUE NOW		
Assessments Through:	November 7, 2013	\$532.00
	ALS Cost	\$67.50
	ALS Fees	\$395.00
	Late Fees	\$116.00
	Interest	\$3.58
	Mgmt Admin Fees	\$125.00
	TOTAL DUE NOW:	\$1,239.08

AMOUNT DUE WITHIN 30 DAYS OF THE DATE OF NOTICE		
Additional Assessments Through:	December 7, 2013	\$280.00
	ALS Cost	\$10.00
	Late Fees	\$10.00
	Interest	\$6.48
	TOTAL DUE WITHIN 30 DAYS OF THE DATE OF NOTICE:	\$1,545.56

*ALS fees are the fees for services rendered by the ALS attorneys and collection staff. Each of the fees charged are flat fees for services that include preparation of attorney letters and other correspondence, liens and other recorded notices, which include review of the file, the association's governing documents and responding to all homeowner, management company or board inquiries, as necessary, monitoring payment plans and other services related to collecting.

*ALS Costs are title or legal vesting verification which is the fee the title company charges to verify the current title holder/owner, postage which includes postage and handling costs for all of the required certified and regular mailings of the legal notices, and recording costs which are charged by the agency with which the document is recorded and included in those costs are administrative fees for handling of those documents.

*Bankruptcy verification is the fee charged for ALS staff to research and verify that the owner has not filed for bankruptcy, which would require that all collection efforts cease.

*Management Collection Costs is the fee the management company charges to prepare the file for transfer to ALS and to monitor and/or work with ALS, serving as a liaison between ALS and the association.

*Pursuant to California Law, the Association is entitled to not only collect the delinquent assessments, late fees and interest (usually at 12% per annum) but in addition, is entitled to collect all attorneys fees and costs of collection, some of which are outlined above.

EXHIBIT B

When recorded, mail to:

ASSOCIATION LIEN SERVICES
P.O. BOX 64750
LOS ANGELES, CA 90064

RECORDING REQUESTED BY
FIRST AMERICAN TITLE COMPANY
AS AN ACCOMMODATION ONLY

ALS No. [REDACTED]

CONTRA COSTA Co Recorder Office
JOSEPH CANCIAMILLA, Clerk-Recorder
DOC- 2013-0292744-00

Check Number
Monday, DEC 23, 2013 10:24:14
LIE \$7.00:MOD \$4.00:REC \$14.00
FTC \$3.00:DAF \$2.70:REF \$0.30
RED \$1.00:ERD \$1.00:
Ttl Pd \$33.00 Rcpt # 0001866298
rrc/RL/1:4

Space above for Recorder's use

8372600 **NOTICE OF DELINQUENT ASSESSMENT**
(LIEN)

LIEN NOTICE MAILED

This NOTICE OF DELINQUENT ASSESSMENT is being given pursuant to California Civil Code Section 1367.1 and the provisions of the Declaration of Covenants, Conditions and Restrictions (CC&Rs) of the Homeowners Association as follows:

Association claimant: Danville Green Homeowners Association, Inc.

County: Contra Costa

The description of the common interest development property against which this notice is being recorded is as follows:

See "Legal Description" attached as shown on the Condominium Plan recorded N/A as Document No. N/A

Common address: 1173 San Ramon Valley Blvd., Danville, California 94526

APN # 208-410-062-3

The owner is: Teresa Anne Doskocz

Owner's mailing address: 1173 San Ramon Valley Blvd. Danville, California 94526

DELINQUENCY

Assessments due through: December 17, 2013	\$812.00
Late fees, attorney's fees and costs & interest:	\$1,218.06
Total other charges:	\$0.00
Total amount of delinquency:	\$2,030.06

* Additional monies shall accrue under this claim at the rate of the claimant's regular monthly or special assessments, plus permissible late charges, costs of collection and interest, accruing subsequent to the date of this notice.

The Accounting Statement for the Delinquency is set forth on Schedule "A" attached hereto and incorporated herein

EXHIBIT C



The Assessment Lien Collection Specialist
P.O. Box 64750
Los Angeles, CA 90064-0750
☎ : (310) 207-2027
☎ : (310) 207-5654

October 17, 2014

Teresa Anne Duskocz
1173 San Ramon Valley Blvd.
Danville, California 94526

Re: 1173 San Ramon Valley Blvd., Danville, California 94526
Delinquent Assessments-ALS: [REDACTED]
Danville Green Homeowners Association, Inc. / Teresa Duskocz

Dear Mrs. Duskocz,

A lien has been recorded against your property as the result of your failure to timely pay your homeowner's association assessments and any applicable costs and attorneys' fees owed to the Association.

As of today's date, you owe your Association \$830.73. Additional amounts will continue to accrue until you pay the amount owed.

Payment must be received by Association Lien Services within ten (10) days of the date of this letter to avoid further collection activity. The amount due on that date will be **\$840.73**. Payment must be made in the form of a **cashier's check or money order** made payable to Association Lien Services. Please send your payment to the Post Office Box listed above.

If payment is not received within ten (10) days, then Association Lien Services will record a Notice of Default. Copies of the Notice of Default will be provided to your mortgage company and to anyone else having a legal interest in your property and entitled to notice under the Civil Code. Please note that if Association Lien Services is required to record the Notice of Default, you will also be responsible for paying an additional fee of approximately \$995.00 for preparing and serving the Notice of Default, acquiring a Trustee's Sale Guarantee along with any applicable recording, mail and related costs.

Should you have any questions, please contact a member of our staff at (310) 207-2027.

You can contact ALS by email at alvin@alslien.com.

Sincerely,

ASSOCIATION LIEN SERVICES

Caitlyn Takahashi
Administrative Assistant

Association Lien Services is attempting to collect a debt. Any information obtained will be used for that purpose.

Schedule A
Statement Of Account Summary
Date of Notice: October 17, 2014

Danville Green Homeowners Association, Inc. (the "Association")
c/o Association Management Company
6601 Koll Center Pkwy, Ste. 135
Pleasanton, California 94566

ALS No.: [REDACTED]
Account #: Teresa Doskocz

AMOUNT DUE NOW		
Assessments Through:	October 17, 2014	\$348.24
	ALS Cost	\$40.00
	ALS Fees	\$345.00
	Late Fees	\$30.00
	Interest	\$67.49
	Mgmt Admin Fees	\$0.00
	TOTAL DUE NOW:	\$830.73

AMOUNT DUE WITHIN 10 DAYS OF THE DATE OF NOTICE		
Additional Assessments Through:	October 27, 2014	\$0.00
	Late Fees	\$10.00
	TOTAL DUE WITHIN 10 DAYS OF THE DATE OF NOTICE:	\$840.73

*ALS fees are the fees for services rendered by the ALS attorneys and collection staff. Each of the fees charged are flat fees for services that include preparation of attorney letters and other correspondence, liens and other recorded notices, which include review of the file, the association's governing documents and responding to all homeowner, management company or board inquiries, as necessary, monitoring payment plans and other services related to collecting.

