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11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 WESLEY WELBORNE, an individual;
14 ZACHARY WELBORNE, an individual;

Case No.: 2:23-cv-01281

15 Plaintiffs;

16 v.

17 NATIONAL CREDIT SYSTEMS, INC., a
18 foreign corporation; EQUIFAX
19 INFORMATION SERVICES, LLC, a foreign
20 limited-liability company; EXPERIAN
21 INFORMATION SOLUTIONS, INC., a foreign
22 corporation;

COMPLAINT

JURY DEMAND

23 Defendants.

24 Plaintiffs, Wesley Welborne and Zachary Welborne (“Plaintiffs”), by and through the
25 undersigned counsel of record, and for their claims for relief against Defendants, National Credit
26 Systems, Inc. (“NCS”), Equifax Information Services, LLC (“Equifax”), and Experian
27 Information Solutions, Inc. (“Experian”), complain and allege as follows:

28 **JURISDICTION AND VENUE**

1. This action arises out of Defendants’ violations of the Fair Credit Reporting Act,
15 U.S.C. § 1681, *et seq.* (“FCRA”) and NCS’s violations of the Fair Debt Collection Practices
Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).

2. This court has jurisdiction over this matter under 15 U.S.C. § 1681(p), 15 U.S.C. §
1692k, and 28 U.S.C. § 1331.

1 3. Under 28 U.S.C. § 1391(b), venue in this District is proper because, at all relevant
2 times, Plaintiffs and Defendants resided and/or conducted business in the District of Nevada.

3 4. Venue is also proper in this District because the acts and transactions that give rise
4 to this action occurred, in substantial part, in the District of Nevada.

5 **PARTIES**

6 5. Plaintiffs are adult individuals who resided in Clark County, Nevada at all relevant
7 times.

8 6. This matter concerns, in part, a residential lease for a property located in Clark
9 County, Nevada.

10 7. As individuals, Plaintiffs are “consumers” under 15 U.S.C. § 1681a(c).

11 8. Plaintiffs are natural persons allegedly obligated to pay a “debt,” and are therefore
12 “consumers” under 15 U.S.C. § 1692a(3).

13 9. NCS is a foreign corporation doing business in the State of Nevada.

14 10. NCS regularly and in the ordinary course of business furnishes credit information
15 about consumers, such as Plaintiffs, to the national consumer reporting agencies, and is therefore
16 a “furnisher” under 15 U.S.C. § 1681s-2(b).

17 11. NCS regularly collects or attempts to collect consumer debts owed or due another,
18 or asserted to be owed or due another, and therefore, NCS is a “debt collector” under 15 U.S.C. §
19 1692a(6).

20 12. NCS’s principal purpose is to purchase, service, and collect defaulted consumer
21 debts, and therefore, NCS is a “debt collector” under 15 U.S.C. § 1692a(6).

22 13. NCS’s website (<https://www.nationalcreditsystems.com/>) describes NCS as “your
23 best collection solution.”

24 14. NCS’s website further describes NCS as a “specialized collection firm helping
25 apartment owners and managers recover money” from former residents.

26 15. NCS’s website further states it is “licensed to collect debts throughout the U.S. and
27 provide a full range of collection services to the multifamily industry.”
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1 28. The Debt was purchased, assigned, or transferred to NCS for collection after the
2 Debt was allegedly in a default status with the Creditor.

3 29. Plaintiff Wesley Welborne is permanently disabled and receives Social Security
4 Disability income.

5 30. Upon vacating the Property, the Creditor claimed Plaintiffs owed \$1,013.48 in
6 purported damages, which Plaintiffs disputed.

7 31. Despite the dispute, Plaintiffs made two good faith payments to the Creditor toward
8 the \$1,013.48 balance: 1) \$115.87 on November 11, 2022, and 2) \$350.00 on December 14, 2022.

9 32. After receiving these payments, the Creditor more than tripled the Debt to
10 \$3,633.50, by including additional sums not owed.

11 33. In December 2022, the Creditor transferred the Debt to NCS after claiming it was
12 in a default status with the Creditor.

13 34. On January 11, 2023, Plaintiffs received a collection letter from NCS regarding the
14 Debt.

15 35. On January 18, 2023, Plaintiffs disputed the validity of the Debt with NCS directly.

16 36. During a call with NCS, NCS told Plaintiffs they would not report the Debt to their
17 credit profiles.

18 37. In fact, NCS was already reporting the Debt to their credit profiles and continued
19 to do so despite their claim to the contrary.

20 38. Neither NCS nor the Creditor have obtained a judgment against Plaintiffs for the
21 Debt.

22 39. On or about April 2023, Plaintiffs obtained copies of their Equifax and Experian
23 credit reports and became aware that Defendants were reporting the Debt inaccurately.

24 40. In April and May 2023, Plaintiffs submitted detailed disputes to Equifax and
25 Experian regarding the above-referenced inaccurate information concerning the Debt.

