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7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 MANUEL ABRAHAM, an individual;
10 STEPHANIE PENA, an individual; PAUL
11 ALEXANDER, an individual; YONG
12 ALEXANDER, an individual; JASON
13 HERLONG, an individual; KERI HERLONG, an
14 individual; FRANCINE L'ESPERANCE, an
15 individual; SARAH MOREY, an individual;
16 DANIEL KITNER, an individual; ANA G.
17 RAMIREZ, an individual; and OSCAR ROJAS
18 FLEMING, an individual,

15 Plaintiffs,

16 vs.

17 STARPOINT RESORT GROUP, INC., a
18 Nevada Corporation; WYNDHAM VACATION
19 OWNERSHIP, INC., a Foreign Corporation; RCI
20 LLC, a Foreign Limited Liability Company;
21 GEOHOLIDAY CLUB, INC., a Nevada
22 Corporation; GEOPARTNERS
23 DEVELOPMENT, LLC, a Nevada Limited
24 Liability Company; and, SAPPHIRE RESORTS,
25 LLC, a Nevada Limited Liability Company,

22 Defendants.

Case No.: A-19-793187-C
Dept. No.: Department 19

COMPLAINT

JURY TRIAL DEMANDED

ARBITRATION EXEMPTION
CLAIMED: ACTION FOR EQUITABLE
AND EXTRAORDINARY RELIEF

24 **COMPLAINT**

25 Plaintiffs MANUEL ABRAHAM, STEPHANIE PENA, PAUL ALEXANDER, YONG
26 ALEXANDER, JASON HERLONG, KERI HERLONG, FRANCINE L'ESPERANCE, SARAH
27 MOREY, DANIEL KITNER, ANA G. RAMIREZ and OSCAR ROJAS FLEMING, by and
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1 through their counsel of record, DALE A. HAYES, JR., ESQ. OF THE HAYES LAW FIRM,
2 hereby allege and complain against Defendants STARPOINT RESORT GROUP, INC.,
3 WYNDHAM VACATION OWNERSHIP, INC., RCI LLC, GEOHOLIDAY CLUB, INC.,
4 GEOPARTNERS DEVELOPMENT, LLC and SAPPHIRE RESORTS, LLC as follows:

5
6 **I. PARTIES**

- 7 1.1 Plaintiffs are natural persons combining resources as co-Plaintiffs to face a multimillion-
8 dollar timeshare conglomerate, where consolidation is judicially efficient because of
9 shared facts and claims, where many Plaintiffs share almost all of the fraud claim
10 categories (see ¶4.6(a) through ¶4.6(i) below) and have highly similar fact patterns due to
11 all of the captioned Defendants systemic and repeated unlawful conduct that occurs in
12 like fashion in multiple sales facilities, as may be evidenced to a Jury by the cross-section
13 of Plaintiffs in this case, making each Plaintiff indispensable in this fashion.
- 14 1.2 Plaintiffs all have substantially similar sub-claims, where certain corroborative patterns
15 of ‘fraud schemes’ that are each pled with particularity in this Complaint including the
16 Plaintiffs’ Facts Supplement. In court testimony is expected to provide credible and
17 highly corroborative evidence of the causes of action identified herein.
- 18 1.3 The Plaintiffs to this matter are as follows: Manuel Abraham and Stephanie Pena residing
19 in Puerto Rico who purchased in Las Vegas, Nevada; Paul Alexander and Yong
20 Alexander residing in Colorado who purchased in Utah; Jason Herlong and Keri Herlong
21 residing in Las Vegas, Nevada who purchased in Las Vegas Nevada; Francine
22 L’Esperance residing in Canada and purchased in Canada; Sarah Morey and Daniel
23 Kitner residing in Iowa who purchased in Las Vegas Nevada; and, Ana G. Ramirez and
24 Oscar Rojas Fleming residing in California who purchased in Las Vegas, Nevada.
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1 1.4 Thus, there are two Plaintiffs who are Nevada residents living in Las Vegas, and eight (8)
2 Plaintiffs who purchased from the Defendant within Clark County, Nevada in the city of
3 Las Vegas.

