

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

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,

Appellants,

vs.

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

Respondents.

No. 59837

Electronically Filed  
Feb 06 2012 03:13 p.m.  
Tracie K. Lindeman  
**DOCKETING STATEMENT**  
**CIVIL APPEALS**

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 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.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

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 County Eighth Department 11  
County Clark Judge Gonzalez  
District Ct. Case No. A624982

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

Attorney Daniel F. Polsenberg Telephone 702-474-2616  
Firm Lewis and Roca LLP  
Address 3993 Howard Hughes Parkway, Suite 600, Las Vegas, NV 89169

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 respondents(s):**

Attorney Dan L. Wulz 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 Telephone 702-385-6000  
Firm Kemp Jones & Coulthard  
Address 3800 Howard Hughes Parkway, 17<sup>th</sup> Floor, Las Vegas, NV 89169

Client(s) Casandra 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):**

- |   |  |
|---|--|
| <input type="checkbox"/> Judgment after bench trial         | <input type="checkbox"/> Dismissal:  |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction  |
| <input type="checkbox"/> Summary judgment                   | <input type="checkbox"/> Failure to state a claim  |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute  |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input type="checkbox"/> Other (specify) _____   |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:   |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification  |
| <input type="checkbox"/> Review of agency determination     | <input checked="" type="checkbox"/> Other disposition (specify): <u>Order</u><br><u>Denying Motion to Compel Arbitration</u> |

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

- ☐ Child Custody  
☐ Venue  
☐ Termination of parental rights

**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:

Case No. 57371, *Principal Investments v. District Court (Harrison)*, Petition for Writ of Mandamus.

Case No. 57625, *Principal Investments v. Harrison*

Case No. 59983, *Principal Investments v. Harrison*

**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 and the result below:

Plaintiffs applied for, obtained and defaulted on short term loans from the Rapid Cash defendants. Rapid Cash defendants filed collection actions in Clark County Justice Courts and used On Scene Mediations to serve the customers with process. Rapid Cash defendants then obtained default judgments against Plaintiffs in the Justice Court actions and obtained wage garnishments to satisfy the judgments. In the district court action, plaintiffs claim that they were never served with process in the Justice Court actions and, among other things, seek to have the Justice Court actions set aside. Rapid Cash defendants filed a motion to compel arbitration which was denied and the Rapid Cash defendants appeal from that order.

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

1. 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?

2. Did the district court manifestly err in holding that it is against public policy to allow the Rapid Cash defendants 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?

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

Case No. 57371, *Principal Investments v. District Court (Harrison)*, Petition for Writ of Mandamus.

Case No. 57625, *Principal Investments v. Harrison*

Case No. 59983, *Principal Investments v. Harrison*

**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?

- ☐ Reversal of well-settled Nevada precedent (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

If so, explain: A substantial part of the district court's decision was that it is against public policy to allow Rapid Cash defendants to bring collection claims in small claims court and then require arbitration of claims arising out of non-service. Whether public policy preempts 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 appealed from** 11/30/11 (Exhibit A)

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 was served** 12/1/11 (Exhibit A)

Was service by:

- ☐ Delivery
- ☒ Mail/electronic/fax

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

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

☐ NRCP 50(b) Date of filing \_\_\_\_\_

☐ NRCP 52(b) Date of filing \_\_\_\_\_

☐ NRCP 59 Date of filing \_\_\_\_\_

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_\_\_, 245 P.3d 1190 (2010).

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

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

Was service by:

☐ Delivery

☐ Mail

18. Date notice of appeal filed 12/9/11 (Exhibit B)

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) 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:

(a)

☐ NRAP 3A(b)(1) ☐ NRS 38.205

☐ NRAP 3A(b)(2) ☐ NRS 233B.150

☐ NRAP 3A(b)(3) ☐ NRS 703.376

☒ Other (specify) NRS 38.247(1)(a)

- (b) 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).

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

- (a) Parties:

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  
Advance Group, Inc., d/b/a Rapid Cash  
Maurice Carroll, individually and d/b/a On Scene Mediations  
Vilisia Coleman  
W.A.M. Rentals, Inc.

Plaintiffs: Casandra Harrison  
Eugene Varcados  
Concepcion Quinton  
Mary Dungan, individually and on behalf of all persons similarly situated

- (b) 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, Vilisia Coleman and W.A.M. Rentals, Inc. failed to appear and clerks defaults have been entered. (Exhibit C)

**22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

This is a class action complaint where plaintiffs' complaint alleges action in equity pursuant to NRCP 60(b) for fraud upon the court; abuse of process; negligent hiring and supervision; and violation of NRS Chapter 604A. (First Amended Complaint attached as Exhibit D) Merits of the claim have not been determined. This appeal is solely on the issue or arbitrability of the claims as set forth in paragraph 8.

**23. 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 or consolidated actions below?**

☐ Yes

☒ No

**24. If you answered "No" to question 23, complete the following:**

(a) Specify the claims remaining pending below:

All substantive claims remain at issue.

(b) Specify the parties remaining below:

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

☐ Yes

☒ No

(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

**25. If you answered "No" to any part of question 24, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

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

**26. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, crossclaims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order



## 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.**

February 6, 2012

Nevada, Clark County

State and County where signed

s/ Joel D. Henriod

Joel D. Henriod

Attorney for Appellants

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

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this Docketing Statement was filed electronically with the Nevada Supreme Court on the 6<sup>th</sup> day of February, 2012, Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

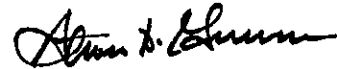
J. Randall Jones  
Jennifer C. Dorsey  
Kemp Jones & Coulthard  
3800 Howard Hughes Parkway, 17<sup>th</sup> Floor  
Las Vegas, NV 89169

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, at Las Vegas, Nevada, addressed as follows:

Dan L. Wulz  
Legal Aid Center of Southern Nevada, Inc.  
800 South Eighth Street  
Las Vegas, NV 89101

s/ Mary Kay Carlton  
An Employee of Lewis and Roca LLP

EXHIBIT A  
TO  
DOCKETING  
STATEMENT



CLERK OF THE COURT

NEOJ

Dan L. Wulz, Esq. (5557)

Venicia Considine, Esq. (11544)

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

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**Class Counsel**

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

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

Plaintiffs,

v.

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; W.A.M. Rentals, LLC  
and d/b/a On Scene Mediations; Vilisia

Case No.: A-10-624982-B

Dept. No.: XI

**NOTICE OF ENTRY OF ORDER**

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DATED this 1<sup>st</sup> day of December, 2011.

By: /s/ Venicia Considine  
DAN L. WULZ, ESQ. (5557)  
VENICIA CONSIDINE, ESQ. (11544)  
800 South Eighth Street  
Las Vegas, Nevada 89101

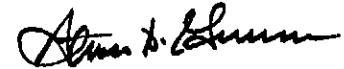
J. RANDALL JONES, ESQ. (1927)  
JENNIFER C. DORSEY, ESQ (6456)  
KEMP, JONES & COULTHARD, LLP  
3800 Howard Hughes Parkway  
Seventeenth Floor  
Las Vegas, Nevada 89169  
Class Counsel

Mark S. Dzarnoski, Esq.  
Gordon & Silver, Ltd.  
3960 Howard Hughes Parkway 9th Floor  
Las Vegas, NV 89169

2

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11/30/2011 04:39:01 PM



CLERK OF THE COURT

ORDD

Dan L. Wulz, Esq. (5557)

Venicia Considine, Esq. (11544)

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*Class Counsel*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

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;  
ADVANCED 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 OF THE  
FIRST AMENDED COMPLAINT**

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 ADVANCED GROUP, INC.