26 41. Plaintiffs enclosed with their disputes copies of the NCS collection letter, the
27 payment confirmations, screenshots of the false reporting, and a detailed description of the errors.
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1 42. On information and belief, Equifax and Experian transmitted Plaintiffs' written
2 disputes to NCS for investigation.

3 43. Defendants failed to remove or block the inaccurate Debt from Plaintiffs' Equifax
4 and Experian credit reports within thirty (30) days of receipt of Plaintiffs' disputes.

5 44. NCS failed to investigate or review the disputed information from Plaintiffs with
6 the Creditor or any other party.

7 45. Upon receipt of Plaintiffs' disputes of the inaccurate information, Defendants failed
8 to evaluate or consider any of Plaintiffs' information, claims, or evidence and did not make any
9 attempt to substantially or reasonably verify the disputed account information on Plaintiffs' credit
10 reports.

11 46. Defendants failed to conduct a lawful investigation of the disputed account
12 information on Plaintiffs' credit reports.

13 47. In failing to delete the inaccurate information, Defendants continue to report
14 inaccurate information in violation of the FCRA.

15 48. In failing to delete the inaccurate information, Defendants provide misleading
16 information on Plaintiffs' credit reports in violation of the FCRA.

17 49. Plaintiffs suffered concrete harm as a direct and proximate result of the Defendants'
18 actions and inaction through the embarrassment, intrusion, invasion of privacy, and wasted time
19 associated with NCS's collection tactics.

20 50. Plaintiffs suffered further concrete harm as a direct and proximate result of the
21 Defendants' actions and inaction by suffering a severe loss of creditworthiness and credit score.

22 51. Plaintiffs suffered further concrete harm as a direct and proximate result of the
23 Defendants' actions and inaction through delays in obtaining housing due to the inaccurate Debt
24 on their credit profiles.

25 52. Plaintiffs experienced further concrete harm as a direct and proximate result of the
26 Defendants' actions and inaction by suffering emotional distress, worry, and anguish.

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FIRST CLAIM FOR RELIEF

[Violations of 15 U.S.C. § 1681e(b) against Equifax and Experian]

53. Plaintiffs reincorporate by reference all preceding paragraphs as if fully set forth below.

54. Equifax and Experian violated 15 U.S.C. § 1681e(b) by failing to establish or to follow reasonable procedures to assure maximum possible accuracy in the preparation of the credit reports and credit files each publishes and maintains concerning Plaintiffs.

55. As a direct and proximate result of this conduct alleged in this Complaint, Plaintiffs suffered, and continue to suffer, damage by loss of credit and loss of ability to purchase and benefit from credit.

56. Equifax and Experian's acts and omissions were willful, rendering each liable for punitive damages in an amount to be determined at trial on the merits under 15 U.S.C. § 1681n.

57. In the alternative, Equifax and Experian were negligent in the above-referenced acts and omissions, entitling Plaintiffs to recovery under 15 U.S.C. § 1681o.

58. As a direct and proximate result of the above-referenced violations by Equifax and Experian, Plaintiffs are entitled to statutory damages plus actual damages to be proven at the time of trial in this matter.

59. Plaintiffs are entitled to recover costs and attorneys' fees from Equifax and Experian in an amount to be determined by the Court under 15 U.S.C. § 1681n or § 1681o.

60. Plaintiffs may have suffered damages in other ways and to other extents not presently known to Plaintiffs, and not specified in this Complaint.

61. Plaintiffs reserve the right to assert additional facts and damages not referenced in this Complaint, and/or to present evidence of the same at the time of trial.

SECOND CLAIM FOR RELIEF

[Violations of 15 U.S.C. § 1681i against Equifax and Experian]

62. Plaintiffs reincorporate by reference all preceding paragraphs as if fully set forth below.

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1 63. Equifax and Experian violated 15 U.S.C. § 1681i by failing to delete or correct the
2 aforementioned inaccurate information in Plaintiffs’ credit files after receiving actual notice of the
3 inaccuracies, by failing to conduct a lawful reinvestigation, by failing to maintain reasonable
4 procedures with which to filter and verify disputed information in Plaintiffs’ credit files, and by
5 relying upon verification from a source each has reason to know is unreliable.

6 64. Equifax and Experian further violated the FCRA by continuing to report the Debt
7 despite it being disputed under NRS 118A.242(5) since neither NCS nor Creditor have obtained a
8 judgment against Plaintiffs for the purported Debt.

9 65. As a direct and proximate result of this conduct by Equifax and Experian, Plaintiffs
10 suffered, and continue to suffer, damage by loss of credit, and the loss of the ability to purchase
11 and benefit from credit.

12 66. Equifax and Experian’s conduct was willful, rendering each liable for actual or
13 statutory damages, and punitive damages in an amount to be determined by the court under 15
14 U.S.C. § 1681n.

15 67. Plaintiffs are entitled to recover costs and attorneys’ fees from Equifax and
16 Experian in an amount to be determined by the Court under 15 U.S.C. § 1681n or § 1681o.