*ALS Costs are title or legal vesting verification which is the fee the title company charges to verify the current title holder/owner, postage which includes postage and handling costs for all of the required certified and regular mailings of the legal notices, and recording costs which are charged by the agency with which the document is recorded and included in those costs are administrative fees for handling of those documents.

*Bankruptcy verification is the fee charged for ALS staff to research and verify that the owner has not filed for bankruptcy, which would require that all collection efforts cease.

*Management Collection Costs is the fee the management company charges to prepare the file for transfer to ALS and to monitor and/or work with ALS, serving as a liaison between ALS and the association.

*Pursuant to California Law, the Association is entitled to not only collect the delinquent assessments, late fees and interest (usually at 12% per annum) but in addition, is entitled to collect all attorneys fees and costs of collection, some of which are outlined above.

Schedule A
Statement Of Account Details
October 17, 2014

Danville Green Homeowners Association, Inc. (the "Association")
c/o Association Management Company
6601 Koll Center Pkwy. Ste. 135
Pleasanton, California 94566

ALS No. [REDACTED]
Account #: Teresa Doskoz

Date	Description	ALS Cost	ALS Fees	Assessments	Late Fees	Interest	Mgmt Admin Fees	Cumulative Total
10/1/13	Balance Forward: Assessments and Late Fees			560.00	106.00			\$666.00
10/20/13	Payment: check no. 28770155			-308.00				\$358.00
10/21/13	Late Fee				10.00			\$368.00
10/30/13	Legal Vesting Verification	40.00						\$408.00
10/30/13	Application Service Provider Fee	10.00						\$418.00
10/30/13	New Account Setup Fee		70.00					\$488.00
10/30/13	Management Admin Fee						125.00	\$613.00
11/1/13	Application Service Provider Fee November 2013	10.00						\$623.00
11/1/13	Initial Attorney Letter		325.00					\$948.00
11/1/13	Postage	7.50						\$955.50
11/1/13	Assessments - November 2013			280.00				\$1,235.50
11/7/13	Interest: 10/1/2013 - 11/1/2013					3.58		\$1,239.08
11/20/13	Late Fee				10.00			\$1,249.08
12/1/13	Application Service Provider Fee December 2013	10.00						\$1,259.08
12/1/13	Assessments - December 2013			280.00				\$1,539.08
12/1/13	Interest - November 2013					6.48		\$1,545.56
12/17/13	Prepare and Record Lien		375.00					\$1,920.56
12/17/13	Postage	7.50						\$1,928.06
12/17/13	Recording Costs	40.00						\$1,968.06
12/17/13	Per Owner Recording Cost	2.00						\$1,970.06
12/17/13	Bankruptcy Investigation Charge	50.00						\$2,020.06
12/17/13	Notary Fee		10.00					\$2,030.06
1/1/14	Interest - December 2013					9.30		\$2,039.44
1/1/14	Application Service Provider Fee January 2014	10.00						\$2,049.44
1/1/14	Assessments - January 2014			280.00				\$2,329.44
1/22/14	Payment Plan Fee - 6 months		150.00					\$2,479.44
2/1/14	Application Service Provider Fee February 2014	10.00						\$2,489.44
2/1/14	Assessments - February 2014			280.00				\$2,769.44
2/1/14	Interest - January 2014					8.83		\$2,778.27
2/3/14	#0017800803/Partial Payment Per Payment Plan		-334.63	-334.63				\$2,109.01
3/1/14	Application Service Provider Fee March 2014	10.00						\$2,119.01
3/1/14	Assessments - March 2014			280.00				\$2,399.01
3/1/14	Interest - February 2014					5.43		\$2,404.48
3/3/14	#0017800831/Partial Payment Per Payment Plan		-334.63	-334.63				\$1,735.23
4/1/14	#0517300877/Partial Payment Per Payment Plan		-260.74	-334.63				\$1,065.97
4/1/14	Application Service Provider Fee April 2014	10.00						\$1,075.97

Statement Of Account Details (cont.)
October 17, 2014

Danville Green Homeowners Association, Inc. (the "Association")
c/o Association Management Company
6601 Koll Center Pkwy. Ste. 135
Pleasanton, California 94566

ALS No.: [REDACTED]
Account #: Teresa Doskocz

Date	Description	ALS Cost	ALS Fees	Assessments	Late Fees	Interest	Mgmt Admin Fees	Cumulative Total
4/1/14	Assessments - April 2014			280.00				\$1,355.97
4/1/14	Interest - March 2014					7.74		\$1,363.71
5/1/14	Application Service Provider Fee May 2014	10.00						\$1,373.71
5/1/14	Assessments - May 2014			280.00				\$1,653.71
5/1/14	Interest - April 2014					10.54		\$1,664.25
5/5/14	#0017800904/Partial Payment Per Payment Plan	-153.11		-334.63	-56.52		-125.00	\$994.99
6/1/14	Application Service Provider Fee June 2014	10.00						\$1,004.99
6/1/14	Assessments - June 2014			280.00				\$1,284.99
6/1/14	Interest - May 2014					13.34		\$1,298.33
6/2/14	#7079/Partial Payment Per Payment Plan	-10.00		-570.34	-69.48	-19.44		\$629.07
7/1/14	Application Service Provider Fee July 2014	10.00						\$639.07
7/1/14	Assessments - July 2014			287.00				\$926.07
7/1/14	Interest - June 2014					5.83		\$931.90
7/21/14	Late Fee				10.00			\$941.90
7/31/14	Payment Plan 6 months		150.00					\$1,091.90
8/1/14	Application Service Provider Fee August 2014	10.00						\$1,101.90
8/1/14	Assessments - August 2014			287.00				\$1,388.90
8/1/14	Interest - July 2014					8.65		\$1,397.53
8/20/14	Late Fee				10.00			\$1,407.53
8/27/14	ALS applied partial payment		40.00					\$1,447.53
8/27/14	#7087/Partial Payment			-537.45				\$910.08
9/1/14	Application Service Provider Fee September 2014	10.00						\$920.08
9/1/14	Assessments - September 2014			287.00				\$1,207.08
9/1/14	Interest - August 2014					6.29		\$1,213.37
9/20/14	Late Fee				10.00			\$1,223.37
9/24/14	ALS applied partial payment		40.00					\$1,263.37
9/24/14	#7092/Partial Payment Per Payment Plan			-537.45				\$725.92
9/30/14	ALS applied partial payment		40.00					\$765.92
9/30/14	#7093/Partial Payment			-308.00				\$457.92
10/1/14	Application Service Provider Fee October 2014	10.00						\$467.92
10/1/14	Assessments - October 2014			287.00				\$754.92
10/1/14	Interest - September 2014					0.81		\$755.73
10/17/14	Pre-Notice of Default		75.00					\$830.73
TOTAL		\$40.00	\$345.00	\$348.24	\$30.00	\$67.49	\$0.00	\$830.73

EXHIBIT D

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27
28
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

15 **TERESA DOSKOCZ**, individually and on)
16 behalf of all others similarly situated,)

17 Plaintiff,)

18 vs.)