1 d/b/a RAPID CASH (hereafter "Rapid Cash") brought this "Motion to Compel Arbitration of  
2 First Amended Complaint and Stay All Proceedings" (the "Motion") on for hearing before this  
3 Court on October 25, 2011. The Class appeared by and through Class Counsel, J. Randall Jones,  
4 Esq., Kemp, Jones and Coulthard, LLP, and Dan L. Wulz, Esq., Legal Aid Center of Southern  
5 Nevada, Inc.; the Rapid Cash defendants appeared by counsel Mark S. Dzarnoski, Esq., Gordon  
6 & Silver, Ltd. The Court, having reviewed the Motion, the Class's Opposition, Defendants'  
7 Reply, the file, and the pleadings on file herein, and having heard and considered the arguments  
8 of the parties, hereby FINDS and ORDERS as follows:

10 The Motion is **DENIED**. Despite an arguable jurisdictional issue, the filing of the First  
11 Amended Complaint raises some separate issues that allow Rapid Cash to file and the Court to  
12 adjudicate the instant motion.

13 The Court finds that *AT&T Mobility LLC v. Concepcion*, 131 S. Ct. 1740 (Apr. 27, 2011),  
14 is not dispositive of this case. The decision by the United States Supreme Court in the  
15 Concepcion case would not have countenanced the arbitration provision in this case being  
16 applied to these particular circumstances where Rapid Cash has utilized the Justice Court system  
17 repeatedly with the filing of false affidavits of service, securing of default judgments, and  
18 garnishing of wages. To do so would violate the public policy of the State of Nevada. This  
19 Court denied a previous motion by Rapid Cash to compel arbitration of the Class Members'  
20 claims, and the Court deemed Rapid Cash' arbitration clause unenforceable not under a state-  
21 wide policy declaring such clauses unenforceable but because Rapid Cash's own actions resulted  
22 in a waiver of its arbitration rights and permitting the Rapid Cash defendants to enforce any  
23 portion of their long-ignored arbitration provisions would violate public policy. The Court  
24 continues to find that Rapid Cash's conduct in its collection efforts constitutes a waiver of the  
25 right to elect arbitration of the claims in this action. Rapid Cash waived its ability to compel  
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28

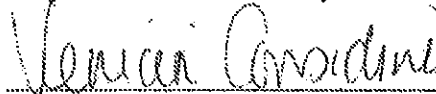
1 arbitration because, *inter alia*, it knew of its right to arbitrate, acted inconsistently with that right  
2 in filing thousands of justice court cases against the Class members, and prejudiced the Class  
3 members by its inconsistent acts in taking default judgments and pursuing collections. In  
4 making that prior determination, and again in issuing this decision and order, this Court has  
5 placed, and continues to place, the Rapid Cash contracts on equal footing with other contracts to  
6 reach this case-specific conclusion that Rapid Cash's own conduct invalidated and/or resulted in  
7 the unenforceability of its arbitration clauses, as *Concepcion* expressly permits. The Court  
8 further finds that the Class members' claims fall outside the scope of the arbitration agreement.  
9

10 **IT IS SO ORDERED.**

11 DATED this 30<sup>th</sup> day of November, 2011.

12  
13  
14   
DISTRICT COURT JUDGE

15 Prepared and submitted by:

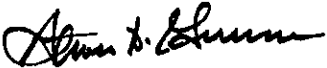
16 

17 Dan L. Wulz, Esq. (5557)  
18 Venicia Considine, Esq. (11544)  
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24 Jennifer C. Dorsey, Esq. (6456)  
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[jrj@kempjones.com](mailto:jrj@kempjones.com)  
28 **Class Counsel**



EXHIBIT B  
TO  
DOCKETING  
STATEMENT

  
CLERK OF THE COURT  
Electronically Filed  
Dec 15 2011 11:03 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

1 NOAS  
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13 Attorneys for Defendants  
14 Principal Investments, Inc., d/b/a Rapid  
15 Cash, Granite Financial Services, Inc., d/b/a  
16 Rapid Cash, FMMR Investments, Inc., d/b/a  
17 Rapid Cash, Prime Group, Inc., d/b/a Rapid  
18 Cash and Advance Group, Inc., d/b/a Rapid  
19 Cash

12 DISTRICT COURT

13 CLARK COUNTY, NEVADA

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

16 Plaintiffs,

17 vs.

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

23 Defendants.

CASE NO. A624982  
DEPT. XI

NOTICE OF APPEAL

26 ...

27 ...

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1 TO: ALL PARTIES.

2 NOTICE IS HEREBY GIVEN that Defendants Principal Investments, Inc., d/b/a Rapid  
3 Cash, Granite Financial Services, Inc., d/b/a Rapid Cash, FMMR Investments, Inc., d/b/a Rapid  
4 Cash, Prime Group, Inc., d/b/a Rapid Cash and Advance Group, Inc., d/b/a Rapid Cash (the  
5 "Rapid Cash Defendants") hereby appeal to the Supreme Court of Nevada from the Order  
6 entered on November 30, 2011, in the Eighth Judicial District Court, Clark County, Nevada,  
7 attached hereto as **Exhibit "A"**, and the Notice of Entry of Order was served on December 1,  
8 2011, and is attached hereto as **Exhibit "B"**.

9 DATED this 9 day of December, 2011.

10 GORDON SILVER

11   
12 GORDON SILVER

13 WILLIAM M. NOALL

14 Nevada Bar No. 3549

15 MARK S. DZARNOSKI

16 Nevada Bar No. 3398

17 3960 Howard Hughes Pkwy., 9th Floor

18 Las Vegas, Nevada 89169

19 Tel: (702) 796-5555

20 Attorneys for Defendants

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

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

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

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

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

26 Cash

CERTIFICATE OF SERVICE

The undersigned, an employee of Gordon Silver, hereby certifies that on the 9<sup>th</sup> day of December, 2011, she served a copy of the **NOTICE OF APPEAL**, by facsimile, and by placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada, said envelope addressed to:

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

J. Randall Jones, Esq.  
Jennifer C. Dorsey, Esq.  
Kemp, Jones & Coulthard, LLP  
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Las Vegas, NV 89169  
Fax: (702) 385-6001

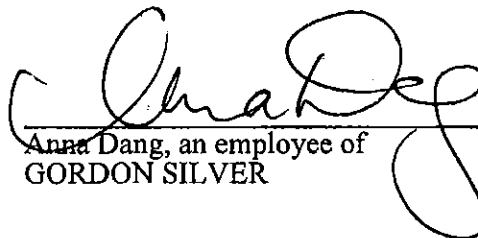
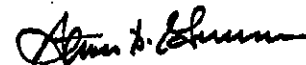
  
\_\_\_\_\_  
Anna Dang, an employee of  
GORDON SILVER

EXHIBIT A

EXHIBIT A

ORIGINAL

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CLERK OF THE COURT

1 ORDD

2 Dan L. Wulz, Esq. (5557)

3 Venicia Considine, Esq. (11544)

4 LEGAL AID CENTER OF SOUTHERN NEVADA, INC.

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17 [jj@kempjones.com](mailto:jj@kempjones.com)

18 *Class Counsel*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

23 Plaintiff,

24 vs.

25 PRINCIPAL INVESTMENTS, INC. d/b/a  
26 RAPID CASH; GRANITE FINANCIAL  
27 SERVICES, INC. d/b/a RAPID CASH; FMMR  
28 INVESTMENTS, INC. d/b/a RAPID CASH;  
PRIME GROUP, INC. d/b/a RAPID CASH;  
ADVANCED 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 OF THE  
FIRST AMENDED COMPLAINT**

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 ADVANCED GROUP, INC.

