

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

PRINCIPAL INVESTMENTS, INC. d/b/a RAPID CASH,  
et al.

Appellant,

vs.

CASSANDRA HARRISON, et al.,

Respondents.

No. 57625

Electronically Filed  
Feb 16 2011 03:03 p.m.  
Tracie K. Lindeman

DOCKETING STATEMENT  
CIVIL APPEALS

District Court Case No. A-10-624982-B

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to attach requested documents, fill out the statement completely, or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See *KDI Sylvan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.



1. Judicial District Eighth Judicial District Department XI  
County Clark Judge Hon. Elizabeth Gonzalez  
District Ct. Case No. A-10-624982-B

**2. Attorney filing this docketing statement:**

Attorney Mark S. Dzarnoski, Esq. Telephone (702) 796-5555  
Firm Gordon Silver

**Address**

3960 Howard Hughes Parkway, 9th Floor  
Las Vegas, NV 89169

Principal Investments, Inc. d/b/a Rapid Cash; Granite Financial Services, Inc. d/b/a

Client(s) Rapid Cash; FMMR Investments, Inc. d/b/a Rapid Cash; Prime Group, Inc. d/b/a Rapid Cash; and  
Advance Group, Inc. d/b/a Rapid Cash

**If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.**

**3. Attorney(s) representing respondent(s):**

Attorney Dan L. Wulz, Esq. Telephone (702) 796-5555  
Firm Legal Aid Center of Southern Nevada, Inc.

**Address**

800 South Eighth Street  
Las Vegas, NV 89101

Client(s) CASANDRA HARRISON; EUGENE VARCADOS; CONCEPCION QUINTINO; AND MARY DUNGAN

Attorney J. Randall Jones, Esq. Telephone \_\_\_\_\_  
Firm Kemp, Jones & Coulthard, LLP

**Address**

3800 Howard Hughes Parkway, 17th Floor  
Las Vegas, NV 89169

Client(s) CASANSRA HARRISON; EUGENE VARCADOS; CONCEPCION QUINTINO; AND MARY DUNGAN

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- ☐ Judgment after bench trial
- ☐ Judgment after jury verdict
- ☐ Summary judgment
- ☐ Default judgment
- ☐ Grant/Denial of NRCP 60(b) relief
- ☐ Grant/Denial of injunction
- ☐ Grant/Denial of declaratory relief
- ☐ Review of agency determination

- ☐ Dismissal:
  - ☐ Lack of jurisdiction
  - ☐ Failure to state a claim
  - ☐ Failure to prosecute
  - ☐ Other (specify): \_\_\_\_\_
- ☐ Divorce decree:
  - ☐ Original ☐ Modification
- ☒ Other disposition (specify): Denial of Motion  
to Compel Arbitration



5. Does this appeal raise issues concerning any of the following? No.

☐ Child custody

☐ Venue

☐ Adoption

☐ Termination of parental rights

☐ Grant/Denial of injunction or TRO

☐ Juvenile matters

6. **Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

PRINCIPAL INVESTMENTS, INC. d/b/a RAPID CASH et al, PETITIONERS v. EIGHTH JUDICIAL DISTRICT COURT, RESPONDENTS AND CASANDRA HARRISON et al, REAL PARTIES IN INTEREST (Case No. 57371)

7. **Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

N/A

8. **Nature of the action.** Briefly describe the nature of the action, including a list of the causes of action pleaded, and the result below:

Respondents were customers of the Rapid Cash Appellants and received short term payday loans upon which they defaulted. Rapid Cash Appellants filed collection actions in Las Vegas Justice Court and utilized On Scene Mediations to effectuate service. Affidavits of Service were filed and Rapid Cash Appellants obtained default judgements against Respondents and later garnished wages in order to satisfy the small claims court judgments. Respondents claim never to have been served process. Respondents, individually and on behalf of all others similarly situated filed a lawsuit in District Court alleging the following causes of action: (1) Action in equity pursuant to NRCP 60(b) for fraud upon the court; (2) abuse of process; (3) Negligent hiring/supervision/retention; (4) Negligence; (5) Civil conspiracy; (6) Violation of NRS Chapter 604A; and (7) Violation of NRS Chapter 598.

The loan agreements between Rapid Cash Appellants and Respondents contained arbitration provisions. Rapid Cash Appellants filed a Motion to Compel Arbitration. The Motion was denied.



**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

- a) Did the district court manifestly err in holding that Rapid Cash waived the contractual right to arbitration by initiating collection actions in small claims court consistent with the terms of the arbitration provisions?
- b) Did the district court manifestly err in holding that it is against public policy to allow the Rapid Cash to bring collection claims in court while compelling arbitration of separate and distinct tort and/or fraud claims arising out of the service of those collection complaints?
- c) Jurisdictional Issue: Is the filing with the District Court of a Notice of Filing Writ Petition with attached Petition the functional equivalent of filing a Notice of Appeal?

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceeding presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket number and identify the same or similar issues raised:

PRINCIPAL INVESTMENTS, INC. d/b/a RAPID CASH et al, PETITIONERS v. EIGHTH JUDICIAL DISTRICT COURT, RESPONDENTS AND CASANDRA HARRISON et al, REAL PARTIES IN INTEREST (Case No. 57371)

(Petition for Writ of Mandamus denied but Motion for Reconsideration filed)

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

- ☒ N/A
- ☐ Yes
- ☐ No

If not, explain:



12. **Other issues.** Does this appeal involve any of the following issues? Yes.

- ☐ Reversal of well-settled Nevada precedent (on an attachment, identify the case(s))
- ☐ An issue arising under the United States and/or Nevada Constitutions
- ☒ A substantial issue of first impression
- ☒ An issue of public policy
- ☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
- ☐ A ballot question

A substantial part of the District Court's decision was that it is against

If so, explain: public policy to allow Rapid Cash to bring collection claims in Small Claims Court and then require arbitration of claims arising out of non-service. Whether public policy pre-empts the Federal Arbitration Act is a matter of first impression.

13. **Trial.** If this action proceeded to trial, how many days did the trial last? N/A

Was it a bench or jury trial? \_\_\_\_\_

14. **Judicial disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

N/A

### TIMELINESS OF NOTICE OF APPEAL

15. **Date of entry of written judgment or order appeal from** November 29, 2010.  
**Attach a copy. If more than one judgment or order is appealed from, attach copies of each judgment or order from which this appeal is taken.**

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. **Date written notice of entry of judgment or order served** December 3, 2010.  
**Attach a copy, including proof of service, for each order or judgment appealed from.**

Was service by:

- ☐ Delivery
- ☒ Mail



**17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59),**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing. N/A

- ☐ NRCP 50(b) Date served \_\_\_\_\_ By delivery ☐ or by mail ☐ Date of filing \_\_\_\_\_
- ☐ NRCP 52(b) Date served \_\_\_\_\_ By delivery ☐ or by mail ☐ Date of filing \_\_\_\_\_
- ☐ NRCP 59 Date served \_\_\_\_\_ By delivery ☐ or by mail ☐ Date of filing \_\_\_\_\_

**Attach copies of all post-trial tolling motions.**

**NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration do not toll the time for filing a notice of appeal.**

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_.

**Attach a copy.**

(c) Date written notice of entry of order resolving tolling motion served \_\_\_\_\_.

**Attach a copy, including proof of service.**

Was service by:

☐ Delivery

☐ Mail

**18. Date notice of appeal filed** December 17, 2010 by Notice of Writ Petition and January 21, 2011 \_\_\_\_\_.

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

**19. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a), NRS 155.190, or other** NRAP 4(a).



## SUBSTANTIVE APPEALABILITY

**20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

- ☐ NRAP 3A(b)(1)    ☐ NRS 155.190 (specify subsection) \_\_\_\_\_  
☐ NRAP 3A(b)(2)    ☐ NRS 38.205 (specify subsection) \_\_\_\_\_  
☐ NRAP 3A(b)(3)    ☐ NRS 703.376 \_\_\_\_\_  
☒ Other (specify) 38.247(1)(a) \_\_\_\_\_

Explain how each authority provides a basis for appeal from the judgment or order:

An order denying a motion to compel arbitration is appealable pursuant to NRS 38.247(1)(a).