19 **ASSOCIATION LIEN SERVICES**, a)
20 California corporation;)

21 Defendant.)
22)
23)
24)
25)
26)
27)
28)

Case No: 3:15-CV-01525-JD

**STIPULATION AND [PROPOSED]
ORDER OF DISMISSAL WITHOUT
PREJUDICE**

1 Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, Plaintiff Teresa
2 Doskocz on the one hand (“Plaintiff”), and defendant ALS Lien Services, a California
3 corporation dba Association Lien Services (“Defendant”) stipulate that this case may be
4 dismissed without prejudice and refiled in state court on the following terms and conditions
5 and in no event can a new action be filed in Federal Court:

6 1. Plaintiff may refile the Complaint attached hereto as a new class action against
7 Defendants in Contra Costa County Superior Court at any time within 30 days after the date
8 approval of this Stipulation and entry of the accompanying [Proposed] Order by the Court in
9 this Action. In the state court complaint, Plaintiff may, consistent with this Stipulation, delete
10 claims from the Complaint in this action, but may not add any new claims. Plaintiff waives any
11 right to amend causes of action in the state court action under California law, except as allowed
12 by the Superior Court in ruling on any Demurrer or other motion filed by Defendant.

13 2. The new state court action will be subject to this Court’s Order Re Summary
14 Judgment (Dkt. 82).

15 3. ALS Lien Services, a California corporation dba Association Lien Services is
16 the proper defendant in this action. This stipulation is binding on ALS Lien Services.

17 4. Any and all statutes of limitation and other timeliness or time-related defenses
18 between Plaintiff (including the putative Classes Plaintiff seeks to represent) and Defendants
19 shall be determined as though the complaint in the new state court case had been filed on the
20 date this action was filed, April 2, 2015. All such statutes of limitations, timeliness, and time-
21 related defenses will be deemed tolled accordingly, and Defendants waive all such defenses to
22 the extent provided in this paragraph.

23 5. Plaintiff and Defendant agree not to remove the new state court case to federal
24 court and waive all removal rights.

25 DATED: July 18, 2017

/s/ Arthur D. Levy
Arthur D. Levy

Noah Zinner (SBN #247581)
Gina Di Giusto (SBN #293252)
HOUSING AND ECONOMIC RIGHTS
ADVOCATES

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Attorneys for Plaintiff
TERESA DOSKOCZ

SOLTMAN, LEVITT & FLAHERTY
LLP

DATED: July 18, 2017

/s/ Steven S. Nimoy
Steven S. Nimoy

SWEDELSON & GOTTLIEB

DATED: July 18, 2017

/s/ Joan Elizabeth Lewis-Heard
Joan Elizabeth Lewis-Heard

Attorneys for Defendant ALS Lien
Services, a California corporation dba
Association Lien Services

[PROPOSED] ORDER

Good cause appearing, the Court approves this Stipulation. This case is hereby
dismissed without prejudice on the terms and conditions stated above.

DATED: July __, 2017

United States District Judge

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LOCAL RULE 5-1 ATTESTATION

I, Arthur D. Levy, am the ECF user whose ID and password are being used to file this Stipulation and [Proposed] Order of Dismissal Without Prejudice. In compliance with Local Rule 5-1(i)(3), I hereby attest that: Steven S. Nimoy and Joan Elizabeth Lewis-Heard have concurred in the filing of this document with his electronic signature.

DATED: July 18, 2017

/s/ Arthur D. Levy
Arthur D. Levy

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12 *Attorneys for Plaintiff Teresa Doskocz, Individually
and on Behalf of All Others Similarly Situated*

13
14 **SUPERIOR COURT OF CALIFORNIA**

15 **COUNTY OF CONTRA COSTA**

16 **TERESA DOSKOCZ**, individually and on behalf)
17 of all others similarly situated,)
18 Plaintiff,)

19 vs.)

20 **ALS LIEN SERVICES**, a California corporation)
21 dba Association Lien Services and **DOE 1**
22 **through DOE 20**, inclusive)

23 Defendants.)

Case No:

CLASS ACTION COMPLAINT FOR:

1. Fair Debt Collection Practices Act,
15 U.S.C. § 1692, *et seq.*
2. California Business & Professions Code
§ 17200

DEMAND FOR JURY TRIAL

1 Plaintiff TERESA DOSKOCZ, individually, and on behalf of a proposed class of all others
2 similarly situated, and demanding a jury trial, brings this action against defendant ALS LIEN SERVICES,
3 and alleges, on information and belief (except as to those allegations relating to plaintiff herself, which are
4 asserted on personal knowledge), as follows:

5 **I. INTRODUCTION**

6 1. This is a consumer class action challenging the unlawful and unfair business practices of
7 defendant debt collector ALS Lien Services (“ALS”). This action is subject to the terms and conditions
8 stated in the Stipulation and Order of Dismissal Without Prejudice between the Parties entered in *Doskocz*
9 *v. Association Lien Services*, Case No. 3:15-CV-01525-JD in the United States District Court for the
10 Northern District of California, a prior action between the Parties. A true and correct copy of that
11 Stipulation and Order is attached as Exhibit D.

12 2. ALS gains control of homeowner accounts by offering Home Owner Associations (HOAs)
13 collection services to the HOA, with the caveat that the HOA must stop communicating with the
14 homeowner and cede control and oversight over the account to ALS. Once ALS takes over an account, it
15 gouges the homeowner by piling on collection fees and costs and then preventing homeowners from
16 bringing their HOA accounts current without first paying ALS’s fees. ALS then preys on homeowners by
17 leaving them with the unconscionable options of either paying fees or facing foreclosure. Through these
18 practices, ALS puts distressed homeowners in a spiral of debt, compounding their financial stress and
19 putting their home ownership at risk.

20 3. It is a basic principle that a creditor, and therefore its agent, cannot take action against a
21 debtor without legal basis – whether under contract or statute – for doing so. ALS’s collection practices
22 ignore this basic rule. ALS also threatens and takes legal action against consumers without the contractual
23 or statutory right to do so.

24 4. Plaintiff Teresa Doskocz’s experience provides a prime example of ALS’s egregious
25 practices. ALS actually engaged in five different collection activities against her that are prohibited to the
26 principal HOA, and therefore prohibited to ALS as well. As described in detail *infra*, these prohibited
27 practices were:

28 a. Applying homeowner payments to collection costs before applying payments to

1 the HOA's assessments;

2 b. Charging Plaintiff excessive late fees;

3 c. Charging Plaintiff excessive interest;

4 d. Charging homeowners a fee for making partial payments; and

5 e. Threatening foreclosure when there was no right to foreclose.