1 d/b/a RAPID CASH (hereafter "Rapid Cash") brought this "Motion to Compel Arbitration of  
2 First Amended Complaint and Stay All Proceedings" (the "Motion") on for hearing before this  
3 Court on October 25, 2011. The Class appeared by and through Class Counsel, J. Randall Jones,  
4 Esq., Kemp, Jones and Coulthard, LLP, and Dan L. Wulz, Esq., Legal Aid Center of Southern  
5 Nevada, Inc.; the Rapid Cash defendants appeared by counsel Mark S. Dzarnoski, Esq., Gordon  
6 & Silver, Ltd. The Court, having reviewed the Motion, the Class's Opposition, Defendants'  
7 Reply, the file, and the pleadings on file herein, and having heard and considered the arguments  
8 of the parties, hereby FINDS and ORDERS as follows:

10 The Motion is **DENIED**. Despite an arguable jurisdictional issue, the filing of the First  
11 Amended Complaint raises some separate issues that allow Rapid Cash to file and the Court to  
12 adjudicate the instant motion.

14 The Court finds that *AT&T Mobility LLC v. Concepcion*, 131 S. Ct. 1740 (Apr. 27, 2011),  
15 is not dispositive of this case. The decision by the United States Supreme Court in the  
16 *Concepcion* case would not have countenanced the arbitration provision in this case being  
17 applied to these particular circumstances where Rapid Cash has utilized the Justice Court system  
18 repeatedly with the filing of false affidavits of service, securing of default judgments, and  
19 garnishing of wages. To do so would violate the public policy of the State of Nevada. This  
20 Court denied a previous motion by Rapid Cash to compel arbitration of the Class Members'  
21 claims, and the Court deemed Rapid Cash' arbitration clause unenforceable not under a state-  
22 wide policy declaring such clauses unenforceable but because Rapid Cash's own actions resulted  
23 in a waiver of its arbitration rights and permitting the Rapid Cash defendants to enforce any  
24 portion of their long-ignored arbitration provisions would violate public policy. The Court  
25 continues to find that Rapid Cash's conduct in its collection efforts constitutes a waiver of the  
26 right to elect arbitration of the claims in this action. Rapid Cash waived its ability to compel  
27  
28

1 arbitration because, *inter alia*, it knew of its right to arbitrate, acted inconsistently with that right  
2 in filing thousands of justice court cases against the Class members, and prejudiced the Class  
3 members by its inconsistent acts in taking default judgments and pursuing collections. In  
4 making that prior determination, and again in issuing this decision and order, this Court has  
5 placed, and continues to place, the Rapid Cash contracts on equal footing with other contracts to  
6 reach this case-specific conclusion that Rapid Cash's own conduct invalidated and/or resulted in  
7 the unenforceability of its arbitration clauses, as *Conception* expressly permits. The Court  
8 further finds that the Class members' claims fall outside the scope of the arbitration agreement.  
9

10 **IT IS SO ORDERED.**

11 DATED this 30<sup>th</sup> day of November, 2011.

12  
13  
14   
DISTRICT COURT JUDGE

15 Prepared and submitted by:

16 

17 Dan L. Wulz, Esq. (5557)  
18 Venicia Considine, Esq. (11544)  
19 **LEGAL AID CENTER OF**  
**SOUTHERN NEVADA, INC.**  
20 800 South Eighth Street  
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23 J. Randall Jones, Esq. (1927)  
24 Jennifer C. Dorsey, Esq. (6456)  
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28 **Class Counsel**



EXHIBIT B

EXHIBIT B

1 **NEOJ**

2 Dan L. Wulz, Esq. (5557)

3 Venicia Considine, Esq. (11544)

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

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FEB 01 2001

10 J. Randall Jones, Esq. (1927)

11 Jennifer C. Dorsey, Esq. (6456)

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15 Telephone: (702) 385-6000

16 Facsimile: (702) 385-6001

17 [jjr@kempjones.com](mailto:jjr@kempjones.com)

BY: \_\_\_\_\_

18 *Class Counsel*

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,

Case No.: A-10-624982-B

Dept. No.: XI

25 **Plaintiffs,**

26 **v.**

27 Principal Investments, Inc. d/b/a Rapid  
28 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; W.A.M. Rentals, LLC  
and d/b/a On Scene Mediations; Vilisia

**NOTICE OF ENTRY OF ORDER**

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DATED this 1<sup>st</sup> day of December, 2011.

By: /s/ Venicia Considine  
DAN L. WULZ, ESQ. (5557)  
VENICIA CONSIDINE, ESQ. (11544)  
800 South Eighth Street  
Las Vegas, Nevada 89101

J. RANDALL JONES, ESQ. (1927)  
JENNIFER C. DORSEY, ESQ (6456)  
KEMP, JONES & COULTHARD, LLP  
3800 Howard Hughes Parkway  
Seventeenth Floor  
Las Vegas, Nevada 89169  
Class Counsel

I hereby certify that on the 1<sup>st</sup> day of December, 2011, the foregoing **NOTICE OF ENTRY OF ORDER** was served on the following person(s) by U.S. Mail:

/s/ Rosie Najera  
An employee of Legal Aid Center of Southern Nevada

Electronically Filed  
11/30/2011 04:39:01 PM

*Allen B. Sherman*  
CLERK OF THE COURT

J. Randall Jones, Esq. (1927)  
Jennifer C. Dorsey, Esq. (6456)  
**KEMP, JONES & COULTHARD, LLP**  
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Las Vegas, Nevada 89169  
Telephone: (702) 385-6000  
Facsimile: (702) 385-6001  
jrk@kempjones.com

**CLARK COUNTY, NEVADA**

**Defendants.**

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 ADVANCED GROUP, INC.

1 d/b/a RAPID CASH (hereafter "Rapid Cash") brought this "Motion to Compel Arbitration of  
2 First Amended Complaint and Stay All Proceedings" (the "Motion") on for hearing before this  
3 Court on October 25, 2011. The Class appeared by and through Class Counsel, J. Randall Jones,  
4 Esq., Kemp, Jones and Coulthard, LLP, and Dan L. Wulz, Esq., Legal Aid Center of Southern  
5 Nevada, Inc.; the Rapid Cash defendants appeared by counsel Mark S. Dzarnoski, Esq., Gordon  
6 & Silver, Ltd. The Court, having reviewed the Motion, the Class's Opposition, Defendants'  
7 Reply, the file, and the pleadings on file herein, and having heard and considered the arguments  
8 of the parties, hereby FINDS and ORDERS as follows:

10 The Motion is **DENIED**. Despite an arguable jurisdictional issue, the filing of the First  
11 Amended Complaint raises some separate issues that allow Rapid Cash to file and the Court to  
12 adjudicate the instant motion.

13 The Court finds that *AT&T Mobility LLC v. Concepcion*, 131 S. Ct. 1740 (Apr. 27, 2011),  
14 is not dispositive of this case. The decision by the United States Supreme Court in the  
15 Concepcion case would not have countenanced the arbitration provision in this case being  
16 applied to these particular circumstances where Rapid Cash has utilized the Justice Court system  
17 repeatedly with the filing of false affidavits of service, securing of default judgments, and  
18 garnishing of wages. To do so would violate the public policy of the State of Nevada. This  
19 Court denied a previous motion by Rapid Cash to compel arbitration of the Class Members'  
20 claims, and the Court deemed Rapid Cash' arbitration clause unenforceable not under a state-  
21 wide policy declaring such clauses unenforceable but because Rapid Cash's own actions resulted  
22 in a waiver of its arbitration rights and permitting the Rapid Cash defendants to enforce any  
23 portion of their long-ignored arbitration provisions would violate public policy. The Court  
24 continues to find that Rapid Cash's conduct in its collection efforts constitutes a waiver of the  
25 right to elect arbitration of the claims in this action. Rapid Cash waived its ability to compel  
26  
27  
28

1 arbitration because, *inter alia*, it knew of its right to arbitrate, acted inconsistently with that right  
2 in filing thousands of justice court cases against the Class members, and prejudiced the Class  
3 members by its inconsistent acts in taking default judgments and pursuing collections. In  
4 making that prior determination, and again in issuing this decision and order, this Court has  
5 placed, and continues to place, the Rapid Cash contracts on equal footing with other contracts to  
6 reach this case-specific conclusion that Rapid Cash's own conduct invalidated and/or resulted in  
7 the unenforceability of its arbitration clauses, as *Conception* expressly permits. The Court  
8 further finds that the Class members' claims fall outside the scope of the arbitration agreement.  
9