**COMPLETE THE FOLLOWING SECTION ONLY IF MORE THAN ONE CLAIM FOR RELIEF WAS PRESENTED IN THE ACTION (WHETHER AS A CLAIM, COUNTERCLAIM, CROSS-CLAIM, OR THIRD-PARTY CLAIM) OR IF MULTIPLE PARTIES WERE INVOLVED IN THE ACTION.**

**Attach separate sheets as necessary.**

**21. List all parties involved in the action in the district court:**

CASANDRA HARRISON; EUGENE VARCADOS; CONCEPCION QUINTINO; and MARY DUNGAN, individually and on behalf of all persons similarly situated, Plaintiffs and Rapid Cash Appellants and MAURICE CARROLL, individually and d/b/a ON SCENE MEDIATIONS; VILISIA COLEMAN, Defendants

If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

MAURICE CARROLL, individually and d/b/a ON SCENE MEDIATIONS and VILISIA COLEMAN failed to appear and clerks default has been requested.

**22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims, and the trial court's disposition of each claim, and how each claim was resolved (*i.e.*, order, judgment, stipulation), and the date of disposition of each claim. Attach a copy of each disposition.**

Merits of the claims have not been determined. This appeal is solely on the issue or arbitrability of the claims made as set forth in paragraph 8.

**23. Attach copies of the last-filed version of all complaints, counterclaims, and/or cross-claims filed in the district court.**

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action below?**

- ☐ Yes  
☒ No



**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

All substantive claims remain at issue.

(b) Specify the parties remaining below:

All parties remain in the action although clerk's default has been requested against Defendants MAURICE CARROLL, individually and d/b/a ON SCENE MEDIATIONS and VILISIA COLEMAN.

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

**If "Yes", attach a copy of the certification or order, including any notice of entry and proof of service.**

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

Order is independently appealable pursuant to NRS 38.247(1)(a).

**VERIFICATION**

**I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.**

RAPID CASH DEFENDANTS

\_\_\_\_\_  
Name of appellant (Appellant)

February 16, 2011

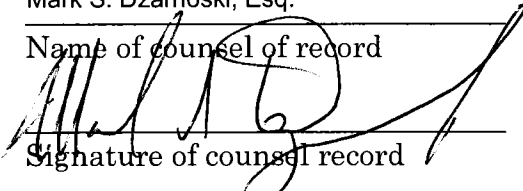
\_\_\_\_\_  
Date

Clark County, Nevada

\_\_\_\_\_  
State and county where signed

Mark S. Dzarnoski, Esq.

\_\_\_\_\_  
Name of counsel of record

  
\_\_\_\_\_  
Signature of counsel record



### CERTIFICATE OF SERVICE

I certify that on the 16<sup>th</sup> day of February, 2011, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Dan L. Wulz, Esq.

J. Randall Jones, Esq.

Venicia Considine, Esq.

Jennifer C. Dorsey, Esq.

Legal Aid Center of Southern Nevada, Inc.

Kemp, Jones & Coulthard, LLP

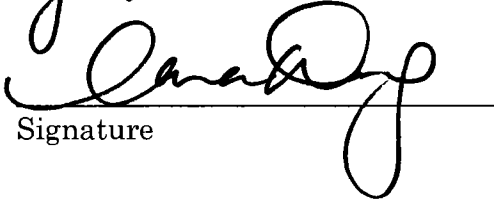
800 South Eighth Street

3800 Howard Hughes Parkway, 17th Floor

Las Vegas, NV 89101

Las Vegas, NV 89169

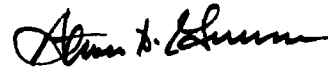
Dated this 16<sup>th</sup> day of February, 2011.

  
Signature



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11/29/2010 04:39:13 PM



CLERK OF THE COURT

**ORDD**

GORDON SILVER

WILLIAM M. NOALL

Nevada Bar No. 3549

Email: [wnoall@gordonsilver.com](mailto:wnoall@gordonsilver.com)

MARK S. DZARNOSKI

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Fax: (702) 369-2666

Attorneys for Defendants

Principal Investments, Inc., d/b/a Rapid

Cash, Granite Financial Services, Inc., d/b/a

Rapid Cash, FMMR Investments, Inc., d/b/a

Rapid Cash, Prime Group, Inc., d/b/a Rapid

Cash and Advance Group, Inc., d/b/a Rapid

Cash

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASANDRA HARRISON; EUGENE  
VARCADOS; CONCEPCION QUINTINO; and  
MARY DUNGAN, individually and on behalf of  
all persons similarly situated,

Plaintiffs,

vs.

PRINCIPAL INVESTMENTS, INC. d/b/a  
RAPID CASH; GRANITE FINANCIAL  
SERVICES, INC. d/b/a RAPID CASH; FMMR  
INVESTMENTS, INC. d/b/a RAPID CASH;  
PRIME GROUP, INC. d/b/a RAPID CASH;  
ADVANCE GROUP, INC. d/b/a RAPID CASH;  
MAURICE CARROLL, individually and d/b/a  
ON SCENE MEDIATIONS; VILISIA  
COLEMAN, and DOES I through X, inclusive,

Defendants.

CASE NO. A624982  
DEPT. XI

**ORDER DENYING MOTION TO  
COMPEL ARBITRATION**

Now on this 12<sup>th</sup> day of October, 2010, comes on for hearing "Motion To Compel  
Arbitration and Stay Proceedings" (the "Motion") filed by Defendants, Principal Investments,  
Inc. d/b/a Rapid Cash; Granite Financial Services, Inc. d/b/a Rapid Cash; FMMR Investments,



1 Inc., d/b/a Rapid Cash; Prime Group, Inc., d/b/a Rapid Cash, and Advance Group, Inc., d/b/a  
2 Rapid Cash (hereafter "Rapid Cash"). Plaintiffs appeared by counsel, J. Randall Jones, Esq.,  
3 Jennifer C. Dorsey, Esq., Kemp, Jones and Coulthard, LLC, and Dan L. Wulz, Esq., Legal Aid  
4 Center of Southern Nevada, Inc. Defendants, Rapid Cash, appeared by counsel Mark S.  
5 Dzarnoski, Esq., Gordon Silver, and Martin Bryce, Ballard Spar.

6 The Court, having reviewed the Motion, Plaintiff's Opposition, Defendants' Reply, the  
7 file, and the pleadings on file herein, and having considered the arguments of the parties, hereby  
8 FINDS and ORDERS as follows:

9 The Motion is denied. The Court finds that the Movants waived their right to demand  
10 arbitration in that Defendants knew of their right to arbitrate, acted inconsistently with that right  
11 in filing thousands of justice court cases against the putative Class members, and prejudiced the  
12 putative Class members by their inconsistent acts in taking default judgments. The Court further  
13 finds that it is against public policy to allow litigation, even if it is in the Small Claims Court,  
14 and then require arbitration of those claims ~~\_\_\_\_\_~~ *BCC*  
15 which arise from the alleged tortious and fraudulent conduct of defendants and its agents in those  
16 collection activities.