6 5. Plaintiff, for herself and on behalf of all similarly situated Californians, seeks relief against
7 ALS and an end to its predatory collection practices.

8 **II. VENUE**

9 6. A substantial part of the events and conduct giving rise to the violations of law complained
10 of herein occurred in or emanated from Contra Costa County, specifically at Plaintiff's townhouse, and
11 within the Danville Green Homeowners' Association, which are located in Danville, Contra Costa
12 County, California. The wrongs complained of herein originated or emanated from Danville and
13 elsewhere within Contra Costa County, and Defendant conducts substantial business in Contra Costa
14 County.

15 **III. PARTIES**

16 7. Plaintiff Teresa Doskocz ("Plaintiff" or "Ms. Doskocz") is and at all times mentioned
17 herein was a resident of Danville, Contra Costa County, California. She owns a townhouse within the
18 Danville Green Homeowners' Association and as such is a member of that HOA and subject to the
19 HOA's Covenants, Conditions, and Restrictions, including its requirements for the payment of monthly
20 HOA dues and assessments for late HOA dues payments.

21 8. ALS Lien Services is a California corporation believed to be organized under the laws of
22 California with its principal place of business in Los Angeles, California. At all times mentioned herein,
23 ALS regularly engages in debt collection activities to collect debts of homeowners' associations
24 throughout the State of California, including Contra Costa County, and uses instrumentalities of interstate
25 commerce and the mails in doing so.

26 9. Defendants Does 1 through 20 are persons or entities whose true names and capacities are
27 currently unknown to Plaintiffs, and who are therefore sued by fictitious names. Each of these fictitiously-
28 named defendants is in some manner responsible for the practices alleged. Plaintiff will amend this

1 complaint to allege the true names and capacities of these fictitiously-named defendants when they have
2 been both identified and the factual basis for their liability has been ascertained.

3 **IV. FACTUAL ALLEGATIONS**

4 **A. The California Legislature Established Protections for Homeowner Association**
5 **Members Specifically to Prevent the Type of Abuses Perpetrated by Defendant**

6 10. The Davis-Stirling Common Interest Development Act (“Davis-Stirling Act”), passed into
7 law in 1985, establishes rules and regulations governing the operation of a common interest development
8 (“CID”) and the respective rights and duties of a homeowners’ association (“HOA”) and its members in
9 the governance of the CID. Cal. Civ. Code § 4000, *et seq.*

10 11. Davis-Stirling Act protections are particularly important because HOA debt is subject to
11 foreclosure without a prerequisite judgment or any other form of judicial oversight or due process. The
12 Davis-Stirling Act therefore “provides several protections to delinquent homeowners that may aid them in
13 becoming current on their assessments, thus avoiding foreclosure.” *See* Sen. Com. on Judiciary, Analysis
14 of Sen. Bill No. 561 (2011-2012 Reg. Sess.) Mar. 29, 2011, p.1-2. Indeed, the legislative history of the
15 Davis-Stirling Act indicates the intent to protect owners’ equity in their homes when they fail to pay
16 relatively small assessments to their common interest development associations. Sen. Com. on Judiciary,
17 Analysis of Sen. Bill No. 137 (2005-2006 Reg. Sess.) Mar. 29, 2005, p. 1.

18 12. The following are five critical homeowner protections afforded under the Davis-Stirling
19 Act that limit abusive charges to homeowners and aid their ability to repay their debt:

- 20 a. A HOA must first apply homeowner payments towards delinquent assessments
21 before applying them to interest or collection expenses. “[O]nly after the
22 assessments owed are *paid in full* shall the payments be applied to the fees and
23 costs of collection, attorney’s fees, late charges, or interest.” Civil Code §5655(a)
24 (emphasis added).
- 25 b. A HOA cannot charge a homeowner late fees “exceeding 10 percent of the
26 delinquent assessment or ten dollars, whichever is greater...” Civil Code §
27 5650(b)(2).
- 28 c. A HOA cannot charge more than 12 percent annual interest on delinquent

1 assessments, fees and costs of collection, and attorneys' fees. Civil Code §
2 5650(b)(3).

3 d. A HOA must accept partial payments on delinquent balances from the homeowner.
4 Civil Code §5655(a).

5 e. A HOA cannot foreclose unless the homeowner owes more than \$1,800 in
6 delinquent assessments—exclusive of penalties and fees—or is more than 12
7 months delinquent. Civil Code § 5720.

8 13. Together, these protections ensure that homeowners are not gouged by their HOAs for
9 delinquency-related fees and that they aren't subjected to the threat of foreclosure based on fees and
10 practices in violation of the Davis-Stirling Act.

11 14. The protections relating to the order and application of payments ensure that homeowners
12 are only vulnerable to foreclosure when they are substantially behind, either in dollar amounts or in time,
13 on their substantive contributions to the homeowners' association, in the form of HOA assessments. By
14 requiring HOAs to apply payments first to assessment, the law ensures that homeowners face foreclosure
15 only for failure to contribute to the HOA, and not simply for failure to pay collection costs.

16 15. The HOA's relationship to a homeowner is based in contract—under the Covenants,
17 Conditions and Restrictions (CC&Rs) that are incidental to the purchase of a home within a Common
18 Interest Development (CID). The CC&Rs, among other things, obligate a homeowner to make certain
19 monthly payments for the maintenance of the CID, and define the collection rights of the HOA in the
20 event that a homeowner fails to make required payments. All California CC&Rs are necessarily limited
21 by and incorporate the Davis-Stirling Act, under the fundamental legal principles that existing legal
22 standards are implied by law into a contract, and that a contract that runs counter to the law is invalid.
23 Thus, California HOA's are bound to act in conformity with the Davis-Stirling Act under law and
24 contract.

25 **B. Defendant's Business Practices**

26 16. ALS is a company that contracts with dozens of HOAs throughout the state of California
27 to represent the HOAs in collecting delinquent assessments from homeowners. In these contracts, ALS is
28 the agent of the HOAs, and each HOA is a principal.

1 17. ALS has no contractual relationship with the home-owning members of the HOAs and,
2 therefore, has no independent legal basis to take action against the homeowners. Rather, Defendant’s
3 ALS rights against homeowners are entirely derived from ALS’s principal—the HOA.

4 18. As an agent of the HOA, ALS’s rights are coextensive with those of the HOA. ALS may
5 conduct collection activities to the extent that the HOA may do so. Conversely, ALS may not engage in
6 collection activities that the HOA cannot do itself.