10 **IT IS SO ORDERED.**

11 DATED this 30<sup>th</sup> day of November, 2011.

12  
13  
14   
DISTRICT COURT JUDGE

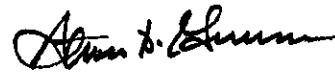
15 Prepared and submitted by:

16 

17 Dan L. Wulz, Esq. (5557)  
18 Venicia Considine, Esq. (11544)  
19 **LEGAL AID CENTER OF**  
20 **SOUTHERN NEVADA, INC.**  
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24 Jennifer C. Dorsey, Esq. (6456)  
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Facsimile: (702) 385-6001  
27 [jri@kempjones.com](mailto:jri@kempjones.com)  
28 **Class Counsel**

EXHIBIT C  
TO  
DOCKETING  
STATEMENT

  
CLERK OF THE COURT

**DFLT**

Dan L. Wulz, Esq. (5557)

Venicia Considine, Esq. (11544)

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[irj@kempjones.com](mailto:irj@kempjones.com)

Attorneys for Plaintiffs/Putative Class Counsel

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
CLARK COUNTY, NEVADA**

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

Plaintiffs,

v.

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; W.A.M. Rentals, LLC and  
d/b/a On Scene Mediations; Vilisia Coleman,  
and DOES I through X, inclusive,

Defendants.

Case No.: A-10-624982-B  
Dept. No.: XI

**DEFAULT**

It appearing from the files and records in the above-entitled action that Defendant,  
Maurice Carroll, individually and d/b/a On Scene Mediations, having been duly served with a



1 copy of the Summons and Complaint on October 6, 2010; that more than 20 days, exclusive of  
2 the day of service, have expired since service upon the Defendant with no answer or other  
3 appearance having been filed and no further time having been granted, the default of the above-  
4 named Defendant for failing to answer or otherwise plead to Plaintiff's Complaint is hereby  
5 entered.

6 The undersigned hereby requests and directs the entry of default

7 DATED this 21 day of January, 2011.

8 LEGAL AID CENTER OF  
9 SOUTHERN NEVADA, INC.

10 By: Venicia Considine

11 Dan L. Wulz, Esq. (5557)  
12 Venicia Considine, Esq. (11544)  
13 800 South Eighth Street  
14 Las Vegas, Nevada 89101

15 J. Randall Jones, Esq. (1927)  
16 Jennifer C. Dorsey, Esq. (6456)  
17 KEMP, JONES & COULTHARD, LLP  
18 3800 Howard Hughes Pkwy, 17<sup>th</sup> Floor  
19 Las Vegas, Nevada 89169  
20 Attorneys for Class  
21 Representatives/Putative  
22 Class Counsel  
23 STEVEN D. GRIERSON  
24 CLERK OF THE COURT

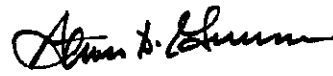
25 CLERK OF THE COURT

26 By: Michelle McCarthy

27 Deputy Clerk

28 MICHELLE MCCARTHY

Date: IAN 26 2011

  
CLERK OF THE COURT

1 **DFLT**

2 Dan L. Wulz, Esq. (5557)

3 Venicia Considine, Esq. (11544)

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

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17 [iri@kempjones.com](mailto:iri@kempjones.com)

18 Attorneys for Plaintiffs/Putative Class Counsel

19  
20 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
21 **CLARK COUNTY, NEVADA**

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

26 Plaintiffs,

27 v.

28 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; W.A.M. Rentals, LLC and  
d/b/a On Scene Mediations; Vilisia Coleman,  
and DOES I through X, inclusive,

Defendants.

Case No.: A-10-624982-B  
Dept. No.: XI

**DEFAULT**

It appearing from the files and records in the above-entitled action that Defendant,  
W.A.M. Rentals, LLC and d/b/a On Scene Mediations having been duly served with a copy of

CLERK OF THE COURT

FEB - 8 2011

RECEIVED

1 the Summons and Complaint on October 6, 2010; that more than 20 days, exclusive of the day of  
2 service, have expired since service upon the Defendant with no answer or other appearance  
3 having been filed and no further time having been granted, the default of the above-named  
4 Defendant for failing to answer or otherwise plead to Plaintiff's Complaint is hereby entered.

5 The undersigned hereby requests and directs the entry of default

6 DATED this B day of February, 2011.

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

9 By: 

10 Dan L. Wulz, Esq. (5557)  
11 Venicia Considine, Esq. (11544)  
12 800 South Eighth Street  
13 Las Vegas, Nevada 89101

14 J. Randall Jones, Esq. (1927)  
15 Jennifer C. Dorsey, Esq. (6456)  
16 KEMP, JONES & COULTHARD, LLP  
17 3800 Howard Hughes Pkwy, 17<sup>th</sup> Floor  
18 Las Vegas, Nevada 89169  
19 Attorneys for Class  
20 Representatives/Putative  
21 Class Counsel

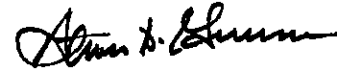
22 STEVEN D. GRIERSON  
23 CLERK OF THE COURT  
24 CLERK OF THE COURT

25 By: 

26 Deputy Clerk

27 Date: FEB 02 2011

28 MICHELLE MCCARTHY



CLERK OF THE COURT

1 DFLT

Dan L. Wulz, Esq. (5557)

2 Venicia Considine, Esq. (11544)

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

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9 Facsimile: (702) 385-6001

[iri@kempjones.com](mailto:iri@kempjones.com)

10 Attorneys for Plaintiffs/Putative Class Counsel

11 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
12 **CLARK COUNTY, NEVADA**

13  
14 Casandra Harrison; Eugene Varcados;  
15 Concepcion Quintino; and Mary Dungan,  
individually and on behalf of all persons  
similarly situated,

16 Plaintiffs,

17 v.

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

23 Defendants.

Case No.: A-10-624982-B  
24 Dept. No.: XI

25 **DEFAULT**

26 It appearing from the files and records in the above-entitled action that Defendant, Vilisia  
27 Coleman, an individual, having been duly served with a copy of the Summons and Complaint on

28 **RECEIVED**

1 of 2

JAN 28 2011

CLERK OF THE COURT

1 October 5, 2010; that more than 20 days, exclusive of the day of service, have expired since  
2 service upon the Defendant with no answer or other appearance having been filed and no further  
3 time having been granted, the default of the above-named Defendant for failing to answer or  
4 otherwise plead to Plaintiff's Complaint is hereby entered.

5 An Intent to Default against Coleman was initially filed on December 16, 2010. On  
6 January 4, 2011, Arnold Weinstock, Esq. contacted Legal Aid Center of Southern Nevada stating  
7 he was representing Coleman and planned on filing an appearance in the matter. A second Intent  
8 to Default was filed on January 7, 2011, allowing time for Coleman to file in the matter. No  
9 appearance or answer was filed.