17 **IT IS SO ORDERED.**

18 DATED this 29<sup>th</sup> day of November, 2010

19 *E. J. Jones*  
DISTRICT COURT JUDGE

20 Prepared and submitted by:

21 *Gordon Silver*  
GORDON SILVER

22 *William M. Noall*  
WILLIAM M. NOALL, Nevada Bar No. 3549  
23 MARK S. DZARNOSKI, Nevada Bar No. 3398  
JEFFREY HULET, Nevada Bar No. 10621  
24 3960 Howard Hughes Pkwy., 9th Floor  
Las Vegas, Nevada 89169  
25 Tel: (702) 796-5555  
Attorneys for Defendants  
26 Principal Investments, Inc., d/b/a Rapid Cash, Granite  
Financial Services, Inc., d/b/a Rapid Cash, FMMR  
27 Investments, Inc., d/b/a Rapid Cash, Prime Group, Inc.,  
28 d/b/a Rapid Cash and Advance Group, Inc., d/b/a Rapid Cash



  
CLERK OF THE COURT

1 **NEOJ**  
2 **GORDON SILVER**  
3 **WILLIAM M. NOALL**  
4 Nevada Bar No. 3549  
5 Email: [wnoall@gordonsilver.com](mailto:wnoall@gordonsilver.com)  
6 **MARK S. DZARNOSKI**  
7 Nevada Bar No. 3398  
8 Email: [mdzarnoski@gordonsilver.com](mailto:mdzarnoski@gordonsilver.com)  
9 **JEFFREY HULET**  
10 Nevada Bar No. 10621  
11 Email: [jhulet@gordonsilver.com](mailto:jhulet@gordonsilver.com)  
12 3960 Howard Hughes Pkwy., 9th Floor  
13 Las Vegas, Nevada 89169  
14 Tel: (702) 796-5555  
15 Fax: (702) 369-2666  
16 Attorneys for Defendants  
17 Principal Investments, Inc., d/b/a Rapid  
18 Cash, Granite Financial Services, Inc., d/b/a  
19 Rapid Cash, FMMR Investments, Inc., d/b/a  
20 Rapid Cash, Prime Group, Inc., d/b/a Rapid  
21 Cash and Advance Group, Inc., d/b/a Rapid  
22 Cash

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 **CASANDRA HARRISON; EUGENE**  
16 **VARCADOS; CONCEPCION QUINTINO; and**  
17 **MARY DUNGAN, individually and on behalf of**  
18 **all persons similarly situated,**

19 **Plaintiffs,**

20 **vs.**

21 **PRINCIPAL INVESTMENTS, INC. d/b/a**  
22 **RAPID CASH; GRANITE FINANCIAL**  
23 **SERVICES, INC. d/b/a RAPID CASH; FMMR**  
24 **INVESTMENTS, INC. d/b/a RAPID CASH;**  
25 **PRIME GROUP, INC. d/b/a RAPID CASH;**  
26 **ADVANCE GROUP, INC. d/b/a RAPID CASH;**  
27 **MAURICE CARROLL, individually and d/b/a**  
28 **ON SCENE MEDIATIONS; VILISIA**  
**COLEMAN, and DOES I through X, inclusive,**

**Defendants.**

**CASE NO. A-10-624982-B**  
**DEPT. XI**

**NOTICE OF ENTRY OF ORDER**

26 ...

27 ...

28 ...



1 PLEASE TAKE NOTICE that an Order, a copy of which is attached hereto, was entered  
2 in the above-entitled matter on the 29<sup>th</sup> day of November, 2010.

3 DATED this 3 day of December, 2010.

4 GORDON SILVER

5 

6 GORDON SILVER

7 WILLIAM M. NOALL

8 Nevada Bar No. 3549

9 MARK S. DZARNOSKI

10 Nevada Bar No. 3398

11 JEFFREY HULET

12 Nevada Bar No. 10621

13 Email: [jhulet@gordonsilver.com](mailto:jhulet@gordonsilver.com)

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15 Las Vegas, Nevada 89169

16 Tel: (702) 796-5555

17 Attorneys for Defendants

18 Principal Investments, Inc., d/b/a Rapid

19 Cash, Granite Financial Services, Inc., d/b/a

20 Rapid Cash, FMMR Investments, Inc., d/b/a

21 Rapid Cash, Prime Group, Inc., d/b/a Rapid

22 Cash and Advance Group, Inc., d/b/a Rapid

23 Cash

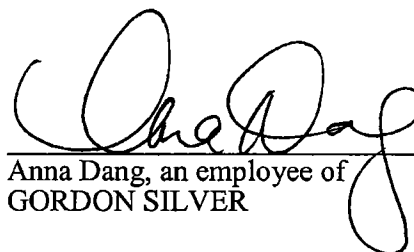


1 **CERTIFICATE OF SERVICE**

2 The undersigned, an employee of Gordon Silver, hereby certifies that on the 3<sup>rd</sup> day of  
3 December, 2010, she served a copy of the **Notice of Entry of Order**, by facsimile, and by  
4 placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada,  
5 said envelope addressed to:

6 Dan L. Wulz, Esq.  
7 Venicia Considine, Esq.  
8 Legal Aid Center of Southern Nevada, Inc.  
9 800 South Eighth Street  
Las Vegas, NV 89101  
Fax: (702) 388-1642

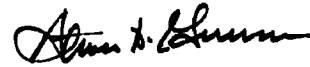
10 J. Randall Jones, Esq.  
11 Jennifer C. Dorsey, Esq.  
12 Kemp, Jones & Coulthard, LLP  
13 3800 Howard Hughes Parkway, 17<sup>th</sup> Floor  
Las Vegas, NV 89169  
Fax: (702) 385-6001

14  
15   
16 Anna Dang, an employee of  
17 GORDON SILVER  
18  
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CLERK OF THE COURT

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14 Tel: (702) 796-5555

15 Fax: (702) 369-2666

16 Attorneys for Defendants

17 Principal Investments, Inc., d/b/a Rapid

18 Cash, Granite Financial Services, Inc., d/b/a

19 Rapid Cash, FMMR Investments, Inc., d/b/a

20 Rapid Cash, Prime Group, Inc., d/b/a Rapid

21 Cash and Advance Group, Inc., d/b/a Rapid

22 Cash

13 DISTRICT COURT

14 CLARK COUNTY, NEVADA

15 CASANDRA HARRISON; EUGENE  
16 VARCADOS; CONCEPCION QUINTINO; and  
17 MARY DUNGAN, individually and on behalf of  
18 all persons similarly situated,

19 Plaintiffs,

20 vs.

21 PRINCIPAL INVESTMENTS, INC. d/b/a  
22 RAPID CASH; GRANITE FINANCIAL  
23 SERVICES, INC. d/b/a RAPID CASH; FMMR  
24 INVESTMENTS, INC. d/b/a RAPID CASH;  
25 PRIME GROUP, INC. d/b/a RAPID CASH;  
26 ADVANCE GROUP, INC. d/b/a RAPID CASH;  
27 MAURICE CARROLL, individually and d/b/a  
28 ON SCENE MEDIATIONS; VILISIA  
COLEMAN, and DOES I through X, inclusive,

Defendants.

CASE NO. A624982  
DEPT. XI

ORDER DENYING MOTION TO  
COMPEL ARBITRATION

26 Now on this 12<sup>th</sup> day of October, 2010, comes on for hearing "Motion To Compel  
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28 Inc. d/b/a Rapid Cash; Granite Financial Services, Inc. d/b/a Rapid Cash; FMMR Investments,



1 Inc., d/b/a Rapid Cash; Prime Group, Inc., d/b/a Rapid Cash, and Advance Group, Inc.; d/b/a  
2 Rapid Cash (hereafter "Rapid Cash"). Plaintiffs appeared by counsel, J. Randall Jones, Esq.,  
3 Jennifer C. Dorsey, Esq., Kemp, Jones and Coulthard, LLC, and Dan L. Wulz, Esq., Legal Aid  
4 Center of Southern Nevada, Inc. Defendants, Rapid Cash, appeared by counsel Mark S.  
5 Dzarnoski, Esq., Gordon Silver, and Martin Bryce, Ballard Spar.