7 19. Despite the limits of its agency, ALS routinely demands payment of charges from HOA
8 members that the HOA cannot demand and engages in collection practices that would be prohibited to the
9 HOA. Specifically, as detailed in the following sections, ALS engages in five different collection
10 activities against Plaintiff and putative class members that are prohibited to the principal HOA by contract
11 and law, including the Davis-Stirling Act:

- 12 a. ALS applies payments received from HOA members, including Plaintiff, to its
13 own fees first when the HOA had no right to apply payments towards any fees
14 before fulfilling delinquent assessments;
- 15 b. ALS effectively charges HOA members, including Plaintiff, late fees that exceed
16 that which the HOA could statutorily demand;
- 17 c. ALS effectively charges HOA members, including Plaintiff, interest that exceeds
18 that which the HOA could statutorily demand;
- 19 d. Imposing fees for partial payments, thus rejecting partial payments without
20 imposition of a partial payment fee; and
- 21 e. ALS threatens HOA members, including Plaintiff, with foreclosure when the HOA
22 has no right to foreclose.

23 20. The purpose of ALS’s collection practices is to artificially inflate homeowners’ balances
24 above the \$1,800 foreclosure threshold, to cause homeowners to stay in default longer, and to cause
25 homeowners to incur more late fees and interest penalties.

26 21. For example, ALS uses the threat of foreclosure and its astronomical fees to coerce
27 homeowners into payment plans such that payments will be applied first to ALS’s fees before the
28 underlying HOA assessments.

1 22. ALS then effectively charges homeowners late fees that exceed the amount of late fees that
2 the HOA may charge (10% of the delinquent assessment for that month or \$10, whichever is greater).

3 23. ALS also regularly charges interest on homeowner accounts at effective rates that exceed
4 the interest that the HOA may charge (12% annual interest on delinquent assessments, reasonable fees and
5 costs of collection, and reasonable attorney's fees). ALS does this by preventing payments from being
6 applied first to assessments owed and artificially inflating the delinquent amounts that accrue interest.

7 24. If the homeowner attempts to make a payment for less than the full amount demanded
8 outside of a pre-approved plan, ALS charges homeowners a “partial payment” fee and continues to
9 threaten foreclosure. This is unlawful because ALS’s only right to collect fees is derived from the HOA,
10 and the HOA is required by law to accept partial payments.

11 25. ALS threatens homeowners with foreclosure regardless of whether the homeowner owes
12 more than \$1,800 in principal debt or where the debt is less than twelve (12) months delinquent.

13 26. Thus, ALS’s entire business model hinges on extracting un-owed amounts and asserting
14 rights that it does not have against homeowners like Plaintiff to bully them into submission.

15 **C. Plaintiff’s Experience**

16 27. Plaintiff Teresa Doskocz owns and lives in a townhouse in Danville, California and is a
17 member of the Danville Green Homeowners’ Association.

18 28. The Danville Green Homeowners’ Association has contracted with ALS for ALS to act as
19 the HOA’s agent in collecting HOA assessments from delinquent homeowners.

20 29. Ms. Doskocz and her family have experienced substantial hardship in the last few years.
21 In late 2008, Ms. Doskocz was diagnosed with breast cancer and has endured ongoing cancer therapy.
22 Then, in July 2014, Mr. Doskocz was a passenger in a car accident, causing him to take time off of work
23 as well as to endure ongoing medical issues. Therefore, throughout her collections experience with ALS,
24 Ms. Doskocz dealt with extraordinary medical costs for herself and other family members, and continues
25 to do so.

26 30. In addition to substantial medical costs, the Doskoczs had been struggling to maintain a
27 steady stream of income. Mr. Doskocz works for a family metal fabricating business. When business is
28 doing poorly, there are periods when Mr. Doskocz does not get paid much or in a timely manner. Such

1 was the case during the Fall of 2013.

2 31. Between August 2013 and September 2013, the Daskoczs fell two (2) months behind on
3 their HOA assessments.

4 32. During this period, the Daskocz's HOA assessments were approximately \$280 per month.

5 33. Ms. Daskocz paid her October 2013 assessment. However, on or around October 31,
6 2013, Ms. Daskocz received a delinquency notice from her HOA. The notice stated that Mrs. Daskocz
7 was still \$616 behind on her HOA account (the amount included August and September assessments and
8 late fees for those months). The notice stated that the \$616 payment was due by November 1, 2013 and
9 that it could be paid via the HOA's online payment site.

10 34. About ten days later, on or around November 11, 2013, Ms. Daskocz tried to make a
11 payment for the total balance owed to the HOA via the HOA's online payment system. Ms. Daskocz
12 found she was locked out of the HOA's online system. Unable to pay online, Ms. Daskocz mailed a
13 check for the \$616.00 to her HOA at its usual address in Vallejo on or around November 13, 2013.

14 35. Ms. Daskocz continued to check her bank account and noticed that the HOA was not
15 cashing her check. Ms. Daskocz started to get concerned that the HOA was now refusing to accept any
16 payments.

17 36. Towards the end of November 2013, Mrs. Daskocz received a letter from the collection
18 company Association Lien Services ("ALS") that was dated November 7, 2013. A true and correct copy
19 of this letter is attached as Exhibit A. In the letter, ALS stated "We are advised that as of the date of this
20 letter, you owe the Association the sum of \$1,239.08." The letter also informed Ms. Daskocz that she
21 either needed to pay the amount in full within thirty (30) days or she could request a payment plan that
22 would include all amounts demanded. The letter then highlighted that "your Association and/or the
23 Association's management company will not accept any payments from you until your account with ALS
24 is closed." At the end of the letter, ALS stated that the HOA could authorize ALS to record a Notice of
25 Delinquent Assessment Lien against Ms. Daskocz's home if she did not the amount demanded in full, and
26 stated immediately below in bold oversized letters that "IMPORTANT NOTICE: IF YOUR SEPARATE
27 INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR
28 ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION." Taken in the context of ALS's

1 threat to record a lien, this statement was false, deceptive, and a threat to take collection action that ALS
2 and the HOA could not legally take because the least sophisticated consumer would reasonably
3 understand the statement to mean that if the full amount ALS demanded was not paid in full within the
4 time allowed, ALS could or would immediately foreclose and the homeowner would be placed in
5 imminent jeopardy of losing his or her home, when in fact the HOA had no right to foreclose based on the
6 amounts demanded in the letter.

7 37. On or around November 29, 2013, Mrs. Doskocz wrote to ALS, explaining that she had
8 already sent the \$616 check to the HOA and that the pre-lien notice did not account for this payment.
9 Shocked by the increase in charges but determined to avoid a lien against her townhouse, and seeing no
10 other option, Mrs. Doskocz asked to enter into a payment plan.

11 38. Sometime in the first half of December 2013, Mrs. Doskocz received a response from
12 ALS, acknowledging that they had her \$616 check. Concerned about how the \$616 check was being
13 handled, Mrs. Doskocz immediately called ALS. An ALS representative reiterated that she owed nearly
14 \$2,000, including ALS's costs and fees. The representative confirmed that Mrs. Doskocz had two
15 options: pay the amount in full or enter into a payment plan. Able and willing to make a partial payment,
16 but unable to pay the nearly \$2,000 in full, Mrs. Doskocz asked that her original \$616 check be cancelled
17 and for a payment plan.