10 The undersigned hereby requests and directs the entry of default

11 DATED this 28<sup>th</sup> day of January, 2011.

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

14 By 

15 Dan L. Wulz, Esq. (5557)  
16 Venicia Considine, Esq. (11544)  
17 800 South Eighth Street  
18 Las Vegas, Nevada 89101

19 J. Randall Jones, Esq. (1927)  
20 Jennifer C. Dorsey, Esq. (6456)  
21 KEMP, JONES & COULTHARD, LLP  
22 3800 Howard Hughes Pkwy, 17<sup>th</sup> Floor  
23 Las Vegas, Nevada 89169  
24 Attorneys for Class  
25 Representatives/Putative  
26 Class Counsel

27 STEVEN D. GRIERSON  
28 CLERK OF THE COURT

CLERK OF THE COURT

By:   
Deputy Clerk

Date: JAN 31 2011 MICHELLE MCCARTHY

AL24982

EXHIBIT D  
TO  
DOCKETING  
STATEMENT

  
CLERK OF THE COURT

1 **ACOM**  
2 Dan L. Wulz, Esq. (5557)  
3 Venicia Considine, Esq. (11544)  
4 **LEGAL AID CENTER OF SOUTHERN NEVADA, INC.**  
5 800 South Eighth Street  
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6 J. Randall Jones, Esq. (1927)  
7 Jennifer C. Dorsey, Esq. (6456)  
8 **KEMP, JONES & COULTHARD, LLP**  
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10 Las Vegas, Nevada 89169  
11 Telephone: (702) 385-6000  
12 Facsimile: (702) 385-6001  
13 [jjr@kempjones.com](mailto:jjr@kempjones.com)  
14 *Class Counsel*

11 **DISTRICT COURT**  
12 **CLARK COUNTY, NEVADA**

14 Casandra Harrison; Eugene Varcados;  
15 Concepcion Quintino; and Mary Dungan,  
16 individually and on behalf of all persons  
17 similarly situated,

16 Plaintiffs,

17 v.  
18 Principal Investments, Inc. d/b/a Rapid Cash;  
19 Granite Financial Services, Inc. d/b/a Rapid  
20 Cash; FMMR Investments, Inc., d/b/a Rapid  
21 Cash; Prime Group, Inc., d/b/a Rapid Cash;  
22 Advance Group, Inc., d/b/a Rapid Cash;  
23 Maurice Carroll, individually and d/b/a On  
24 Scene Mediations; W.A.M. Rentals, LLC and  
25 d/b/a On Scene Mediations; Vilisia  
26 Coleman, and DOES I through X, inclusive,

23 Defendants.

Case No.: A-10-624982-B  
Dept. No.: XI

**FIRST AMENDED  
CLASS ACTION COMPLAINT**

Exempt from Arbitration  
Class Action; Declaratory and  
Injunctive Relief Sought

24 Plaintiffs, Casandra Harrison, Eugene Varcados, Concepcion Quintino, and Mary Dungan,  
25 individually and on behalf of all others similarly situated (hereafter "Class Representatives") for  
26 their Complaint against Defendants and DOES I thru X, allege and state as follows:  
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I.

NATURE OF THIS ACTION

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

2. The Class seeks declaratory relief as an equitable remedy and/or pursuant to NRCP 23(b)(2) and/or NRS 30.010 *et seq.* for a declaration of the rights, status, or other legal relations of the parties, and primarily seeks a declaratory judgment that the default judgments as alleged are void, cannot be collected, and supplemental equitable relief such as disgorgement, or restitution in equity, or imposition of a constructive trust, as more specifically set forth herein. The Class also seeks injunctive relief as an equitable remedy, as well as pursuant to NRS 33.010 *et seq.*, NRCP 65, and/or NRCP 23(b)(2) against Rapid Cash with respect to enforcement of the void default judgments obtained, as well as other equitable remedies. This action also arises under NRS Chapter 604A against Rapid Cash seeking declaratory and injunctive relief, punitive damages, prejudgment interest, reasonable attorney's fees, costs, and other legal and equitable relief. This is an independent action in equity for fraud upon the court, and legal theories of recovery set forth below include abuse of process, violations of NRS Chapter 604A, negligent hiring/retention/supervision, negligence, and civil conspiracy.

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



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## II.

### JURISDICTION

4. This court has original jurisdiction of this independent action in equity for fraud on the court, the request for declaratory relief, and the request for injunctive relief under Article 6, Section 6 of the Nevada Constitution. As such, this court has jurisdiction over the entire case under Article 6, Section 14 of the Nevada Constitution and "for the purpose of administering complete relief," *Parascandolo v. Christensen*, 199 P.2d 629, 631 (Nev. 1948) (quoting *Seaborn v. District Court*, 29 P.2d 500, 505 (Nev. 1934); accord: *Porter v. Warner Holding Co.*, 328 U.S. 325 (1946) (in action for injunction against continued violation of rent ceiling regulations, court had jurisdiction to order restitution of rents unlawfully taken to secure complete rather than truncated justice); *Allenbach v. Ridenour*, 279 P. 32 (Nev. 1929). (court of equity with jurisdiction in an action to set aside a title may also award rents to the lawful owner for the purpose of giving complete relief), and including any claims for damages which may be less than Ten Thousand Dollars, *Edwards v. Emperor's Garden Restaurant*, 130 P.3d 1280 (Nev. 2006), and which some courts of equity refer to as the "clean up doctrine." See e.g. *Stephens v. McCargo*, 22 U.S. 502, 505 (1824); *Medtronic, Inc. v. Intermedics, Inc.*, 725 F.2d 440 (7<sup>th</sup> Cir. 1984). Also, in an action for a declaratory judgment, this Court has jurisdiction of supplemental relief "whenever necessary and proper" pursuant to NRS 30.100. This court also has original jurisdiction of the claims for damages in excess of Ten Thousand Dollars in the aggregate, *Hartford Mining Co. v. Home Lumber & Coal Co.*, 107 P.2d 132 (Nev. 1941); *El Ranco, Inc. v. New York Meat & Provision Co.*, 493 P.2d 1318 (Nev. 1972), as well as the claim for punitive damages in excess of Ten Thousand Dollars. NRS § 4.370.

## III.

### PARTIES

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

6. Principal Investments, Inc. d/b/a Rapid Cash is a corporation organized and

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

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

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

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

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

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

22 12. Maurice Carroll, individually and d/b/a On Scene Mediations,<sup>2</sup> is an individual and  
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24 <sup>1</sup> The Rapid Cash Defendants: Principal Investments, Inc. d/b/a Rapid Cash; Granite Financial  
25 Services, Inc. d/b/a Rapid Cash; FMMR Investments, Inc., d/b/a Rapid Cash; Prime Group, Inc.,  
26 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, LLC and  
28 d/b/a On Scene Mediations, will collectively be referred to herein throughout as "Carroll/On Scene  
Mediations" or "On Scene Mediations."

1 resident of Clark County, and may be served with process at his residence in Clark County, Nevada.

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

6 14. Vilisia Coleman is an individual and resident of Clark County, Nevada, and may be  
7 served with process at her residence in Clark County, Nevada. Vilisia Coleman was employed by  
8 Carroll/On Scene Mediations, claimed to have served process upon some members of the Class  
9 when she did not do so, and signed false Affidavits of Service which were provided to Rapid Cash.

10 15. All of the acts or failures to act alleged herein were duly performed by and are  
11 attributable to  
12 Defendants acting by and through their agents and employees. Said acts and failures to act were  
13 within the scope of said agency and/or employment, and Defendants ratified said acts and omissions.

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

#### 21 IV.

#### 22 GENERAL FACTUAL ALLEGATIONS

##### 23 A. Plaintiff Class Representatives

##### 24 1. *Casandra Harrison*

25 17. On or about March 19, 2009, Rapid Cash made payday loans in the amounts of  
26 \$582.00 and \$400.00, to Casandra Harrison pursuant to written loan agreements.

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

1           19.     The Affidavit of Service for the Summons and Complaint purportedly served on Ms.  
2 Harrison was signed by a "T. Smith," notarized by Maurice Carroll, and affirmed that service was  
3 both received and made by personal service on Ms. Harrison on the same day, August 8, 2009.

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

7           21.     Rapid Cash obtained a default judgment against Ms. Harrison on October 26, 2009.  
8 Ms. Harrison did not know that she had been sued by Rapid Cash until she was garnished for the  
9 void default judgment, which garnishments caused her bank account to be overdrawn.

10           **2.     *Eugene Varcados***

11           22.     In 2008, Rapid Cash made a series of payday loans to Mr. Varcados pursuant to  
12 written loan  
13 agreements.

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

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

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

22           26.     Rapid Cash obtained a default judgment against Mr. Varcados on December 17,  
23 2009.