6 The Court, having reviewed the Motion, Plaintiff's Opposition, Defendants' Reply, the  
7 file, and the pleadings on file herein, and having considered the arguments of the parties, hereby  
8 FINDS and ORDERS as follows:

9 The Motion is denied. The Court finds that the Movants waived their right to demand  
10 arbitration in that Defendants knew of their right to arbitrate, acted inconsistently with that right  
11 in filing thousands of justice court cases against the putative Class members, and prejudiced the  
12 putative Class members by their inconsistent acts in taking default judgments. The Court further  
13 finds that it is against public policy to allow litigation, even if it is in the Small Claims Court,  
14 and then require arbitration of those claims ~~\_\_\_\_\_~~ <sup>and pursuing collection.</sup>  
15 which arise from the alleged tortious and fraudulent conduct of defendants and its agents in those  
16 collection activities.


17 IT IS SO ORDERED.

18 DATED this 29<sup>th</sup> day of November, 2010

19   
DISTRICT COURT JUDGE

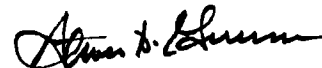
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CLERK OF THE COURT

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19 **DISTRICT COURT**

20 **CLARK COUNTY, NEVADA**

21 Casandra Harrison; Eugene Varcados;  
22 Concepcion Quintino; and Mary Dungan,  
23 individually and on behalf of all persons  
24 similarly situated,

25 Plaintiffs,

26 v.  
27 Principal Investments, Inc. d/b/a Rapid Cash;  
28 Granite Financial Services, Inc. d/b/a Rapid  
Cash; FMMR Investments, Inc., d/b/a Rapid  
Cash; Prime Group, Inc., d/b/a Rapid Cash;  
Advance Group, Inc., d/b/a Rapid Cash;  
Maurice Carroll, individually and d/b/a On  
Scene Mediations; W.A.M. Rentals, LLC  
and d/b/a On Scene Mediations; Vilisia  
Coleman, and DOES I through X, inclusive,

Defendants.

A - 10 - 624982 - B

Case No.:

Dept. No.: X I

**CLASS ACTION COMPLAINT**

Exempt from Arbitration

Class Action; Declaratory and

Injunctive Relief Sought

Plaintiffs, Casandra Harrison, Eugene Varcados, Concepcion Quintino, and Mary



1 Dungan, individually and on behalf of all others similarly situated (hereafter "Class  
2 Representatives") for their Complaint against Defendants and DOES I thru X, allege and state as  
3 follows:  
4

5 **I.**

6 **NATURE OF THIS ACTION**

7 1. This is a class action to redress the fraud perpetrated on the courts and perhaps  
8 thousands of defendants in the Clark County, Nevada, judicial system through "sewer service,"  
9 the despicable practice by which a process server attests to having served a summons and  
10 complaint upon a defendant when, in fact, the defendant is never served and is left ignorant that  
11 his legal rights are being adjudicated. It arises from thousands of payday loan lawsuits filed in  
12 the Clark County Justice Courts by payday lender Rapid Cash in which Rapid Cash employed  
13 On Scene Mediations to fulfill Rapid Cash's responsibility under JCRCF 4(a) to serve the  
14 Summons and a copy of the Complaint on each Defendant borrower. On Scene Mediations did  
15 not serve process but executed an affidavit of service falsely stating it did serve process. Rapid  
16 Cash then filed the return of service with the Justice Court and obtained default judgments  
17 against the unwitting defendants. Default judgments have been entered in every case at issue in  
18 this action. Every such default judgment is void.  
19

20  
21 2. The Class seeks declaratory relief pursuant to NRS 30.010 *et seq.* for a  
22 declaration of the rights, status, or other legal relations of the parties. They also seek injunctive  
23 relief pursuant to Article 6, Section 6 of the Nevada Constitution, NRS 33.010 *et seq.*, and  
24 NRCP 65 against Rapid Cash with respect to enforcement of the void default judgments  
25 obtained, as well as equitable remedies. This action also arises under NRS Chapter 604A  
26 against Rapid Cash seeking declaratory and injunctive relief, punitive damages, prejudgment  
27  
28



1 interest, reasonable attorney's fees, costs, and other legal and equitable relief. This is an  
2 independent action in equity for fraud upon the court, and legal theories of recovery set forth  
3 below include abuse of process, violations of NRS Chapter 604A and Chapter 598, negligent  
4 hiring, negligence, and civil conspiracy.

5  
6 3. Class Representatives make the following allegations upon information and  
7 belief:

8  
9  
10 **II.**  
**PARTIES**

11 4. The Class Representatives are natural persons and are currently residing in Las  
12 Vegas, Clark County, Nevada.

13 5. Principal Investments, Inc. d/b/a Rapid Cash is a corporation organized and  
14 existing under and by virtue of the laws of the State of Nevada and may be served with service  
15 of process upon its resident agent, Ellis & Gordon, A Professional Corporation, at 510 S. Ninth  
16 St., Las Vegas, NV 89101.

17  
18 6. Granite Financial Services, Inc. d/b/a Rapid Cash is a corporation organized and  
19 existing under and by virtue of the laws of the State of Nevada and may be served with service  
20 of process upon its resident agent, Ellis & Gordon, A Professional Corporation, at 510 S. Ninth  
21 St., Las Vegas, NV 89101.

22  
23 7. FMMR Investments, Inc. d/b/a Rapid Cash is a corporation organized and  
24 existing under and by virtue of the laws of the State of Nevada and may be served with service  
25 of process upon its resident agent, Ellis & Gordon, A Professional Corporation, at 510 S. Ninth  
26 St., Las Vegas, NV 89101.

27  
28 8. Prime Group, Inc. d/b/a Rapid Cash is a corporation organized and existing under



1 and by virtue of the laws of the State of Nevada and may be served with service of process upon  
2 its resident agent, Ellis & Gordon, A Professional Corporation, at 510 S. Ninth St., Las Vegas,  
3 NV 89101.

4  
5 9. Advance Group, Inc. d/b/a Rapid Cash is a corporation organized and existing  
6 under and by virtue of the laws of the State of Nevada and may be served with service of process  
7 upon its resident agent, Ellis & Gordon, A Professional Corporation, at 510 S. Ninth St., Las  
8 Vegas, NV 89101.

9  
10 10. The Rapid Cash Defendants<sup>1</sup> are currently doing business at fourteen (14)  
11 locations in Clark County, Nevada.

12 11. Maurice Carroll, individually and d/b/a On Scene Mediations,<sup>2</sup> is an individual  
13 and resident of Clark County, and may be served with process at his residence in Clark County,  
14 Nevada.

15 12. W.A.M. Rentals, LLC and d/b/a On Scene Mediations ("On Scene Mediations")  
16 is a limited liability company organized and existing under and by virtue of the laws of the State  
17 of Nevada, and may be served with process by service of process upon its resident agent,  
18 Maurice Carroll, located at 1000 N. Green Valley Pkwy, #440-305, Henderson, NV 89074.

19  
20 13. Vilisia Coleman is an individual and resident of Clark County, Nevada, and may  
21 be served with process at her residence in Clark County, Nevada. Vilisia Coleman was  
22  
23

---

24 <sup>1</sup> The Rapid Cash Defendants: Principal Investments, Inc. d/b/a Rapid Cash; Granite  
25 Financial Services, Inc. d/b/a Rapid Cash; FMMR Investments, Inc., d/b/a Rapid Cash; Prime  
26 Group, Inc., d/b/a Rapid Cash; and Advance Group, Inc., d/b/a Rapid Cash will collectively be  
referred to herein throughout as "Rapid Cash."

27 <sup>2</sup> Maurice Carroll, individually and d/b/a On Scene Mediations, and W.A.M. Rentals,  
28 LLC and d/b/a On Scene Mediations, will collectively be referred to herein throughout as  
"Carroll/On Scene Mediations" or "On Scene Mediations."



1 employed by Carroll/On Scene Mediations, claimed to have served process upon some members  
2 of the Class when she did not do so, and signed false Affidavits of Service which were provided  
3 to Rapid Cash.