18 39. Despite her agreement to a payment plan, on December 23, 2013, ALS nevertheless
19 recorded a lien against Mrs. Doskocz's home. A true and correct copy of this lien is attached as Exhibit B.
20 The lien claimed a total of \$2,030.06. Only \$812 of that amount was for HOA assessments. The
21 remaining \$1,218.06 of the lien balance was for "late fees, attorney's fees and costs, & interest."

22 40. On January 22, 2014, Mrs. Doskocz was given and signed a 6-month payment plan with
23 ALS. ALS charged a \$150 fee for the 6-month plan. At the time the plan was entered, Ms. Doskocz's
24 monthly assessments were \$280 per month. While under the plan, Mrs. Doskocz's monthly payments
25 were \$669.26 per month, to be paid monthly from January through June 2014.

26 41. Ms. Doskocz timely made monthly payments of \$669.26 from January through May 2014.
27 During this period, ALS never applied more than one half of each payment to Ms. Doskocz's actual
28 assessments. Rather, payments were applied first towards ALS's collection fees and costs.

1 42. If ALS had applied Ms. Doskocz's payments first towards assessments owed her HOA
2 account would have been current as of April 2014. Moreover, by May 2014, Ms. Doskocz would have
3 had a \$665 surplus in her account to be applied to future current assessments.

4 43. Under ALS's improper handling, however, between January and May 2014, Ms. Doskocz
5 paid \$1,300 towards late fees, interest, and ALS's collection costs and only \$1,900 towards assessments.
6 By June 2014, ALS claimed that she still had a delinquent balance of \$629.07.

7 44. In a June 17, 2014 letter, ALS told Ms. Doskocz that a final plan payment of \$629.07 was
8 due by June 30, 2014. The letter also stated that, if she could not make the final payment, she could
9 request another payment plan. Thus, Ms. Doskocz contacted ALS to ask if she could split the amount
10 demanded between June and July.

11 45. On July 31, 2014, ALS sent Ms. Doskocz another 6-month payment plan. The letter stated
12 that she now owed the HOA \$1,074.90, which was comprised entirely of fees and costs. The letter also
13 stated that she would have to pay another \$150 plan fee.

14 46. Ms. Doskocz received the July 31st plan on or around August 17, 2014. She immediately
15 e-mailed ALS account manager, Alvin Okoreeh, expressing that she would prefer to pay the balance more
16 quickly and avoid additional fees. That same day, she sent ALS a check for \$537.45 (half of the
17 \$1,074.90 amount demanded).

18 47. On August 27, 2014, Ms. Doskocz received a letter from Alvin Okoreeh. He confirmed
19 receipt of Mrs. Doskocz's \$537.45 payment and stated that a \$40.00 fee had been charged as a penalty for
20 her partial payment.

21 48. On August 29, 2014, Ms. Doskocz wrote a letter to her HOA. The letter asked if she could
22 pay the remaining \$537.45 of delinquent assessments on September 16th and the regular monthly
23 assessments for September on the 19th (she stated that she would include a 28.00 late fee with her regular
24 assessments for that month). Finally, Ms. Doskocz asked that, once her payments were made, the HOA
25 release the lien on her property.

26 49. Ms. Doskocz's request to the HOA was granted. Thus, on September 16, 2014, she paid
27 ALS the final \$537.45 demanded. Moreover, on September 19, 2014, Ms. Doskocz paid her September
28 2014 current assessments, including a late charge of \$28.00. And, beginning in October 2014, Ms.

1 Dorskocz resumed sending her current assessments directly to the HOA.

2 50. Nevertheless, on October 17, 2014, Ms. Dorskocz received a letter from ALS. A true and
3 correct copy of this letter and statement is attached as Exhibit C. Included with this letter was a
4 “Statement of Account Details,” showing how ALS had applied Ms. Dorskocz’s payments and what
5 charges ALS claims on her account since October 1, 2013. The letter stated that “As of today’s date, you
6 owe your Association \$830.73,” and that Ms. Dorskocz needed to pay \$840.73 within 10 days of the notice
7 or else ALS would proceed with foreclosure by recording a notice of default. These statements were
8 false and deceptive and threatened to take collection action that could not legally be taken. Neither the
9 HOA nor ALS had any legal right to record a Notice of Default against her home, or otherwise commence
10 foreclosure proceedings, based on the amounts demanded in the letter.

11 51. Sometime in November 2014, Ms. Dorskocz requested an updated account statement from
12 ALS and Danville Green HOA. She has yet to receive any updated accounting. The lien on her property
13 has also yet to be released as of the date of this Complaint.

14 52. Plaintiff is informed, and on that basis believes, that ALS subjected other similarly situated
15 homeowners in California to similar unlawful and unfair collections practices from [insert four years prior
16 to date of complaint] to the present, including, but not limited to: demanding and collecting excessive late
17 charges and interest from homeowners; threatening foreclosure when homeowners owed less than \$1,800
18 in principal debt and were less than one year delinquent; and applying payments to its own fees before
19 delinquent assessments were paid in full.

20 **V. CLASS ACTION ALLEGATIONS**

21 53. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as
22 though fully set forth herein.

23 54. Plaintiff brings this action on behalf of herself and all other similarly situated residents
24 of California as a class action pursuant to California Code of Civil Procedure section 382. The Class
25 that Plaintiff seeks to represent is defined as follows:

26
27 All current and former California homeowners whose HOAs contracted with ALS for the
28 collection of delinquent HOA fees and who were charged at least one collection fee, late
fee, partial payment fee, payment plan fee, or other similar fee that ALS imposed at any

1 time from four years before the filing of this action to the date of Judgment in this action.
2 Excluded from the Class are: Defendant, its officers, directors and employees, and any entity in which
3 ALS has a controlling interest, the agents, affiliates, legal representatives, heirs, attorneys at law,
4 attorneys in fact or assignees thereof.

5 55. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or necessary
6 to amend the definition of the Class. Plaintiff will formally define and designate a class definition when
7 they seek to certify the Class alleged herein.

8 56. **Numerosity.** The members of the defined class are so numerous that individual joinder of
9 all Class Members is impracticable. Plaintiff is informed and believes, and on that basis alleges, that ALS
10 contracts with hundreds of different HOAs, and that as a result, the Class is numerous, although the
11 precise size of the Class has not yet been ascertained. More information about the precise size of the class
12 will be contained in records in the possession or control of Defendant.