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

26           **3.     *Concepcion Quintino***

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

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

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

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

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

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

12           **4.     Mary Dungan**

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

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

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

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

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

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

25           **B.     Defendants**

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

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

7 42. On information and belief, the Las Vegas Metropolitan Police Department ("Metro")  
8 has taken calls from people who complained that they were never served with process from as early  
9 as 2004 and claimed that Maurice Carroll's company never served them the required court papers,  
10 and default judgments were taken.

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

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

18 45. Lack of service deprived the Class resulted in hundreds if not thousands of void  
19 default judgments being entered without the opportunity to respond or defend. The outcome was  
20 that Rapid Cash obtained hundreds if not thousands of void default judgments and garnishments, and  
21 foreseeably and directly caused the Class to incur attorney's fees as special damages to prosecute and  
22 file this action to have those void default judgments set aside, in excess of Ten Thousand Dollars  
23 (\$10,000.00).

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

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

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

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

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

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

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

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

26 54. On information and belief, Maurice Carroll admitted to Metro that he had falsified  
27 affidavits of service, but claimed that his office manager, Vilisia Coleman, told him the documents  
28 had been served while he was out of town.

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

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

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

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

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

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

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

21          62.     Failure to provide notice of legal proceedings undermines the foundation of the  
22 legal system. Due to repeated and persistently falsified affidavits of service, victims were not  
23 notified of pending suits against them.

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

25          64.     Rapid Cash is entirely responsible for the acts of its employee and/or agent, On  
26 Scene Mediations, under common law *respondeat superior* and/or as its agent. Alternatively, Rapid  
27 Cash is entirely responsible for the acts of On Scene Mediations in that it either intentionally or  
28 negligently hired an unlicensed process server, and then either intentionally or negligently failed to



supervise and retained the unlicensed process server. Alternatively, Rapid Cash is entirely responsible for the acts of On Scene Mediations in that Rapid Cash knew, or was willfully blind to and recklessly disregarded, or should have known, and/or was on actual or constructive notice that On Scene Mediations was unlicensed and allegedly served an impossibly high number of people on a given day, or even at one given time, by a single process server, and also that On Scene Mediations claimed to have successfully served process on the same day that it was received in a very high number of cases, and thus Rapid Cash routinely filed falsified returns of service of process against the Class, resulting in void default judgments against the Class.

65. Rapid Cash's act of obtaining default judgments based on false affidavits of service naturally and foreseeably caused the Class special damages of attorney's fees and litigation costs in having to retain counsel to have the void default judgments set aside as sought herein. Attorney's fees herein exceed Ten Thousand Dollars (\$10,000.00). The Class seeks attorney's fees as damages under each legal theory of recovery set forth below. This Class action does not seek to, nor will it, actually litigate any additional claims for compensatory damage, which may include but not be limited to damage to credit reputation, fear, anxiety, mental and emotional distress, nor damages arising from wrongful garnishment or attachment, such as bank fees, bounced check fees, finance charges or interest on bills which would have otherwise been paid, and the like.

V.

## CLASS ACTION ALLEGATIONS

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

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

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

6       68.     Numerosity. Membership in the Class is so numerous as to make joinder of all  
7       Class members impracticable. During the time period applicable to the Class, upon information and  
8       belief, there were thousands of default judgments obtained by Rapid Cash employing On Scene  
9       Mediations to serve process. Rapid Cash filed 1,760 cases in 2004, 3,009 cases in 2005, 2,020 cases  
10      in 2006, 2,886 cases in 2007, 3,162 cases in 2008, and 3,826 cases in 2009, and typically employed  
11      On Scene Mediations to serve process. On information and belief, hundreds if not thousands of  
12      defendants were never served, and void default judgments were obtained as a result of this sewer  
13      service. The disposition of the Class's claims in a class action will obviate the need for repeated  
14      individual adjudications of the same issues.

15      69.     Commonality. There are questions of law or fact common to all members of the  
16      Class that control this litigation and which predominate over any individual issues. The common  
17      questions of law or fact include, but are not limited to, the following: (a) whether Rapid Cash  
18      obtained void default judgments based on false affidavits of service in cases too numerous to join  
19      together; (b) whether Rapid Cash is responsible for the acts of its employee and/or agent On Scene  
20      Mediations; (c) whether, in hiring and supervising its employee and/or agent On Scene Mediations  
21      to fulfill its JCRCP 4(a) responsibility to serve process, Rapid Cash engaged in a fraud upon the  
22      Court; (d) whether, in hiring and supervising its employee and/or agent On Scene Mediations to  
23      fulfill its JCRCP 4(a) responsibility to serve process, Rapid Cash engaged in abuse of process; (e)  
24      whether, in hiring and supervising its employee and/or agent On Scene Mediations to fulfill its  
25      JCRCP 4(a) responsibility to serve process, Rapid Cash was negligent; (f) whether, in hiring and  
26      supervising its employee and/or agent On Scene Mediations to fulfill its JCRCP 4(a) responsibility  
27      to serve process, Rapid Cash engaged in a civil conspiracy; (g) whether in hiring and supervising its  
28      employee and/or agent, On Scene Mediations, to fulfill its JCRCP 4(a) responsibility to serve  
29      process, Rapid Cash violated NRS 604A.415 in failing to collect a debt in a "fair and lawful  
30      manner;" (h) whether, at some point during its employment of On Scene Mediations, Rapid Cash

1 became aware of or was willfully blind to and recklessly disregarded the fact that Rapid Cash was  
2 filing false returns of service in its lawsuits against the Class such that it might be responsible for  
3 punitive damages; and (i) whether the Class has a remedy for Defendants' actions as described and,  
4 if so, the nature of that remedy.

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

9       71.     Adequacy of Representation. The Class Representatives and experienced Class  
10 Counsel will fairly and adequately protect the interests of the Class.

11       72.     Superiority. A class action is superior to other methods for the fair and efficient  
12 adjudication of this controversy because, *inter alia*: (a) the prosecution of separate actions would  
13 create a risk of inconsistent or varying adjudications, making this case suitable for certification as a  
14 class action under NRCP 23(b)(1); (b) Rapid Cash has acted or refused to act on grounds generally  
15 applicable to the Class, thereby making appropriate final injunctive relief or corresponding  
16 declaratory relief with respect to the Class as a whole, and making the case suitable for certification  
17 under NRCP 23(b)(2); (c) the complexity of the issues involved, the size of the individual Class  
18 member's claims, and the limited resources of the Class members would clearly make it  
19 impracticable for all individual members of the Class to individually seek legal redress for the  
20 actions of Rapid Cash, making a class action superior to other available methods for the fair and  
21 efficient adjudication of the controversy, and questions of law or fact common to the members of the  
22 Class predominate over any questions affecting only individual members, making the case suitable  
23 for certification under NRCP 23(b)(3); (d) this action would facilitate an orderly and expeditious  
24 resolution of the Class' claims, and will foster economies of time, effort, and expense; (e) when the  
25 Court has adjudicated whether Rapid Cash is liable, then the claims of all Class members may be  
26 determined by the Court; and (f) this action presents no difficulty that would impede its maintenance  
27 by the Court as a class action and is the best available means by which the Class Representatives and  
28 all Class members may seek redress for the harm caused by Rapid Cash.

1 VI.

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

3 **(All Defendants)**

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

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

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

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

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

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

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

24 80. Class Representatives and the Class have incurred special damages in having to retain  
25 counsel to set aside void default judgments.

26 81. To remedy the Defendants' fraud upon the Court, Class Representatives and the Class  
27 are entitled to equitable relief including but not limited to the declaratory relief set forth below, the  
28 injunctive relief set forth below, additional equitable remedies including but not limited to

1 disgorgement, restitution in equity, imposition of a constructive trust, as well as special damages as  
2 set forth in paragraph no. 65 in excess of Ten Thousand Dollars (\$10,000.00), as well as punitive  
3 damages in an amount sufficient to punish Defendants and to deter others from like conduct in  
4 excess of Ten Thousand Dollars (\$10,000.00).