4  
5 14. All of the acts or failures to act alleged herein were duly performed by and are  
6 attributable to Defendants acting by and through their agents and employees. Said acts and  
7 failures to act were within the scope of said agency and/or employment, and Defendants ratified  
8 said acts and omissions.

9  
10 15. Pursuant to NRCP 10(a) and Nurenberger Hercules-Werke GMHB v. Virostek,  
11 107 Nev. 873, 822 P.2d 1100 (1991), the identity of Defendants designated as DOEs I through X  
12 are unknown at the present time; however, it is alleged and believed these Defendants were  
13 involved in the initiation, approval, support, or execution of the wrongful acts upon which this  
14 litigation is premised, or of similar actions directed against the Class about which the Class is  
15 presently unaware. As the specific identities of these parties are revealed through the course of  
16 discovery, the DOE appellation will be replaced to identify these parties by their true names and  
17 capacities.

18  
19 **III.**

20 **GENERAL FACTUAL ALLEGATIONS –**  
21 **PLAINTIFF CLASS REPRESENTATIVES**

22 **A. Casandra Harrison**

23 16. On or about March 19, 2009, Rapid Cash made payday loans in the amounts of  
24 \$582.00 and \$400.00, to Casandra Harrison pursuant to written loan agreements.

25  
26 17. Rapid Cash filed a complaint against Ms. Harrison in Justice Court, Las Vegas  
27 Township, Clark County, Nevada, on or about July 21, 2009, for defaulting on the loans.

28 18. The Affidavit of Service for the Summons and Complaint purportedly served on



1 Ms. Harrison was signed by a "T. Smith," notarized by Maurice Carroll, and affirmed that  
2 service was both received and made by personal service on Ms. Harrison on the same day,  
3 August 8, 2009.  
4

5 19. Not only was Ms. Harrison not served on August 8, 2009, she was not served at  
6 any other time by On Scene Mediations or any other server of process in connection with the  
7 Complaint.  
8

9 20. Rapid Cash obtained a default judgment against Ms. Harrison on October 26,  
10 2009.  
11

12 21. Ms. Harrison did not know that she had been sued by Rapid Cash until she was  
13 garnished for the void default judgment, which garnishments caused her bank account to be  
14 overdrawn.  
15

16 **B. Eugene Varcados**

17 22. In 2008, Rapid Cash made a series of payday loans to Mr. Varcados pursuant to  
18 written loan agreements.  
19

20 23. Rapid Cash filed a complaint against Mr. Varcados in Justice Court, Las Vegas  
21 Township, Clark County, Nevada, on or about October 10, 2008, for defaulting on the loans.  
22

23 24. The Affidavit of Service for the Summons and Complaint purportedly served on  
24 Mr. Varcados was served by an On Scene Mediations process server, notarized by Lizzie  
25 Hatcher, and affirmed that process was both received and served personally on Mr. Varcados on  
26 the same day, March 4, 2009.  
27

28 25. Not only was Mr. Varcados not served on March 4, 2009, he was not served at  
any other time by On Scene Mediations or any other server of process in connection with the  
Complaint.



1           26.     Rapid Cash obtained a default judgment against Mr. Varcados on December 17,  
2     2009.

3           27.     Mr. Varcados did not learn of the Rapid Cash lawsuit against him until his wages  
4     began being garnished by Rapid Cash.  
5

6     **C.     Concepcion Quintino**

7           28.     On or about May 20, 2006, Rapid Cash made a payday loan in the amount of  
8     \$500.00 to Ms. Quintino pursuant to a written loan agreement.

9           29.     Rapid Cash filed a complaint against Ms. Quintino in Justice Court, Las Vegas  
10     Township, Clark County, Nevada, on or about October 6, 2008, for defaulting on the loan.  
11

12          30.     The Affidavit of Service for the Summons and Complaint purportedly served on  
13     Ms. Harrison was signed by a "C. Mack," notarized by Maurice Carroll, and affirmed that  
14     process was both received and served personally on Ms. Quintino on the same day, November  
15     14, 2008.  
16

17          31.     Not only was Ms. Quintino not served on November 14, 2008, she was not  
18     served at any other time by On Scene Mediations or any other server of process in connection  
19     with the Complaint.

20          32.     Rapid Cash obtained a default judgment against Ms. Quintino on August 19,  
21     2009.  
22

23          33.     Ms. Quintino did not learn of the Rapid Cash lawsuit against her until her  
24     paycheck was garnished.

25     **D.     Mary Dungan**

26          34.     On or about spring, 2009, Rapid Cash made a payday loan in the amount of  
27     \$600.00 to Mary Dungan pursuant to a written loan agreement.  
28



35. Rapid Cash filed a complaint against Ms. Dungan in Justice Court, Las Vegas Township, Clark County, Nevada, on or about July 17, 2009, for defaulting on the loan.

36. The Affidavit of Service for the Summons and Complaint purportedly served on Ms. Dungan was signed by a "J. Rivera," notarized by Maurice Carroll, and affirmed that service was both received and made by personal service on Ms. Dungan on the same day, July 31, 2009.

37. Not only was Ms. Dungan not served on July 31, 2009, she was not served at any other time by On Scene Mediations or any other server of process in connection with the Complaint.

38. Rapid Cash obtained a default judgment against Ms. Dungan on October, 16, 2009.

39. Ms. Dungan did not know that she had been sued by Rapid Cash until her wages were garnished.

#### IV.

### GENERAL FACTUAL ALLEGATIONS – DEFENDANTS

40. In late 2003, the Nevada Private Investigators Licensing Board, charged by law with licensing process servers, issued Maurice Carroll individually and d/b/a On Scene Mediations a \$2,500 citation for serving summons/complaints without a license. The Board ordered Carroll to stop doing business. He did not do so.

41. One of Maurice Carroll's principal assistants, who signed many of the false affidavits of service provided to and filed by Rapid Cash, was Defendant, Vilisia Coleman, who during her employment, was a convicted felon.

42. On information and belief, the Las Vegas Metropolitan Police Department



1 ("Metro") has taken calls from people who complained that they were never served with process  
2 from as early as 2004 and claimed that Maurice Carroll's company never served them the  
3 required court papers, and default judgments were taken.  
4

5 43. During 2004-2010, On Scene Mediations served as Rapid Cash's agent to fulfill  
6 Rapid Cash's responsibility under JCRCF 4(a) to serve the Summons and a copy of the  
7 Complaint on each defendant borrower.  
8

9 44. Rapid Cash, by and through its employee and/or agent, On Scene Mediations,  
10 practiced "sewer service," an egregious fraud against the Class (defined below) and the Justice  
11 Courts of Clark County, Nevada whereby Rapid Cash failed to provide proper legal notification  
12 to hundreds if not thousands of southern Nevadans facing Rapid Cash's payday loan lawsuits.  
13

14 45. Lack of service deprived the Class of due process of law (Due Process Clause of  
15 Nev. Art. 1, Sec. 8), resulting in hundreds if not thousands of void default judgments being  
16 entered without the opportunity to respond or defend. The outcome was that Rapid Cash  
17 obtained hundreds if not thousands of void default judgments and garnishments.  
18

19 46. Rapid Cash filed 1,760 cases in 2004, 3,009 cases in 2005, 2,020 cases in 2006,  
20 2,886 cases in 2007, 3,162 cases in 2008, and 3,826 cases in 2009, and typically employed On  
21 Scene Mediations to serve process.  
22

23 47. The affidavits of service of process submitted in support of those filings reflect  
24 an unusually high percentage of personal service of process purportedly completed the same day  
25 that On Scene Mediations received the summons, a highly dubious and suspicious achievement.  
26

27 48. Sometime after January, 2009, when civil cases began being assigned to only two  
28 Justices of the Peace in Clark County, Nevada, Las Vegas Township, the Court noticed this  
unusual pattern, and the Court made counsel for Rapid Cash aware of the suspicious nature of



1 such representations.