4 1.5 The above listed Plaintiffs sue in their individual capacity and in their capacity as spouses
5 to the extent that any principles of Community Property law or other laws regulating
6 marital property may apply to their joint assets or debts.
7

8 1.6 Defendants STARPOINT RESORT GROUP, INC., GEOHOLIDAY CLUB, INC.;
9 GEOPARTNERS DEVELOPMENT, LLC; AND, SAPPHIRE RESORTS, LLC
10 (sometimes referred to in this Complaint as, “Defendants Geo/Sapphire/Starpoint” all
11 have corporations and LLC entities in Nevada, with their principal place of business in
12 Las Vegas, Nevada, and owning resorts and conducting business within Clark County,
13 Nevada.

14 1.7 Defendants Geo/Sapphire/Starpoint reside in the Clark County, both with three (3)
15 facilities for resort/hotel accommodations in Las Vegas, Nevada, and facilities for
16 corporate headquarters for Defendants Geo/Sapphire/Starpoint, located at 235 E WARM
17 SPRINGS RD, LAS VEGAS, NV and/or POB 231300 LAS VEGAS, NV.
18

19 1.8 These entities have a predominance of corporate Officers that are in common, such as
20 “MICHAEL MULDOON” and “CHRIS JONES” and all entities are State of Nevada
21 entities with Nevada entity numbers: STARPOINT RESORT GROUP, INC.,
22 NV20021381381993; GEOHOLIDAY CLUB, LLC (NON-PROFIT), NV20041669147;
23 GEOPARTNERS DEVELOPMENT, LLC, NV20061785091; and, SAPPHIRE
24 RESORTS, LLC, NV20101808813.
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26 1.9 Defendants Geo/Sapphire/Starpoint are in the business of developing and selling vacation
27 timeshares with grandiose promises that are entirely reduced to “points” [term of art] and
28

1 a booking service system that imposes rules and restrictions on the Plaintiffs’ use rights
2 through its agent and co-conspirator, Wyndham, that was operating in the times claimed
3 herein, under the name “RCI”

4 1.10 Defendant, WYNDHAM VACATION OWNERSHIP, INC. (known herein as
5 “Wyndham” or by its subsidiaries’ name “RCI”) is a corporation with corporate
6 headquarters located in Florida at 6277 Sea Harbor Drive, Orlando, Florida.

7
8 1.11 At the Florida Division of Corporations, Defendant Wyndham has many of its corporate
9 officers listed at 22 Sylvan Way, Parsippany, New Jersey, and also listed there is its
10 nearby neighbor, “RCI” that is at 14 Sylvan Way, Parsippany, New Jersey.

11 1.12 Wyndham is thought to own “RCI” (as a wholly owned subsidiary) that is named, and
12 held out to and known by the public as: “RCI” (Resort Condominium International).

13 1.13 RCI is itself an entity, a Florida Limited Liability Company named: “RCI, LLC”, whose
14 principal address for business is listed at the Florida Division of Corporations of State as
15 14 Sylvan Way, Parsippany, New Jersey, but is thought to be under the total control of
16 Defendant Wyndham and thought to operate in or near Defendant Wyndham’s corporate
17 facilities in Orlando, Florida.

18
19 1.14 At the Florida Division of Corporations, RCI, LLC lists its Manager as Elizabeth Dreyer
20 at
21 6277 Sea Harbor Drive, Orlando, Florida which is the same Orlando, Florida address
22 listed for Defendant Wyndham. *See ¶1.9 above.*

23
24 1.15 Defendant RCI, LLC is also an LLC in Nevada listed at the Secretary of State, under
25 NV20011121368, with the same New Jersey address 14 Sylvan Way, Parsippany, NJ.

26 1.16 Defendant, WYNDHAM VACATION OWNERSHIP, INC. is also listed in Nevada at
27 the Secretary of State, under NV20051124771, with the same Orlando, Florida address as
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parent company, Wyndham, at 6277 Sea Harbor Drive, Orlando, Florida and officers at the same New Jersey address located at 22 Sylvan Way, Parsippany, NJ.

