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6 *Attorneys for Defendant*
CashCall, Inc.

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN MATEO
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11 EDUARDO DE LA TORRE, on behalf of all
12 others similarly situated and the general
public,

13 Plaintiff,

14 v.

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

16 Defendants.
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CASE NO.: 19-CIV-01235

**DEFENDANT CASHCALL, INC.'S
ANSWER TO COMPLAINT**

Complaint Filed: March 7, 2019

COMPLEX CASE—CLASS ACTION

1 Defendant CashCall, Inc. (“Defendant”) answers the Complaint of plaintiff Eduardo de la
2 Torre (“Plaintiff”) as follows:

3 **GENERAL DENIAL**

4 Answering the unverified Complaint under Code of Civil Procedure Section 431.30(d),
5 Defendant denies, generally and specifically, each and every allegation of the Complaint and the
6 sole cause of action asserted against Defendant. Defendant further denies that Plaintiff was
7 damaged in the sums alleged, or at all, by the conduct of Defendant or any of its authorized
8 agents or employees.

9 **AFFIRMATIVE DEFENSES**

10 Without waiving or excusing Plaintiff’s burden of proof, or admitting that Defendant has
11 any burden of proof, Defendant asserts the following affirmative defenses

12 **FIRST AFFIRMATIVE DEFENSE**
13 (Failure to State Facts Sufficient to Constitute Cause of Action)

14 The Complaint fails to state facts sufficient to constitute a cause of action against
15 Defendant.

16 **SECOND AFFIRMATIVE DEFENSE**
17 (Estoppel)

18 Plaintiff is estopped from claiming or recovering the relief sought in the Complaint.

19 **THIRD AFFIRMATIVE DEFENSE**
20 (Waiver)

21 Plaintiff, by his acts and/or omissions, has waived any right to recover for the sole cause
22 of action alleged in the Complaint.

23 **FOURTH AFFIRMATIVE DEFENSE**
24 (Unclean Hands)

25 The sole cause of action alleged by Plaintiff is barred by the doctrine of unclean hands.
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FIFTH AFFIRMATIVE DEFENSE
(Plaintiff in Breach/Default)

Plaintiff has breached his obligations under his loan agreements with Defendant. Therefore, he cannot recover from Defendant, and he is not an appropriate class representative.

SIXTH AFFIRMATIVE DEFENSE
(Failure to Mitigate)

Plaintiff has failed, neglected and refused to mitigate damages, if any, thus barring, or at least reducing, any recovery to which Plaintiff might be entitled.

SEVENTH AFFIRMATIVE DEFENSE
(Laches)

Plaintiff's action is barred by the equitable doctrine of laches.

EIGHTH AFFIRMATIVE DEFENSE
(Statutes of Limitations)

The sole cause of action in the Complaint is barred, in whole or in part, by the statute of limitations period under California Business & Professions Code section 17208.

NINTH AFFIRMATIVE DEFENSE
(Good Faith Belief)

At all relevant times, Defendant acted with a good faith belief that it had good cause and/or a legitimate business reason to act as it did and did not directly or indirectly perform any acts that would constitute a violation of Plaintiff's rights. As a consequence, Plaintiff is not entitled to any damages, disgorgement or any other relief whatsoever.

TENTH AFFIRMATIVE DEFENSE
(Consent)

Plaintiff authorized, approved, ratified, consented to, or acquiesced to the alleged conduct described in the Complaint.

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ELEVENTH AFFIRMATIVE DEFENSE
(No Injury)

The conduct alleged by Plaintiff did not injure, harm or damage Plaintiff, or any of the individuals upon whose behalf Plaintiff purports to act and/or seek relief.

TWELFTH AFFIRMATIVE DEFENSE
(No Basis for Attorneys' Fees)

The Complaint fails to state facts that would entitle Plaintiff to recover attorneys' fees.

THIRTEENTH AFFIRMATIVE DEFENSE
(Set-Off)

Plaintiff's recovery, if any, must be reduced by the amount Defendant has been damaged by Plaintiff's acts, omissions and/or breach of contract.