2 49. Thus, Rapid Cash was on actual notice of or was willfully blind to and recklessly  
3 disregarded this pattern, and continued to file such affidavits of service.  
4

5 50. Another pattern becomes evident from Rapid Cash's Justice Court practices:  
6 when a Rapid Cash defendant would move to set aside a default judgment on the basis of lack of  
7 service, the Rapid Cash attorney---presumably with the express consent of his/her client, Rapid  
8 Cash, and in any event an act done on behalf of Rapid Cash for which Rapid Cash is responsible  
9 and charged with knowledge---would stipulate to set the default judgment aside instead of  
10 having the process server come in and testify at an evidentiary hearing, suppressing discovery of  
11 the fraud. This pattern points to guilty knowledge by Rapid Cash that it was filing falsified  
12 affidavits of service.  
13

14 51. On information and belief, Sergio Pinto, employed to serve process by Maurice  
15 Carroll/On Scene Mediations, admitted to Metro that he was told by "the ladies in the office" to  
16 falsify affidavits of service, claiming that he made service of process to individuals, but had not  
17 done so.  
18

19 52. On information and belief, Sergio Pinto told Metro that Maurice Carroll also  
20 directed him to falsify affidavits of service.  
21

22 53. On information and belief, Niekya Lonsoria, employed to serve process by  
23 Maurice Carroll/On Scene Mediations, admitted to Metro that she signed affidavits of service at  
24 the direction of Maurice Carroll without ever having gone out to perform the services, in effect  
25 falsifying Affidavits.  
26

27 54. On information and belief, Maurice Carroll admitted to Metro that he had  
28 falsified affidavits of service, but claimed that his office manager, Vilisia Coleman, told him the



1 documents had been served while he was out of town.

2 55. In August, 2010, Maurice Carroll and Vilisia Coleman were both criminally  
3 indicted.

4 56. Coleman's criminal defense attorney, meanwhile, has stated the On Scene  
5 Mediations sewer service policy was in place at Carroll's direction at the time she was hired.

6 57. Accordingly, at all times relevant herein, Rapid Cash knew or was on  
7 constructive notice that Maurice Carroll and On Scene Mediations were not operating a licensed  
8 process serving company.

9 58. At all times relevant herein, Rapid Cash knew, or was willfully blind to and  
10 recklessly disregarded, or was on constructive notice that On Scene Mediations was providing  
11 false affidavits of service to Rapid Cash, which Rapid Cash nevertheless proceeded to file in the  
12 Justice Courts of Clark County, Nevada.

13 59. Rapid Cash, as the plaintiff in actions it filed in the Justice Courts of Clark  
14 County, Nevada, was responsible for the service of the summons and complaint to each  
15 defendant it sued. JCRCP 4(a); JCRCP 4(d)(6).

16 60. Rapid Cash did not properly serve members of the Class. Instead, Rapid Cash  
17 employed On Scene Mediations, which it knew or should have known was not a licensed  
18 process server, and which provided to Rapid Cash false affidavits of service claiming to have  
19 completed service of process on the Class. The affidavits were sworn under penalty of perjury  
20 and notarized, and filed by Rapid Cash.

21 61. Because those affidavits were not supported by proper service, the default  
22 judgments obtained are void. *Gassett v. Snappy Car Rental*, 111 Nev. 1416, 906 P.2d 258  
23 (1995).



1           62.     Failure to provide notice of legal proceedings undermines the foundation of the  
2 legal system. Due to repeated and persistently falsified affidavits of service, victims were not  
3 notified of pending suits against them and therefore were deprived of due process of law. Nev.  
4 Art. 1, Sec. 8.  
5

6           63.     As a direct result, Rapid Cash won void default judgments.

7           64.     Rapid Cash's act of obtaining default judgments based on false affidavits of  
8 service have a self-evident and serious but generic impact upon each member of the Class  
9 regardless of individual circumstance. These impacts include but are not limited to: 1)  
10 deprivation of due process of law, a fundamental, Constitutional right; 2) suffering of a default  
11 judgment in a falsely and fraudulently inflated amount in that the judgment includes the cost of  
12 service of process which was never made; and 3) lost opportunity to negotiate or repay a debt  
13 without credit-damaging or public consequences.  
14

15           65.     Rapid Cash is entirely responsible for the acts of its employee and/or agent, On  
16 Scene Mediations, under common law *respondeat superior* and/or as its agent. Alternatively,  
17 Rapid Cash is entirely responsible for the acts of On Scene Mediations in that it either  
18 intentionally or negligently hired an unlicensed process server, and then either intentionally or  
19 negligently failed to supervise and retained the unlicensed process server. Alternatively, Rapid  
20 Cash is entirely responsible for the acts of On Scene Mediations in that Rapid Cash knew, or  
21 was willfully blind to and recklessly disregarded, or should have known, and/or was on actual or  
22 constructive notice that On Scene Mediations was unlicensed and allegedly served an  
23 impossibly high number of people on a given day, or even at one given time, by a single process  
24 server, and also that On Scene Mediations claimed to have successfully served process on the  
25 same day that it was received in a very high number of cases, and thus Rapid Cash routinely  
26  
27  
28



1 filed falsified returns of service of process against the Class, resulting in void default judgments  
2 against the Class.

3  
4 V.

5 CLASS ACTION ALLEGATIONS

6 66. This is a uniquely local class action on behalf of the victims of defendants' sewer  
7 service that resulted in Rapid Cash obtaining default judgments against its customers in the  
8 Justice Courts in Clark County, Nevada. The perpetration of this fraud in the Justice Courts of  
9 Clark County, Nevada, makes this an intrastate controversy against a handful of distinctly local  
10 defendants whose practices have deprived Rapid Cash customers of their rights under Nevada's  
11 laws, court rules, and Constitution.  
12

13 67. The Class Representatives bring this action individually and on behalf of all  
14 others similarly situated pursuant to NRCP 23(a) and NRCP 23(b)(1), (b)(2), or (b)(3), and that  
15 Class consists of:  
16

17 **Customers of Rapid Cash offices in Clark County, Nevada, against whom**  
18 **Rapid Cash obtained default judgments in the Justice Courts of Clark**  
19 **County, Nevada, and for which the only evidence that the defendant**  
20 **received service of process of Rapid Cash's lawsuit was an affidavit signed**  
21 **by a representative of On Scene Mediations.**

22 68. Numerosity. Membership in the Class is so numerous as to make joinder of all  
23 Class members impracticable. During the time period applicable to the Class, upon information  
24 and belief, there were thousands of default judgments obtained by Rapid Cash employing On  
25 Scene Mediations to serve process. Rapid Cash filed 1,760 cases in 2004, 3,009 cases in 2005,  
26 2,020 cases in 2006, 2,886 cases in 2007, 3,162 cases in 2008, and 3,826 cases in 2009, and  
27 typically employed On Scene Mediations to serve process. On information and belief, hundreds  
28 if not thousands of defendants were never served, and void default judgments were obtained as a



1 result of this sewer service. The disposition of the Class's claims in a class action will obviate  
2 the need for repeated individual adjudications of the same issues.