1.17 Should other natural persons or entities at GEO/Sapphire/Starpoint and/or Wyndham/RCI be discovered as relevant to this case, Plaintiffs shall seek leave to amend this Complaint for any does and/or roe corporations.

1.18 Unless otherwise indicated, the use of any Defendant names throughout this Complaint includes all of their respective dba entities, assumed names, affiliates, subsidiaries, agents, employees, officers, directors, principals, trustees, and representatives.

II. JURISDICTION AND VENUE

2.1 The Eighth Judicial District Court, Clark County, Nevada, has original jurisdiction over this matter pursuant to Nev. Const. art. VI, § 6(1) as “[t]he District Courts . . . of this State have original jurisdiction in all cases excluded by law from the original jurisdiction of justices’ courts.” This case is excluded by law from the original jurisdiction of the justices’ courts pursuant to NRS 4.370 as the action concerns recovery on a contract for an amount in excess of \$15,000.00.

2.2 Defendants STARPOINT RESORT GROUP, INC, GEOPARTNERS DEVELOPMENT, LLC, GEOHOLIDAY CLUB, INC., AND SAPPHIRES RESORTS LLC, are entities within a timeshare conglomerate under and with MICHAEL MULDOON’s active participation.

2.3 Defendants Geo/Sapphire/Starpoint owns 3 resorts located in Las Vegas, Nevada, and there were purchases at these resorts with RCI included as the exclusive booking agent for Plaintiffs, that were made in Las Vegas, Nevada by 8 Plaintiffs herein, thereby establishing specific jurisdiction in Clark County, Nevada.

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- 2.4 As seen in ¶1.6-1.8 above, all Geo/Sapphire/Starpoint Defendants have corporate headquarters that are located in Clark County, Nevada.
- 2.4 And, Defendant Wyndham/RCI does business in Clark County, owning resorts (part of the points system sold to Plaintiffs), where subsidiary, RCI, is the booking agent (RCI’s booking service is required by Defendant for the Plaintiffs to book rooms anywhere, including Clark County, Nevada). And Defendants Wyndham and RCI are both Nevada entities as well, as seen in ¶1.10 - 1.16.
- 2.5 Accordingly, this Court has Jurisdiction over all Defendants captioned above.
- 2.6 Venue is proper in the Eighth Judicial District Court, Clark County, Nevada, pursuant to NRS 13.040 because Defendants, or some of them, reside or have their principal places of business in Clark County, Nevada.
- 2.7 Defendants Geo/Sapphire/Starpoint are all collectively known in this Complaint as the “Defendant”, except when being distinguished from Defendant Wyndham/RCI.
- 2.8 Per the preceding paragraphs, Geo/Sapphire/Starpoint are subject to Personal Jurisdiction and Specific Jurisdiction by this Court, and venue in Clark County, NV.
- 2.9 Defendant Wyndham Vacation Ownership, Inc. also operates within the state of Nevada on a multiplicity of levels, including resort/hotel facilities that it owns (over 10 surrounding the Strip) some of which have rooms that are part of the booking system sold to the Plaintiffs herein.
- 2.10 Wyndham also conducts business within Clark County, through its subsidiary “RCI”, which is the exclusive booking agent and reservation system that the Plaintiffs were required to use. RCI books a vast amount of Las Vegas rooms (and all over Nevada and California and elsewhere) from many timeshare resort/club/hotel companies. All of the

1 Plaintiffs herein were required to be under the points system to be able to [or at least
2 attempt to] use the timeshare (i.e. book rooms).

3 **III. JUDICIAL EFFICIENCY**

4
5 3.1 Defendant is subject to common law rescission for Bait & Switch Fraud (Fraudulent
6 Inducement and Fraudulent Concealment), and Defendant is also subject statutory law,
7 including a timeshare statute from the State of California that applies to timeshare sales
8 within Nevada (and other states) because they include use of timeshare hotel properties
9 within the State of California (detailed herein in Count One).