13 57. **Commonality.** Class-wide common questions of law and fact exist and predominate over
14 questions affecting only individual Class members. Common questions include, but are not limited to:

- 15 a. Did ALS apply payments to its own collection costs before homeowners
16 delinquent assessment balances were satisfied?
- 17 b. Did ALS charge homeowners for late fees that exceed the late fees that the HOA
18 may charge (10% of the delinquent assessment for that month or \$10, whichever is
19 greater)?
- 20 c. Did ALS charge interest on delinquent accounts in an amount that exceeds the
21 interest that the HOA may charge (12% annual interest)?
- 22 d. Did ALS refuse to accept partial payments from delinquent homeowners without
23 imposition of a partial payment fee?
- 24 e. Did ALS threaten homeowners with foreclosure regardless of whether the
25 homeowner owed more than \$1,800 in principal debt?
- 26 f. Does ALS's practice of collecting and/or attempting to collect the foregoing
27 amounts (including excessive interest, fees, charges and expenses incidental to the
28 principal obligation) violate the FDCPA and/or constitute unfair and unlawful
business practices?

1 g. Does ALS's practice of taking and/or threatening to take a non-judicial action to
2 effect dispossession of property where it has no present right to possession and/or
3 there is no present intention to take possession of the property violate the FDCPA
4 and/or constitute unfair and unlawful business practices?

5 58. **Typicality.** Plaintiff's claims are typical of the claims of the class. She was subjected to
6 the same violations of state and federal law and seeks the same types of damages, restitution, and other
7 relief on the same theories and legal grounds as the members of the class she seeks to represent.

8 59. **Adequacy of Representation.** Plaintiff is an adequate representative of the Class because
9 (a) her interests do not conflict with the interests of the individual Class members she seeks to represent;
10 (b) she has retained counsel who are competent and experienced in complex class action litigation; and (c)
11 she intends to prosecute this action vigorously. Plaintiff and her counsel will fairly and adequately protect
12 the interests of the Class.

13 60. **Superiority of Class Action.** A class action is superior to other available means for the
14 fair and efficient adjudication of the claims of Plaintiff and the Class. Each Class Member has been
15 damaged and is entitled to recovery by reason of Defendant's unlawful and unfair practices set forth
16 above. Class action treatment will allow those similarly situated persons to litigate their claims in the
17 manner that is most efficient and economical for the parties and the judicial system.

18 61. **Ascertainability.** The Class is ascertainable because its members can be determined from
19 defendants' business records and/or the above definition of the Class is sufficient to enable members of
20 the Class to identify themselves as members of the Class.

21 62. Class certification is also appropriate under California Code of Civil Procedure section 382
22 because questions of law and fact common to the proposed Class predominate over any question affecting
23 only individual members of the proposed Class, and because a class action is superior to other available
24 methods for fair and efficient adjudication of this litigation. Defendant's common and uniform practices
25 subjected the proposed Class to excessive and unauthorized fees and charges under ongoing threat of
26 foreclosure and lawsuits. Many Class Members' individual claims are too small to practically permit
27 pursuit on an individual basis, even though the Class Members' rights have been violated by Defendant's
28 practices. In addition, class treatment is superior because it will obviate the need for unduly duplicative

1 litigation that might result in inconsistent judgments as to the legality of Defendant’s practices.

2 **VI. CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**

4 **FEDERAL FAIR DEBT COLLECTION PRACTICES ACT (“FDCPA”)**

5 **15 U.S.C. § 1692, et seq.**

6 63. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as
7 though fully set forth herein.

8 64. Defendant is a “debt collector” within the meaning of 15 U.S.C. § 1692a(6). Plaintiff is a
9 “consumer” within the meaning of 15 U.S.C. § 1692a(3). The monies allegedly owed by Plaintiff are
10 “debt” within the meaning of 15 U.S.C. § 1692a(5).

11 Defendant purports to collect accounts from Plaintiff as an agent on behalf of HOAs to which
12 Plaintiff belongs. Thus, Defendant’s rights against Plaintiff are entirely derived from those of the
13 principal HOA. The rights of the HOA, in turn, are defined by the CC&Rs and limited by the Davis-
14 Stirling Act.

15 **A. Defendant Fails to Apply Payments First to Delinquent Assessments**

16 65. California Civil Code § 5655(a) states that “...only after the assessments owed are paid in
17 full shall the payments be applied to the fees and costs of collection, attorney’s fees, late charges, or
18 interest.” *See Huntington Continental Townhouse Assn., Inc. v. Miner*, 230 Cal. App. 4th 590, 599 (Cal.
19 App. 4th Dist. 2014). The HOA does not have the right to apply payments toward any other fee or cost of
20 collection unless the assessments owed area already paid in full. ALS applied Plaintiff’s payments,
21 beginning in January of 2014, towards its own fees and costs when Plaintiff’s HOA account still had
22 assessments owed. By diverting homeowner payments from the principal debt balance to its own claimed
23 fees, ALS artificially raised the principal debt balance above the statutory minimum for foreclosure. Had
24 ALS applied Ms. Doskocz’s payments first towards assessments owed, her account would have been
25 current as of April 2014. Thus, ALS violated the following provisions of the FDCPA:

- 26 a. Threatening to take an action that could not legally be taken or was not intended to
27 be taken in violation of § 1692e(5); and
28 b. Using false representations or deceptive means to collect or attempt to collect a

1 debt in violation of § 1692e(10).

2 66. As a result of Defendant's violations of the FDCPA, Plaintiff and other Class members
3 have suffered damages.

4 67. Plaintiff therefore seeks relief as described below.

5 **B. Defendant Attempts to Collect Late Fees Greater than 10% or \$10**

6 68. California law (Civil Code § 5650(b)(2)) limits the late fees that a HOA may charge a
7 delinquent homeowner to either 10% of the delinquent assessment for that month or \$10, whichever is
8 greater. The HOA (and its agent) has no legal basis to claim late fees above the limits of Civil Code §
9 5650(b)(2). Had ALS applied Ms. Doskocz's payments from January to April 2014 first towards
10 assessments owed, her account would have been brought current and there would be no further delinquent
11 assessments owed. Thus, beginning in April 2014, no late fees or interest should have been charged to
12 Ms. Doskocz's account. Nevertheless, the ALS Statement of Account Details from October 17, 2014
13 shows that ALS repeatedly charged Ms. Doskocz late fees after April 2014, including in the months of
14 July, August, and September of 2014. In doing so, ALS violated the following provisions of the FDCPA:

- 15 a. Falsely representing the nature, character and amount of the debt, in violation of §
16 1692e(2)(A);
- 17 b. Using false representations or deceptive means to collect or attempt to collect a
18 debt in violation of § 1692e(10); and
- 19 c. Collecting amounts not expressly authorized by the agreement creating the debt
20 and/or not permitted by law in violation of § 1692f(1).

21 **C. Defendant Attempts to Collect Greater than 12% Interest**

22 69. California law (Civil Code § 5650(b)(3)) also limits interest that a HOA may charge a
23 delinquent homeowner to 12% annual interest. The HOA (and its agent) has no legal basis to claim
24 interest above the limits of Civil Code § 5650(b)(3). ALS overcharged interest on Ms. Doskocz's account
25 after April 2014 – the period in which she would have been current but for ALS's misapplication of
26 payments. As such, ALS charged Plaintiff interest exceeding that which the HOA had a right to claim
27 and, thus, violated the following provisions of the FDCPA:

- 28 a. Falsely representing the nature, character and amount of the debt, in violation of §

1 1692e(2)(A);

2 b. Using false representations or deceptive means to collect or attempt to collect a
3 debt in violation of § 1692e(10); and

4 c. Collecting amounts not expressly authorized by the agreement creating the debt
5 and/or not permitted by law in violation of § 1692f(1).