3         69.     Commonality. There are questions of law or fact common to all members of the  
4 Class that control this litigation and which predominate over any individual issues. The  
5 common questions of law or fact include, but are not limited to, the following: (a) whether  
6 Rapid Cash obtained void default judgments based on false affidavits of service in cases too  
7 numerous to join together; (b) whether Rapid Cash is responsible for the acts of its employee  
8 and/or agent On Scene Mediations; (c) whether, in hiring and supervising its employee and/or  
9 agent On Scene Mediations to fulfill its JCRCP 4(a) responsibility to serve process, Rapid Cash  
10 engaged in a fraud upon the Court; (d) whether, in hiring and supervising its employee and/or  
11 agent On Scene Mediations to fulfill its JCRCP 4(a) responsibility to serve process, Rapid Cash  
12 engaged in abuse of process; (e) whether, in hiring and supervising its employee and/or agent On  
13 Scene Mediations to fulfill its JCRCP 4(a) responsibility to serve process, Rapid Cash was  
14 negligent; (f) whether, in hiring and supervising its employee and/or agent On Scene Mediations  
15 to fulfill its JCRCP 4(a) responsibility to serve process, Rapid Cash engaged in a civil  
16 conspiracy; (g) whether in hiring and supervising its employee and/or agent, On Scene  
17 Mediations, to fulfill its JCRCP 4(a) responsibility to serve process, Rapid Cash violated NRS  
18 604A.415 in failing to collect a debt in a "fair and lawful manner;" (h) whether, at some point  
19 during its employment of On Scene Mediations, Rapid Cash became aware of or was willfully  
20 blind to and recklessly disregarded the fact that Rapid Cash was filing false returns of service in  
21 its lawsuits against the Class such that it might be responsible for punitive damages; and (i)  
22 whether the Class has a remedy for Defendants' actions as described and, if so, the nature of that  
23 remedy.  
24  
25  
26  
27  
28



1           70.    Typicality. The claims of the Class Representatives are typical of the claims of  
2 the Class in that each seeks the same remedies and relief upon the same legal theories and  
3 operable facts, and the Class Representatives have no interest adverse to the interests of the  
4 other members of the Class.  
5

6           71.    Adequacy of Representation. The Class Representatives and experienced Class  
7 Counsel will fairly and adequately protect the interests of the Class.  
8

9           72.    Superiority. A class action is superior to other methods for the fair and efficient  
10 adjudication of this controversy because, *inter alia*: (a) the prosecution of separate actions would  
11 create a risk of inconsistent or varying adjudications; (b) Rapid Cash has acted on grounds  
12 generally applicable to the Class, and has committed the same unlawful acts against the Class;  
13 (c) the complexity of the issues involved, the size of the individual Class member's claims, and  
14 the limited resources of the Class members would clearly make it impracticable for all  
15 individual members of the Class to individually seek legal redress for the actions of Rapid Cash;  
16 (d) this action would facilitate an orderly and expeditious resolution of the Class' claims, and  
17 will foster economies of time, effort, and expense; (e) when the Court has adjudicated whether  
18 Rapid Cash is liable, then the claims of all Class members may be determined by the Court; and  
19 (f) this action presents no difficulty that would impede its maintenance by the Court as a class  
20 action and is the best available means by which the Class Representatives and all Class members  
21 may seek redress for the harm caused by Rapid Cash.  
22  
23

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**VI.**

**INDEPENDENT ACTION IN EQUITY FOR FRAUD UPON THE COURT**

**(All Defendants)**

73. Class Representatives incorporate all prior paragraphs as though fully set forth herein.

74. Rule 60(b) provides that the Rule "does not limit the power of a court to entertain an independent action . . . for fraud upon the court."

75. Rapid Cash's judgments against the Class ought not, in equity and good conscience, be enforced.

76. Each member of the Class has the same good defense to each judgment in that each judgment is void for lack of proper service.

77. Fraud, accident, or mistake on the part of Defendants prevented the Class from obtaining the benefit of his/her defense as Rapid Cash misrepresented to the Court that service was completed by filing false affidavits. This misrepresentation led the Court in each instance to believe that each member of the Class was aware of the Rapid Cash complaint and chose not to oppose the complaint. This fraud kept each member of the Class away from the court and deprived the Class of the opportunity to voice opposition to the complaint and/or the amounts Rapid Cash was requesting.

78. There is no fault or negligence on the part of the Class because the Class was not served with process. When Class members were later garnished, many unsophisticated Class members naturally assumed that Rapid Cash had acted legally because, after all, the Court had granted it judgment.



79. Without the relief afforded by this independent action, Class Representatives and the Class have no adequate remedy at law.

80. To remedy the Defendants' fraud upon the Court, Class Representatives and the Class are entitled to equitable relief including but not limited to the setting aside of the default judgments secured against them by Rapid Cash.

81. Class Representatives and the Class have been required to obtain the services of counsel to prosecute this action and are entitled to an award of attorneys fees and costs of suit therefor.

VII.

**ABUSE OF PROCESS**  
**(All Defendants)**

82. Class Representatives incorporate all prior paragraphs as though fully set forth herein.

83. When initiating a lawsuit in Nevada, Rapid Cash is subject to the laws and rules of the State of Nevada. By utilizing On Scene Mediations to undertake a legal process against Class Representatives and the Class primarily to accomplish a purpose for which it was not designed, Defendants have committed abuse of process.

84. Defendants had the ulterior motive of depriving Rapid Cash's customers of due process of law or otherwise depriving them of rights and defenses by utilizing affidavits of service that were known to be --- or which a reasonable person would have known to be --- false and fraudulent.

85. Defendants' actions were willful in the use of the process, and not proper in the regular conduct of the proceeding. *See Childs v. Selznick*, 2009 Nev. LEXIS 87, \*3 (Nev. Sept. 28, 2009) (citations omitted), as evidenced, *inter alia*, by the facts that: 1) On Scene Mediations.



1 with the actual or constructive knowledge of Rapid Cash, was knowingly operating as an  
2 unlicensed server; and 2) On Scene Mediations and its employees knew, and Rapid Cash knew  
3 or should have known, that the affidavits they were submitting and filing were false and  
4 fraudulent.

5  
6 86. Therefore, Defendants abused the legal process to the detriment of the Class,  
7 entitling the Class to equitable and/or legal relief, including compensatory damages.

8 87. Class Representatives and the Class have been required to obtain the services of  
9 counsel to prosecute this action and are entitled to an award of attorneys fees and costs of suit  
10 therefor.  
11

## 12 VIII.

### 13 NEGLIGENT HIRING/SUPERVISION/RETENTION 14 (Rapid Cash)

15 88. Class Representatives incorporate all prior paragraphs as though fully set forth  
16 herein.

17 89. To fulfill its JCRCP 4 responsibility for service of the summons and complaint,  
18 Rapid Cash employed On Scene Mediations, who served as its agent.  
19

20 90. As a result of this agency relationship, Rapid Cash is liable for any and all harm,  
21 damage, and injury resulting from On Scene Mediations' conduct.

22 91. Rapid Cash was under a general duty to conduct a reasonable background check  
23 or other reasonable investigation into On Scene Mediation's fitness for use as Rapid Cash's  
24 process server.  
25

26 92. Rapid Cash was required to anticipate negligent or tortious behavior by On Scene  
27 Mediations because Rapid Cash either knew, or in the exercise of reasonable care might have  
28 ascertained, that On Scene Mediations was not properly qualified to undertake the work.



1 Rapid Cash knew or should have known of On Scene Mediations' propensity for the conduct  
2 that caused injury to the Class because, *inter alia*:

- 3 a) Rapid Cash began using On Scene Mediations after On Scene Mediations was  
4 cited in 2003 for not being licensed;
- 5 b) On Scene Mediations gave Rapid Cash returns of service which were highly  
6 suspicious to any honest and responsible person who cared to look. On Scene  
7 Mediations provided Rapid Cash many false affidavits of service showing  
8 successful service made on the same day the Summons was received, and all  
9 achieving personal direct service on the Defendant, a highly dubious and  
10 suspicious achievement. Rapid Cash knew, or should have known, that such  
11 service is not possible and therefore Rapid Cash knew, or should have known,  
12 that On Scene Mediations was negligent, or engaged in other wrongful conduct,  
13 in completing the assignment Rapid Cash hired it to do.

14 93. On Scene Mediations acted as employee and/or agent for Rapid Cash when  
15 effecting service of process. Therefore, Rapid Cash is responsible for On Scene Mediations'  
16 tortious conduct in making false affidavits of service and in denying members of the Class the  
17 basic right of due process of law.

