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TROUTMAN SANDERS LLP
Chad R. Fuller, Bar No. 190830
11682 El Camino Real, Suite 400
San Diego, CA 92130-2092
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Attorney for Defendant
**CONSUMER CREDIT COUNSELING SERVICE
OF GREATER ATLANTA, INC.**, a Georgia
corporation, d/b/a ClearPoint Credit Counseling
Solutions

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

KIGEN SAHAKIAN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

**CONSUMER CREDIT COUNSELING
SERVICE OF GREATER ATLANTA,
INC.**, a Georgia corporation, d/b/a
ClearPoint Credit Counseling Solutions,
and DOES 1-50, inclusive,

Defendants.

Case No. 37-2015-00042715-CU-MC-CTL

**DEFENDANT CONSUMER CREDIT
COUNSELING SERVICE OF GREATER
ATLANTA, INC., a Georgia corporation,
d/b/a ClearPoint Credit Counseling
Solutions, ANSWER TO COMPLAINT**

Action Filed: December 23, 2015
Trial Date: None

Defendant **CONSUMER CREDIT COUNSELING SERVICE OF GREATER
ATLANTA, INC.**, a Georgia corporation, d/b/a ClearPoint Credit Counseling Solutions
("Defendant"), by and through its undersigned counsel, hereby answers and pleads affirmative
defenses to the Complaint filed by Plaintiff KIGEN SAHAKIAN as follows:

GENERAL DENIAL

In accordance with sections 431.30(d) and (f) of the Code of Civil Procedure, Defendant
hereby denies generally and specifically each and every allegation and cause of action in the
Complaint, and further denies that, by reason of any act or omission by Defendant or its agents,
Plaintiff has been injured or damaged in any sum, or at all. Defendant makes this response

1 without waiving any rights to file dispositive motions addressing some or all of the claims
2 asserted therein.

3 **AFFIRMATIVE AND OTHER DEFENSES**

4 Without admitting any of Plaintiff's allegations or conceding the burden of proof as to any
5 issue found to be an element of the causes of action included in Plaintiff's Complaint, Defendant
6 alleges the following separate Affirmative and Other Defenses based on information and belief.
7 Defendant reserves the right to amend its Answer to add additional Affirmative and Other
8 Defenses consistent with the facts discovered in the case.

9 **FIRST DEFENSE**

10 **GENERAL DEMURRER**

11 1. Plaintiff's complaint, in whole or in part, fails to state a claim upon which relief
12 can be granted against Defendant.

13 **SECOND DEFENSE**

14 **THIRD PARTY ACTS**

15 2. Plaintiff's claims are barred, in whole or in part, as a result of the acts of third
16 parties over whom Defendant has no control and is not responsible.

17 **THIRD DEFENSE**

18 **UNCLEAN HANDS AND OTHER EQUITABLE DEFENSES**

19 3. Plaintiff's claims are barred, in whole or in part, by unclean hands, estoppel,
20 laches, waiver, and/or other equitable doctrines.

21 **FOURTH DEFENSE**

22 **NO STANDING GENERALLY**

23 4. Plaintiff lacks standing to assert her claims, in whole or in part.

24 **FIFTH DEFENSE**

25 **NO STANDING FOR INJUNCTIVE RELIEF**

26 5. Plaintiff lacks standing to pursue her claim(s) for injunctive relief because there is
27 no risk of future injury.

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SIXTH DEFENSE

WAIVER AND/OR RATIFICATION

6. Plaintiff’s claims are barred or limited by waiver, acquiescence, ratification, and similar concepts.

SEVENTH DEFENSE

STATUTE OF LIMITATIONS

7. Plaintiff’s claims are barred, in whole or in part, by the applicable statute(s) of limitations.

EIGHTH DEFENSE

ARBITRATION

8. Plaintiff’s claims are barred, and Defendant reserves the right to compel arbitration, based on the underlying agreements creating the debts between Plaintiff and creditors.

NINTH DEFENSE

RECOVERY BARRED OR LIMITED

9. Recovery on Plaintiff’s claims are barred or limited by all defenses, statutory or otherwise, including, but not limited to, the fact that Defendant did not use an “automatic telephone dialing system” to make any telephone calls; the fact that Plaintiff was not the sole subscriber to the telephone number at issue; the fact Plaintiff gave her consent to be contacted by Defendant and those on its behalf; the fact that Defendant’s or others’ alleged conduct was not intentional and resulted from bona fide error; and the fact that Defendant or others acted in good faith.

TENTH DEFENSE

UNFAIR RELIEF

10. The United States Constitution bars or limits the relief requested by Plaintiff to the extent the relief would unfairly subject Defendant to punishment and/or an unfairly extreme remedy without advance notice or opportunity to protect itself, or the relief would amount to a taking, or the relief would be out of proportion to the alleged conduct, or the remedy is

1 unrestricted by sensible standards, or the relief would have an unfair economic impact on
2 Defendant.

3 **ELEVENTH DEFENSE**

4 **FIRST AMENDMENT**

5 11. The Telephone Consumer Protection Act violates Defendant's First Amendment
6 rights.

7 **TWELFTH DEFENSE**

8 **UNAUTHORIZED VIOLATIONS**

9 12. Any alleged unlawful or wrongful acts of any person(s) employed by or under the
10 control of Defendant were outside the scope of his or her authority and such act(s), if any, were
11 not authorized, ratified, or condoned by Defendant, nor did Defendant know or have reason to be
12 aware of such alleged conduct.

13 **THIRTEENTH DEFENSE**

14 **GOOD FAITH**

15 13. Any alleged calls were made in good faith and in conformity with and in reliance
16 on administrative regulation, order, ruling, approval, interpretation, administrative practice, and
17 or enforcement policy of the FCC or other governmental body.