6 **D. Defendant Fails to Accept Partial Payments**

7 70. California law (Civil Code § 5655(a)) states that **any** payments made by the homeowner
8 **shall** first be applied towards delinquent HOA assessments. The HOA is, therefore, compelled to accept
9 partial payments from homeowners and not just payments in full satisfaction of amounts owed. *See*
10 *Huntington Continental Townhouse Assn., Inc. v. Miner*, 230 Cal. App. 4th 590, 601-603 (Cal. App. 4th
11 Dist. 2014). On or around August 27, 2014, Ms. Doskocz received a letter from ALS, stating that a
12 \$40.00 fee was charged to her account for making a partial payment. ALS, thus, rejected partial payments
13 without imposition of a partial payment fee. In doing so, ALS violated the following provisions of the
14 FDCPA:

15 a. Threatening to take an action that could not legally be taken or was not intended to
16 be taken in violation of § 1692e(5); and

17 b. Using false representations or deceptive means to collect or attempt to collect a
18 debt in violation of § 1692e(10).

19 **E. Defendant Threatens Foreclosure Where Delinquent Assessments Are Less than \$1,800**

20 71. Under California law (Civil Code §5720(b)), a HOA may not collect a delinquent regular
21 or special assessment through judicial or non-judicial foreclosure unless the assessments owed exceed
22 \$1,800 or are more than 12 months delinquent. On October 17, 2014, ALS threatened to proceed with the
23 foreclosure process – filing a notice of default - on her home unless she paid the full amount ALS
24 demanded within 10 days. At the time Defendant threatened Plaintiff with foreclosure, Plaintiff's
25 assessment balance had not exceeded the \$1,800 threshold and was not more than 12 months delinquent.
26 In fact, had ALS not unlawfully imposed its fees and misapplied payments, Ms. Doskocz's HOA account
27 would have had a surplus of approximately \$930 at that point. Thus, Defendant threatened foreclosure
28 when the HOA, and therefore the Defendant, had no right to foreclose. In doing so, ALS violated the

1 following provisions of the FDCPA:

- 2 a. Threatening to take an action that could not legally be taken or was not intended to
- 3 be taken in violation of § 1692e(5);
- 4 b. Using false representations or deceptive means to collect or attempt to collect a
- 5 debt in violation of § 1692e(10); and
- 6 c. Taking and/or threatening to take a non-judicial action to effect dispossession of
- 7 property where it has no present right to possession and/or there is no present
- 8 intention to take possession of the property in violation of § 1692f(6)(A) and (B).

9 **SECOND CAUSE OF ACTION**

10 **VIOLATION OF BUS. & PROF. CODE § 17200, *et seq.***

11 72. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as
12 though fully set forth herein.

13 73. Defendant has engaged in, and continues to engage in, unlawful, unfair, and fraudulent
14 business practices pursuant to Bus. & Prof. Code § 17200, *et seq.*

15 74. Defendant has engaged in unlawful business practices by violating the FDCPA (15 U.S.C.
16 §§ 1692e, 1692f) as alleged above.

17 75. Defendant has engaged in fraudulent business practices by, among other conduct:

- 18 a. Falsely representing the nature, character and amount of the debt owed by Plaintiff;
- 19 b. Falsely representing the compensation which it could lawfully receive; and
- 20 c. Threatening to take an action that could not legally be taken or was not intended to
- 21 be taken.

22 76. Defendant has engaged in, and continues to engage in, unfair business practices including,
23 but not limited to:

- 24 a. Requiring homeowners to pay its fees before permitting homeowners to pay down
- 25 the actual amount of their debt;
- 26 b. Refusing to accept payments from homeowners unless homeowners agree to waive
- 27 important legal rights;
- 28 c. Threatening homeowners with foreclosure and/or a civil lawsuit unless they agree

1 to pay all of ALS fees;

2 d. Foreclosing and suing homeowners based on unlawfully inflated debts; and

3 e. Entering into agreements with HOAs that are specifically intended to circumvent
4 statutory protections for members of HOAs.

5 77. Plaintiff and Class members have suffered an injury in fact and lost money and/or property
6 as a result of Defendant's actions.

7 78. Defendant has wrongfully appropriated money and/or property belonging to Plaintiff and
8 Class members as a result of Defendant's unlawful and unfair business practices.

9 79. Defendant will continue its unlawful and unfair practices unless restrained and enjoined by
10 this Court.

11 80. Plaintiff therefore seeks relief as described below.

12 **VII. PRAYER FOR RELIEF**

13 81. Plaintiff prays for relief for herself individually and all similarly situated Class members as
14 follows:

15 a. That the Court determine that this action may be maintained as a class action
16 pursuant to California Code of Civil Procedure section 382 and appointing the
17 named Plaintiff as Class Representative and their counsel as Class Counsel;

18 b. That the Court enter a judgment declaring ALS's acts and practices complained of
19 herein to be unlawful and unfair;

20 c. That the Court award Plaintiff and the Plaintiff Class actual and statutory damages
21 in an amount according to proof for ALS's violations of the FDCPA;

22 d. That ALS be ordered to make restitution to Plaintiff and the Plaintiff Class
23 pursuant to California Business & Professions Code § 17203;

24 e. That the Court grant a preliminary and permanent order enjoining ALS and its
25 agents, employees, affiliates and/or subsidiaries, from collecting or attempting to
26 collect monies not authorized by law from Plaintiff and Plaintiff Class, or from
27 otherwise engaging in the unlawful and unfair acts and practices alleged herein;

28 f. That the Court award Plaintiff the costs of this action, including the fees and costs

1 of experts, together with reasonable attorney's fees, cost and expenses under 15
2 U.S.C. § 1692(k) and otherwise provided under law;

3 g. That the Court grant Plaintiff and the Plaintiff Class pre-judgment interest on all
4 sums collected;

5 h. And such other and further relief as this Court may deem appropriate.

6 Dated: July __, 2017

ARTHUR D. LEVY

7
8 By: _____

ARTHUR D. LEVY

9 Attorney for Plaintiff and the Proposed Class

10 *[All Counsel for Plaintiff appear on the caption*
11 *page]*

12 **DEMAND FOR JURY TRIAL**

13 Please take notice that Plaintiff Teresa Doscocz demands a trial by jury in this action of each
14 and every issue so triable.

15 Dated: July __, 2017

ARTHUR D. LEVY

16
17 By: _____

ARTHUR D. LEVY

18 Attorney for Plaintiff and the Proposed Class

19 *[All Counsel for Plaintiff appear on the caption*
20 *page]*