18 94. Rapid Cash's negligent hiring, supervision, and/or retention of On Scene  
19 Mediations has caused Class Representatives and the Class to suffer damages in excess of ten  
20 thousand dollars.

21 95. Class Representatives and the Class have been required to obtain the services of  
22 counsel to prosecute this action and are entitled to an award of attorneys fees and costs of suit  
23 therefor.  
24  
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IX.

**NEGLIGENCE**  
**(All Defendants)**

96. Process servers and others tasked with the obligation to serve process owe a duty of due care to the persons upon whom service is to be effectuated.

97. Both Rapid Cash (under JCRCP4) and Maurice Carroll/On Scene Mediations/Vilisla Coleman (as Rapid Cash's hired process server) had a duty of care to ensure that members of the Class were properly served. Both Rapid Cash and Maurice Carroll/On Scene Mediations/Vilisla Coleman breached that duty and failed to exercise due care when Maurice Carroll/On Scene Mediations/Vilisla Coleman, acting as an agent of Rapid Cash, did not properly serve the Class; Rapid Cash further breached its duty and failed to exercise due care when it failed to ensure that Maurice Carroll/On Scene Mediations/Vilisla Coleman was licensed, that Maurice Carroll/On Scene Mediations/Vilisla Coleman properly served defendants, and after receiving numerous affidavits which showed Maurice Carroll/On Scene Mediations/Vilisla Coleman could not have personally served defendants as quickly as claimed, Rapid Cash continued using Maurice Carroll/On Scene Mediations/Vilisla Coleman.

98. Defendants' negligence has directly and proximately caused Class Representatives and the Class to suffer damages in an amount in excess of ten thousand dollars and require the services of counsel to prosecute this action. As a result, they are entitled to equitable relief, actual and compensatory damages, attorneys fees, and costs of suit.

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1 X.

2 **CIVIL CONSPIRACY**  
3 **(All Defendants)**

4 99. Class Representatives incorporate all prior paragraphs as though fully set forth  
5 herein.

6 100. Defendants and each of them conspired with one another with the intention of  
7 causing debtors (all Class members) to default when sued, by deliberately failing to serve them.  
8 This act deprived members of the Class of their right to due process of law (Due Process Clause  
9 of Nev. Art. I, Section 8). The result of this conspiracy was that Rapid Cash obtained void  
10 default judgments in violation of court rules and due process of law, and further in amounts that  
11 included costs of service that was never made and which included amounts the Class lost the  
12 opportunity to compromise.  
13

14 101. Defendants agreed to deprive members of the Class the opportunity to oppose the  
15 complaints against them in violation of court rules, public policy, and the Due Process Clause of  
16 Nev. Art. 1, Section 8, resulting in void default judgments for Rapid Cash to the damage of the  
17 Class.  
18

19 102. The conspiracy damaged members of the Class because default judgments were  
20 entered against them without due process of law and included costs of service that was never  
21 made; as notice is fundamental to due process, damage, even if nominal, is inherent in being  
22 deprived of a fundamental right.  
23

24 103. This conspiracy has directly and proximately caused Class Representatives and  
25 the Class to suffer fraudulent default judgments against them, suffer damages in an amount in  
26 excess of ten thousand dollars, and require the services of counsel to prosecute this action. As a  
27  
28



1 result, they are entitled to equitable relief, actual and compensatory damages, attorneys fees, and  
2 costs of suit.

3 104. Defendants' actions were fraudulent, intentional, and/or malicious, and Class  
4 Representatives and the Class are also entitled to punitive damages in an amount to be  
5 determined at trial.  
6

7 **XI.**

8 **VIOLATION OF NRS CHAPTER 604A**  
9 **(Rapid Cash)**

10 105. Class Representatives incorporate all prior paragraphs as though fully set forth  
11 herein.

12 106. Rapid Cash is licensed, operates, and is subject to the provisions of NRS Chapter  
13 604A.  
14

15 107. NRS 604A.415(1) provides: "If a customer defaults on a loan, the licensee may  
16 collect the debt owed to the licensee only in a professional, fair and lawful manner."

17 108. Rapid Cash violated NRS 604A.415(1) when in collecting the debt owed by a  
18 customer who had defaulted, it failed to act in a fair and lawful manner in that it: (a) hired On  
19 Scene Mediations to fulfill its responsibility to serve summons and complaint on the Class when  
20 it knew or should have known that On Scene Mediations was unlicensed, (b) continued to  
21 employ and failed to supervise On Scene Mediations to fulfill its responsibility to serve  
22 summons and complaint on the Class after it knew or should have known On Scene Mediations  
23 was falsifying returns of service, (c) obtained void default judgments based on invalid service of  
24 process; and (d) failed to voluntarily set aside all void default judgments obtained against the  
25 Class once it learned of On Scene Mediations' pattern of conduct.  
26  
27  
28



109. Rapid Cash's violations of NRS 604A.415(1) entitle Class Representatives and the Class to recover damages under NRS 604A.930.

110. Rapid Cash's conduct was intentional, willful, fraudulent and/or malicious and Rapid Cash is therefore liable for punitive or exemplary damages in an amount sufficient to punish Rapid Cash and to deter others from like conduct, under NRS 604A930(1).

111. For willful violation of the provisions of NRS Chapter 604A, Rapid Cash's loans are void and Rapid Cash is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to the loans as provided in NRS 604A.900(1).

112. Class Representatives and the Class are further entitled to attorney's fees and costs of suit pursuant to NRS 604A.930.

## XII.

**VIOLATION OF NRS CHAPTER 598**  
**(All Defendants)**

113. Class Representatives incorporate all prior paragraphs as though fully set forth herein.

114. NRS Chapter 598 imposes obligations upon anyone “in the course of his or her business or occupation.” NRS 598.0915 et seq.

115. Rapid Cash, by and through its employee or agent, On Scene Mediations, knowingly made a false representation in a transaction in violation of NRS 598.0915(15) when it falsely represented to the Court that proper service of process had been made upon the Class.

116. On Scene Mediations violated NRS 598.0923(1) when, in the course of its business or occupation, it conducted the business or occupation without all required state, county, or city licenses in violation of NRS 598.0923(1).



117. Such violations have legally and actually caused the Class Representatives and the Class to suffer damages, and they are entitled to an award of damages, plus attorney's fees and costs pursuant to NRS 41.600(3).

XIII.

## JURY TRIAL DEMAND

Class Representatives demand a trial by jury as to all issues triable to a jury.

## XIV.

## PRAYER FOR RELIEF

**WHEREFORE**, the Class Representatives, individually and on behalf of all persons similarly situated, pray for judgment against Defendants, jointly and severally, on the aforesaid causes of action, for:

1. An Order under NRCP 23 that Rapid Cash immediately cease any and all form of communication with the Class to preserve the remedies available to the Class, the integrity of the Class, and to protect the Class from undue influence of Rapid Cash;

2. An injunction that Rapid Cash vacate and set aside all void default judgments entered against the Class and, further, as a sanction for fraud upon the Court, that Rapid Cash dismiss all cases filed against the Class with prejudice;

3. All equitable relief that arises from or is implied by the facts, whether or not specifically requested, including but not limited to disgorgement or restitution of or imposition of a constructive trust on all funds collected under void default judgments against the Class, and a declaration of the rights of the parties;

4. Compensatory damages, as well as restitution of all costs of service paid by a Class member where service of process was not made;



5. Punitive damages in an amount sufficient to punish Defendants and to deter others from like conduct in an amount to be determined at trial;

6. For violation of the provisions of NRS Chapter 604A, pursuant to NRS 604A.900(1), a declaration that all of Rapid Cash's written loan contracts with the Class are void and that Rapid Cash is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to the loans, and an injunction against collection of same;

7. Attorney's fees;

8. Prejudgment interest;

9. Costs of suit; and

10. Any such other and further relief as the Court deems just and equitable.

DATED this 9 day of September, 2010.

Respectfully Submitted by:

**LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

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