FOURTEENTH AFFIRMATIVE DEFENSE
(Right to Assert Additional Affirmative Defenses)

Defendant presently has insufficient knowledge or information upon which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses. Defendant hereby reserves the right to assert additional affirmative defenses in the event that discovery indicates that additional affirmative defenses are appropriate.

Dated: May 15, 2019

MANATT, PHELPS & PHILLIPS, LLP

By: /s/ Brad W. Seiling
Brad W. Seiling
Attorneys for Defendant
CashCall, Inc.

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1 **PROOF OF SERVICE**

2 **Eduardo de la Torre, etc. v. CashCall, Inc. – Class Action**
3 **San Mateo County Superior Court, Case No. 19CIV01235**

4 I, Paulette E. Surjue, declare as follows:

5 I am employed in Los Angeles County, Los Angeles, California. I am over the age of
6 eighteen years and not a party to this action. My business address is MANATT, PHELPS &
7 PHILLIPS, LLP, 11355 West Olympic Boulevard, Los Angeles, California 90064-1614. On
8 May 15, 2019, I served the within:

8 **DEFENDANT CASHCALL, INC.’S ANSWER TO COMPLAINT**

9 on the interested parties in this action addressed as follows:

10 ***Counsel for Plaintiff Eduardo de la Torre***

11 James C. Sturdevant, Esq.
12 THE STURDEVANT LAW FIRM
13 4040 Civic Center Drive, Suite 200
14 San Rafael, CA 94903
15 Telephone: (415) 477-2410
16 Facsimile: (415) 492-2810
17 Email: jsturdevant@sturdevantlaw.com

18 Arthur D. Levy, Esq.
19 LAW OFFICE OF ARTHUR D. LEVY
20 1814 Franklin Street, Suite 1040
21 Oakland, CA 94612
22 Telephone: (415) 702-4551
23 Facsimile: (415) 814-4080
24 Email: arthur@yesquire.com

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

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

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(COURTESY COPY BY ELECTRONIC MAIL) By transmitting such document(s) electronically from my e-mail address, psurjue@manatt.com at Manatt, Phelps & Phillips, LLP, Los Angeles, California, to the person(s) at the electronic mail addresses listed above. The transmission was reported as complete and without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on May 15, 2019, at Los Angeles, California.



PAULETTE E. SURJUE

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PROOF OF SERVICE ON CLERK, DEPT. 2

Eduardo de la Torre, etc. v. CashCall, Inc. – Class Action
San Mateo County Superior Court, Case No. 19CIV01235

I, Paulette E. Surjue, declare as follows:

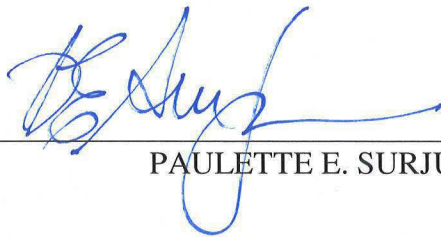
I am employed in Los Angeles County, Los Angeles, California. I am over the age of eighteen years and not a party to this action. My business address is MANATT, PHELPS & PHILLIPS, LLP, 11355 West Olympic Boulevard, Los Angeles, California 90064-1614. On May 15, 2019, I served the within:

DEFENDANT CASHCALL, INC.’S ANSWER TO COMPLAINT as follows:

Pursuant to Order of the Court regarding documents filed with the Court: ELECTRONIC SERVICE upon Department 2 at complexcivil@sanmateocourt.org:

By transmitting such document(s) electronically from my e-mail address, psurjue@manatt.com at Manatt, Phelps & Phillips, LLP, Los Angeles, California, to the Court at the electronic mail addresses listed above, according to Order of the Court regarding documents filed with the Court. The transmission was reported as complete and without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on May 15, 2019, at Los Angeles, California.



PAULETTE E. SURJUE

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