17 **THIRD CLAIM FOR RELIEF**

18 **[Violations of the FCRA, 15 U.S.C. § 1681s-2(b) against NCS]**

19 68. Plaintiffs reincorporate by reference all preceding paragraphs as if fully set forth
20 below.

21 69. NCS violated the FCRA, 15 U.S.C. § 1681s-2(b), by continuing to report the false
22 representations within Plaintiffs’ credit files with Equifax and Experian; by failing to investigate
23 Plaintiffs’ disputes properly; by failing to review all relevant information regarding Plaintiffs’
24 disputes; by failing to respond to Equifax and Experian accurately; by failing to report results on
25 Plaintiffs’ credit files correctly; and by failing to permanently and lawfully correct its own internal
26 records to prevent the aforementioned violations.

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1 70. NCS further violated the FCRA by continuing to report the Debt despite it being
2 disputed under NRS 118A.242(5) since neither NCS nor Creditor have obtained a judgment
3 against Plaintiffs for the purported Debt.

4 71. As a direct and proximate result of this conduct alleged in this Complaint, Plaintiffs
5 suffered, and continue to suffer, damage by loss of credit, and loss of ability to purchase and benefit
6 from credit.

7 72. NCS's acts and omissions were willful, rendering it liable for punitive damages in
8 an amount to be determined at trial on the merits under 15 U.S.C. § 1681n.

9 73. In the alternative, NCS was negligent in the above-referenced acts and omissions,
10 entitling Plaintiffs to recover under 15 U.S.C. § 1681o.

11 74. As a direct and proximate result of the above-referenced violations by NCS,
12 Plaintiffs are entitled to statutory damages plus actual damages to be proven at the time of trial in
13 this matter.

14 75. Plaintiffs are entitled to recover costs and attorney's fees from NCS in an amount
15 to be determined by the Court under 15 U.S.C. § 1681n or § 1681o.

16 76. Plaintiffs may have suffered damages in other ways and to other extents not
17 presently known to Plaintiffs, and not specified in this Complaint.

18 77. Plaintiffs reserve the right to assert additional facts and damages not referenced in
19 this Complaint, and/or to present evidence of the same at the time of trial.

20 78. Plaintiffs have been forced to retain the Law Office of Kevin L. Hernandez to
21 pursue these claims and protect their legal rights and are, therefore, entitled to recover reasonable
22 attorney's fees plus costs incurred under 15 U.S.C. § 1681n or § 1681o.

23 **FOURTH CLAIM FOR RELIEF**

24 **[Violations of the FDCPA; 15 U.S.C. § 1692, et seq. against NCS]**

25 79. Plaintiffs reincorporate by reference all preceding paragraphs as if fully set forth
26 below.

27 80. NCS violated 15 U.S.C. § 1692e(2)(A) by falsely representing the character,
28 amount, and legal status of the Debt.

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1 81. NCS violated 15 U.S.C. § 1692e(8) by communicating inaccurate credit
2 information about the Debt to Equifax and Experian, which NCS knew or should have known to
3 be false.

4 82. NCS further violated 15 U.S.C. § 1692e(8) by reporting the Debt to Plaintiffs'
5 credit profiles despite the Debt being disputed under NRS 118A.242(5) and since neither NCS nor
6 Creditor have obtained a judgment against Plaintiffs for the purported Debt.

7 83. NCS violated 15 U.S.C. § 1692e(10) by using false, deceptive, or misleading
8 representations or means in connection with the collection of the Debt.

9 84. NCS violated 15 U.S.C. § 1692f(1) by seeking to collect interest, fees, charges, and
10 expenses not expressly authorized by the agreement creating the Debt or permitted by law.

11 85. NCS's acts and omissions were willful, reckless, and/or negligent violations of the
12 FDCPA, including every one of the above-cited provisions.

13 86. In the alternative, NCS was negligent in the above-referenced acts and omissions,
14 entitling Plaintiffs to recover under 15 U.S.C. § 1692k(a)(1).

15 87. As a direct and proximate result of the above-referenced violations by NCS,
16 Plaintiffs are entitled to statutory damages plus actual damages to be proven at the time of trial in
17 this matter.

18 88. Plaintiffs have been forced to retain legal counsel to pursue these claims and are
19 therefore entitled to recover reasonable attorney's fees and costs incurred under 15 U.S.C. § 1692k.

20 89. Plaintiffs may have suffered damages in other ways and to other extents not
21 presently known to Plaintiffs, and not specified in this Complaint.

22 90. Plaintiffs reserve the right to assert additional facts and damages not referenced in
23 this Complaint, and/or to present evidence of the same at the time of trial.

24 **WHEREFORE**, Plaintiffs pray for relief as follows:

- 25 1. For an award of actual damages;
- 26 2. For an award of statutory damages;
- 27 3. For punitive damages;
- 28 4. For an award of reasonable attorney's fees, costs, and interest incurred; and

1 5. For such other further relief as the court deems proper.

2 **TRIAL BY JURY DEMANDED ON ALL COUNTS.**

3 Dated: August 17, 2023

**LAW OFFICE OF KEVIN L.
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/s/ Kevin L. Hernandez

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