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

## 8 VII.

### 9 ABUSE OF PROCESS

#### 10 (All Defendants)

11 83. Class Representatives incorporate all prior paragraphs as though fully set forth  
12 herein.

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

17 85. Defendants had the ulterior motive of depriving Rapid Cash's customers of an  
18 opportunity to be heard or otherwise depriving them of rights and defenses by utilizing affidavits of  
19 service that were known to be – or which a reasonable person would have known to be – false and  
20 fraudulent.

21 86. Defendants' actions were willful in the use of the process, and not proper in the  
22 regular conduct of the proceeding. *See Childs v. Selznick*, 2009 Nev. LEXIS 87, \*3 (Nev. Sept. 28,  
23 2009) (citations omitted), as evidenced, *inter alia*, by the facts that: 1) On Scene Mediations, with  
24 the actual or constructive knowledge of Rapid Cash, was knowingly operating as an unlicensed  
25 server; and 2) On Scene Mediations and its employees knew, and Rapid Cash knew or should have  
26 known, that the affidavits they were submitting and filing were false and fraudulent.

27 87. Therefore, Defendants abused the legal process to the detriment of the Class, entitling  
28

1 the Class to equitable relief including but not limited to the declaratory relief set forth below, the  
2 injunctive relief set forth below, additional equitable remedies including but not limited to  
3 disgorgement, restitution in equity, imposition of a constructive trust, as well as special damages as  
4 set forth in paragraph no. 65 in excess of Ten Thousand Dollars (\$10,000.00), as well as punitive  
5 damages in an amount sufficient to punish Defendants and to deter others from like conduct in  
6 excess of Ten Thousand Dollars (\$10,000.00).

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

#### 10 VIII.

#### 11 NEGLIGENT HIRING/SUPERVISION/RETENTION

#### 12 (Rapid Cash)

13 89. Class Representatives incorporate all prior paragraphs as though fully set forth  
14 herein.

15 90. To fulfill its JCRCP 4 responsibility for service of the summons and complaint,  
16 Rapid Cash employed On Scene Mediations, who served as its agent.

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

19 92. Rapid Cash was under a general duty to conduct a reasonable background check or  
20 other reasonable investigation into On Scene Mediation's fitness for use as Rapid Cash's process  
21 server.

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

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

- 27 a) Rapid Cash began using On Scene Mediations after On Scene Mediations was cited  
28 in 2003 for not being licensed;

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

10          95.     On Scene Mediations acted as employee and/or agent for Rapid Cash when effecting  
11     service of process. Therefore, Rapid Cash is responsible for On Scene Mediations' tortious conduct  
12     in making false affidavits of service and in denying members of the Class the opportunity to be  
13     heard.

14          96.     Rapid Cash's negligent hiring, supervision, and/or retention of On Scene Mediations  
15     has caused void default judgments to be entered against the Class Representatives and the Class,  
16     entitling the Class to equitable relief including but not limited to the declaratory relief set forth  
17     below, the injunctive relief set forth below, additional equitable remedies including but not limited  
18     to disgorgement, restitution in equity, imposition of a constructive trust, as well as special damages  
19     as set forth in paragraph no. 65 in excess of Ten Thousand Dollars (\$10,000.00), as well as punitive  
20     damages in an amount sufficient to punish Defendants and to deter others from like conduct in  
21     excess of Ten Thousand Dollars (\$10,000.00).

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

## 25                                 IX.

### 26                                 NEGLIGENCE

#### 27                                 (All Defendants)

28          98.     Process servers and others tasked with the obligation to serve process owe a duty of

1 due care to the persons upon whom service is to be effectuated.

2 99. Both Rapid Cash (under JCRCP 4) and Maurice Carroll/On Scene Mediations/Vilisia  
3 Coleman (as Rapid Cash's hired process server) had a duty of care to ensure that members of the  
4 Class were properly served. Both Rapid Cash and Maurice Carroll/On Scene Mediations/Vilisia  
5 Coleman breached that duty and failed to exercise due care when Maurice Carroll/On Scene  
6 Mediations/Vilisia Coleman, acting as an agent of Rapid Cash, did not properly serve the Class;  
7 Rapid Cash further breached its duty and failed to exercise due care when it failed to ensure that  
8 Maurice Carroll/On Scene Mediations/Vilisia Coleman was licensed, that Maurice Carroll/On Scene  
9 Mediations/Vilisia Coleman properly served defendants, and after receiving numerous affidavits  
10 which showed Maurice Carroll/On Scene Mediations/Vilisia Coleman could not have personally  
11 served defendants as quickly as claimed, Rapid Cash continued using Maurice Carroll/On Scene  
12 Mediations/Vilisia Coleman.

13 100. Defendants' negligence has directly and proximately caused void default judgments  
14 to be entered against the Class Representatives and the Class, entitling the Class to equitable relief  
15 including but not limited to the declaratory relief set forth below, the injunctive relief set forth  
16 below, additional equitable remedies including but not limited to disgorgement, restitution in equity,  
17 imposition of a constructive trust, as well as special damages as set forth in paragraph no. 65 in  
18 excess of Ten Thousand Dollars (\$10,000.00).

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

22 **X.**

23 **CIVIL CONSPIRACY**

24 **(All Defendants)**

25 102. Class Representatives incorporate all prior paragraphs as though fully set forth  
26 herein.

27 103. Defendants and each of them conspired with one another with the intention of  
28



1 causing debtors (all Class members) to default when sued, by deliberately failing to serve them. The  
2 result of this conspiracy was that Rapid Cash obtained void default judgments in violation of court  
3 rules and public policy, and further in amounts that included costs of service that was never made  
4 and which included amounts the Class lost the opportunity to compromise.

5 104. Defendants agreed to deprive members of the Class the opportunity to oppose the  
6 complaints against them in violation of court rules and public policy, resulting in void default  
7 judgments for Rapid Cash to the damage of the Class.

8 105. The conspiracy damaged members of the Class because default judgments were  
9 entered against them without notice and included costs of service that was never made, naturally and  
10 foreseeably causing the Class to incur attorney's fees to retain counsel to have the default judgments  
11 set aside.

12 106. Defendants' actions were fraudulent, intentional, and/or malicious, and Class  
13 Representatives and the Class are also entitled to punitive damages.

14 107. This conspiracy has directly and proximately caused caused void default judgments  
15 to be entered against the Class Representatives and the Class, entitling the Class to equitable relief  
16 including but not limited to the declaratory relief set forth below, the injunctive relief set forth  
17 below, additional equitable remedies including but not limited to disgorgement, restitution in equity,  
18 imposition of a constructive trust, as well as special damages as set forth in paragraph no. 65 in  
19 excess of Ten Thousand Dollars (\$10,000.00), as well as punitive damages in an amount sufficient  
20 to punish Defendants and to deter others from like conduct in excess of Ten Thousand Dollars  
21 (\$10,000.00).

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

## 25 XI.

### 26 VIOLATION OF NRS CHAPTER 604A

#### 27 (Rapid Cash)

28 109. Class Representatives incorporate all prior paragraphs as though fully set forth

1 herein.

2 110. Rapid Cash is licensed, operates, and is subject to the provisions of NRS Chapter  
3 604A.

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

6 112. Rapid Cash violated NRS 604A.415(1) when in collecting the debt owed by a  
7 customer who had defaulted, it failed to act in a fair and lawful manner in that it: (a) hired On Scene  
8 Mediations to fulfill its responsibility to serve summons and complaint on the Class when it knew or  
9 should have known that On Scene Mediations was unlicensed, (b) continued to employ and failed to  
10 supervise On Scene Mediations to fulfill its responsibility to serve summons and complaint on the  
11 Class after it knew or should have known On Scene Mediations was falsifying returns of service, (c)  
12 obtained void default judgments based on invalid service of process; and (d) failed to voluntarily set  
13 aside all void default judgments obtained against the Class once it learned of On Scene Mediations'  
14 pattern of conduct.