18 **FOURTEENTH DEFENSE**

19 **MITIGATION**

20 14. Plaintiff's claims are barred, in whole or in part, to the extent Plaintiff failed to
21 mitigate damages and/or otherwise avoid harm.

22 **FIFTEENTH DEFENSE**

23 **VIOLATION OF DUE PROCESS**

24 15. Insofar as Plaintiffs seek to recover punitive and/or special damages, such
25 recovery is barred because the statute by which punitive and exemplary damages would be
26 available is unconstitutionally vague and/or overly broad, thereby violating the United States
27 Constitution, including but not limited to the following provisions: (a) the excessive fines clause
28 of the U.S. Constitution, Eighth and Fourteenth Amendments; (b) the contract clause of the U.S.

1 Constitution, Article I, Section 10, Clause 1, and the Fourteenth Amendment; (c) the due process
2 and equal protection clauses of the U.S. Constitution.

3 **SIXTEENTH DEFENSE**

4 **RESERVATION OF RIGHTS**

5 16. All possible affirmative defenses may not have been alleged herein, insofar as
6 sufficient facts were not available after reasonable inquiry upon the filing of this Answer to the
7 Complaint. Defendant expressly reserves its right to amend its Answer to the Complaint to allege
8 additional affirmative defenses if subsequent investigation so warrants.

9 **PRAYER**

10 **WHEREFORE**, Defendant prays:

- 11 1. That Plaintiff takes nothing by her Complaint and that the Complaint be dismissed
12 with prejudice;
- 13 2. That judgment be entered in Defendant's favor;
- 14 3. That Defendant be awarded costs of suit and attorneys' fees; and
- 15 4. For such other relief as the Court deems just and proper.

16
17 Dated: January 28, 2016

TROUTMAN SANDERS LLP

18
19 By: /s/ Chad R. Fuller

20 Chad R. Fuller
21 Attorneys for Defendant
22 CONSUMER CREDIT COUNSELING
23 SERVICE OF GREATER ATLANTA,
24 INC., a Georgia corporation, d/b/a
25 ClearPoint Credit Counseling Solutions

1 2 3 4	TROUTMAN SANDERS LLP Chad R. Fuller (190830) 11682 El Camino Real, Suite 400 San Diego, CA 92130 Tele: (858) 509-6000 Fax: (858) 509-6040	<i>FOR COURT USE ONLY</i>
5	SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN DIEGO	
6	PLAINTIFF: Kigen Sahakian	JUDGE: Joel R. Wohlfeil DEPT: C-73
7 8	DEFENDANT: Consumer Credit Counseling Service Of Greater Atlanta, Inc., a Georgia corporation, d/b/a ClearPoint Credit Counseling Solutions	
9	PROOF OF SERVICE	CASE NO. 37-2015-00042715

10 I, Maria V. Carapia, declare that I am over the age of 18 years and not a party to the within action.
11 I am employed in, or am a resident of, the County of San Diego, California, where the mailing occurs; and
12 my business address is 11682 El Camino Real, Suite 400, San Diego, California 92130-2091.

13 On **January 28, 2016**, I caused to be served the following document(s):

- 14 • **ANSWER TO COMPLAINT BY DEFENDANT CONSUMER CREDIT COUNSELING
15 SERVICE OF GREATER ATLANTA, INC., a Georgia corporation, d/b/a ClearPoint
16 Credit Counseling Solutions**

17 On the parties or attorneys for parties in this action who are identified on the attached service
18 list, using the following means of service:

19 **PERSONAL SERVICE** - I served the documents by providing them to Knox Attorney
20 Services to personally serve each of the addresses listed herein. A separate Proof of Personal Service
21 will be filed if necessary.

22 **BY MAIL-** I placed the envelope for collection and mailing, following our ordinary business
23 practices. I am readily familiar with this firm's practice for collecting and processing correspondence
24 for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited
25 in the ordinary course of business with the United States Postal Service, in a sealed envelope with
26 postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The
27 envelope or package was placed in the mail at San Diego, California, and addressed as set forth on the
28 attached service list.

OVERNIGHT MAIL- I served the documents by placing them in an envelope or package
addressed to the persons at the address(es) listed with fees for overnight delivery paid or provided for,
and depositing them in a box or other facility regularly maintained by Federal Express, an express
service carrier, or delivered to a courier or driver authorized by said express service carrier to receive
documents.

BY FACSIMILE TRANSMISSION – Based on an agreement of the parties to accept service
by fax transmission, I faxed the document(s) to the persons at the fax numbers on the attached service

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list at the facsimile machine telephone number as last given by that person on any document which he or she has filed in this action and served upon this office.

E-MAIL – I caused the foregoing documents to be transmitted by e-mail electronic transmission to the e-mail address on the attached service list at the facsimile machine telephone number as last given by that person on any document which he or she has filed in this action and served upon this office.

ONE LEGAL ELECTRONIC SERVICE- Pursuant to California Rule of Court 2.251(B).

Executed on January 28, 2016, in the City and County of San Diego, State of California.



Maria V. Carapia

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KIGEN SAHAKIAN vs. CONSUMER CREDIT COUNSELING SERVICE

San Diego Superior Court Case No. 37-2015-00042715-CU-MC-CTL

SERVICE LIST

<p>James T. Hannink (SBN 131747) Zach P. Dostart (SBN 255071) DOSTART HANNINK & COVENEY LLP 4180 La Jolla Village Drive, Suite 530 La Jolla, CA 92037 Telephone: (858) 623-4200 Fax: (858) 623-4299 <i>jhannink@sdlaw.com</i> <i>zdostart@sdlaw.com</i></p>	
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