15 113. Rapid Cash's violations of NRS 604A.415(1) entitle Class Representatives and the  
16 Class to recover under NRS 604A.930, including but not limited to the declaratory relief set forth  
17 below, the injunctive relief set forth below, additional equitable remedies including but not limited  
18 to disgorgement, restitution in equity, imposition of a constructive trust, as well as special damages  
19 as set forth in paragraph no. 65 in excess of Ten Thousand Dollars (\$10,000.00).

20 114. Rapid Cash's conduct was intentional, willful, fraudulent and/or malicious and Rapid  
21 Cash is therefore liable for punitive or exemplary damages in an amount sufficient to punish Rapid  
22 Cash and to deter others from like conduct, under NRS 604A.930(1), in excess of Ten Thousand  
23 Dollars (\$10,000.00).

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

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

1 XII.

2 REMEDIES/ADDITIONAL LEGAL THEORIES

3 117. Class Representatives incorporate all prior paragraphs as though fully set forth  
4 herein.

5 118. Whether viewed as equitable remedies for the aforementioned legal theories of  
6 recovery, or as equitable or statutory causes of action, the Class also seeks the following:

7 **A. Declaratory Judgment**

8 119. Declaratory relief is a historical equitable remedy. In addition, the State of Nevada  
9 has enacted the Uniform Declaratory Judgments Act, NRS 30.010 *et seq.* Further, NRCP 23(b)(2)  
10 authorizes declaratory relief where the party opposing the Class has acted or refused to act on  
11 grounds generally applicable to the Class.

12 120. The facts of this case state a justiciable controversy in which a claim of right is  
13 asserted against one who has an interest in contesting it.

14 121. The controversy is between persons whose interests are adverse.

15 122. The Class has a legally protectible interest in the controversy.

16 123. The issue involved in the controversy is ripe for determination.

17 124. This court has the power by law to declare the rights, status and other legal relations  
18 of the parties whether or not further relief is or could be claimed, and a declaration may be either  
19 affirmative or negative in form and effect, and such declarations have the force and effect of a final  
20 judgment or decree.

21 125. The Class seeks all equitable declaratory relief and/or statutory declaratory relief  
22 and/or NRCP 23(b)(2) declaratory relief that arises from or is implied by the facts, whether or not  
23 specifically requested, including but not limited to: (a) a declaration of the rights of the Class with  
24 respect to the default judgments obtained against each of them as alleged, including that the default  
25 judgments are void and cannot be collected, (b) a declaration that the Class is entitled to injunctive  
26 relief, (c) a declaration that the Class is entitled to disgorgement or restitution in equity or  
27 imposition of a constructive trust upon all funds collected under void default judgments against the  
28 Class, (d) a declaration that the Rapid Cash Defendants are not entitled to collect, receive or retain

1 any principal, interest or other charges or fees with respect to the loans as provided in NRS  
2 604A.900(1) and 604A.930, and (e) a declaration that the Class is entitled to attorney's fees and  
3 costs.

4 **B. Injunctive Relief**

5 126. Injunctive relief is a historical equitable remedy. In addition, the State of Nevada has  
6 enacted NRS 33.010 *et seq.* In addition, NRCP 23(b)(2) authorizes injunctive relief where the party  
7 opposing the Class has acted or refused to act on grounds generally applicable to the Class.

8 127. The Class does not have an adequate remedy at law.

9 128. It appears from the facts alleged above herein that the Class is entitled to the relief  
10 demanded, and such relief or any part thereof consists in restraining the commission or continuance  
11 of the act(s) complained of, either for a limited period or perpetually, and accordingly the Class  
12 seeks all equitable injunctive relief that arises from or is implied by the facts, whether or not  
13 specifically requested, including an injunction (a) that Rapid Cash vacate and set aside all void  
14 default judgments entered against the Class as alleged, (b) that Rapid Cash dismiss all cases filed  
15 against the Class, (c) that Rapid Cash disgorge or make restitution in equity or be subjected to  
16 imposition of a constructive trust upon on all funds collected under the void default judgments  
17 against the Class as alleged, and (d) that Rapid Cash return all principal, interest or other charges or  
18 fees with respect to the loans as provided in NRS 604A.900(1) and 604A.930.

19 **C. Injunctive Relief in Statutory Enforcement Action**

20 129. To obtain injunctive relief in a statutory enforcement action, all the Class need show  
21 is a reasonable likelihood that the statute was violated and that the statute specifically allows  
22 injunctive relief.

23 130. NRS Chapter 604A was violated as alleged.

24 131. NRS 604A.930 authorizes "any other legal or equitable relief that the court deems  
25 appropriate."

26 132. The Class seeks all equitable relief that arises from or is implied by the facts, whether  
27 or not specifically requested, including an injunction (a) that Rapid Cash vacate and set aside all  
28 void default judgments entered against the Class as alleged, (b) that Rapid Cash dismiss all cases

1 filed against the Class, (c) that Rapid Cash disgorge or make restitution in equity or be subjected to  
2 imposition of a constructive trust upon on all funds collected under the void default judgments  
3 against the Class as alleged, and (d) that Rapid Cash return all principal, interest or other charges or  
4 fees with respect to the loans as provided in NRS 604A.900(1) and 604A.930.

5 **XIII.**

6 **JURY TRIAL DEMAND**

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

8 **XIV.**

9 **PRAYER FOR RELIEF**

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

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

16 2. All equitable **declaratory relief** and/or statutory declaratory relief and/or NRCP  
17 23(b)(2) declaratory relief that arises from or is implied by the facts, whether or not specifically  
18 requested, including but not limited to: (a) a declaration of the rights of the Class with respect to the  
19 default judgments obtained against each of them as alleged, including that the default judgments are  
20 void and cannot be collected, (b) a declaration that the Class is entitled to injunctive relief, (c) a  
21 declaration that the Class is entitled to disgorgement or restitution in equity or imposition of a  
22 constructive trust upon all funds collected under void default judgments against the Class, (d) a  
23 declaration that the Rapid Cash Defendants are not entitled to collect, receive or retain any principal,  
24 interest or other charges or fees with respect to the loans as provided in NRS 604A.900(1) and  
25 604A.930, and (e) a declaration that the Class is entitled to attorney's fees and costs;

26 3. All equitable **injunctive relief** that arises from or is implied by the facts, whether  
27 or not specifically requested, including an injunction (a) that Rapid Cash vacate and set aside all  
28 void default judgments entered against the Class as alleged, (b) that Rapid Cash dismiss all cases

1 filed against the Class, (c) that Rapid Cash disgorge or make restitution in equity or be subjected to  
2 imposition of a constructive trust upon on all funds collected under the void default judgments  
3 against the Class as alleged, and (d) that Rapid Cash return all principal, interest or other charges or  
4 fees with respect to the loans as provided in NRS 604A.900(1) and 604A.930;

5 4. **Special damages** in an aggregate amount exceeding \$10,000, representing the attorneys  
6 fees naturally and foreseeably incurred by all members of the Class as a result of Rapid Cash's act of  
7 obtaining default judgments based on false affidavits of service and the Class's consequential need  
8 to retain counsel to have the void default judgments set aside, and as specifically detailed in  
9 paragraph 65, *supra*;

10 5. **Punitive damages** in an amount sufficient to punish Defendants and to deter others  
11 from like conduct in excess of \$10,000.00;

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

16 7. Attorney's fees;

17 8. Prejudgment interest;

18 9. Costs of suit; and

19 ...

20  
21 ...

22  
23 ...

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

DATED this 28<sup>th</sup> day of February, 2011.

Respectfully Submitted by:

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

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**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on the 1<sup>st</sup> day of March, 2011, I placed a true and correct copy of the foregoing **FIRST AMENDED COMPLAINT** in the United States Mail, postage fully pre-paid thereon addressed as follows:

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