10 3.2 Defendant owns numerous timeshare resorts in the U.S., including “accommodations” it
11 owns in Nevada and California, and a vast amount of resort and hotel sites that are
12 located throughout Nevada and California that are known as “component” sites of the
13 Defendant’s “multisite time-share plan” that are part of a required “reservation system”
14 (RCI) that Plaintiffs herein were sold as an integral part of their timeshare purchase.
15 *Quotations above reference the California Vacation Ownership and Time Share Act of*
16 *2004, see Article 1, “accommodation” and “component site” at §11211.5(a)(1), and*
17 *§112112(g); and “reservation system” at §112112(u) and “multisite time-share plan” at*
18 *§112112(z)(2)(B).*

19 [full citation text in Law supplemental, incorporated by this reference]

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21
22 3.3 Such timeshare *Use Rights* contracts were sold to the Plaintiffs and contracted by
23 STARPOINT RESORT GROUP, INC. and/or GEOPARTNERS DEVELOPMENT,
24 LLC, and were presented by Defendants sales staff as were known by Plaintiffs at the
25 point-of-sale as “GEOHOLIDAY CLUB” (d.b.a. GeoHoliday Vacation Club) and
26 “SAPPHIRE RESORTS”.
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1 3.4 Plaintiffs are joining together as co-Plaintiffs where consolidation is judicially efficient
2 because they are the same Defendants with the same Plaintiff claims under the same
3 common law principles and same statutory relief, all with highly similar factual patterns
4 where all Plaintiffs have substantially the same substantive claims and experienced ‘fraud
5 schemes’ in common with the other Plaintiffs herein, all pled with particularity.
6

7 **RESCISSION PER STATUTE**

8 (Public Offering Statement - Improper Notice - Applies to All Plaintiffs)

9 3.5 For purposes of Judicial Efficiency, this matter would be streamlined with a bright-line
10 statutory rule regarding disclosure of the Public Offering Statement (POS) that could
11 apply all the Plaintiffs in this action, wherein they would be entitled to:

12 A right to receive a Public Offering Statement
13 before Plaintiffs signed a timeshare contract.

14 3.6 This could apply to all three places where the Plaintiffs herein have purchased a
15 timeshare (NV, and one couple in UT and one person in Canada), or independently under
16 law pled herein, and such a bright-line rule would permit the Court to grant equitable
17 relief as statutorily proscribed. And where a Rescission remedy can be furthered without
18 foreclosing additional and further remedies, Punitive Damages may still be put forward.
19

20 3.7 Given that the Plaintiffs’ contracts could be rescinded in every case due to violations of
21 the POS notice provision [*before* signing a contract], the co-Plaintiffs to this action would
22 then be entitled to related equitable relief and damages:

- 23 (a) To put the parties in their pre-contract position, as if the contract never occurred;
24 (b) Rescission ends the Contract, and thereby the subparts, including its Venue clause
25 and any limitations or waivers to a Jury Trial and/or Punitive Damages.
26 (c) Punitive Damages would thereafter be assessed by the Jury in order to punish the
27 Defendant for its deceptive acts, and to deter such future conduct.
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3.8 After such a ruling, there being no substantive questions of law to apply as to whether there is liability, the Jury would not be confused because the only task the Jury would have is to assess how much in Punitive Damages the Plaintiffs are due.

3.9 The focused task of the Jury would be to determine if the deceitful sales schemes that Defendants employed were so egregious, repetitious and systematic as to warrant Punitive Damages permitted under the statute's standard of assessment.

3.10 As a result, it is highly relevant and will assist the Jury greatly to assess the Defendant's repetition and systematic factors, by including:

- (a) an out of Nevada State purchase made in Utah;
- (b) and, an out of Country purchase made in Canada;
- (c) and this assists the Jury because certain concealments (nondisclosure) and certain fraud schemes are very similar (and fall under the same forms of relief), to what occurred in Nevada, where such acts and practices show the wide-reaching impact of Defendants' unlawful conduct with a likelihood of reoccurrence to harm the same persons who fall under these statutory laws (as all Plaintiffs in this matter do). This will effectively assist the Jury to evaluate relevant elements of the Law they shall apply at trial. And, repetitious and systematic elements are shown through use of highly similar deceit tactics and strategies in multiple states and even a foreign country, yet appear remarkably the same, as perpetrated by the same closely-knit group of Defendants.

3.11 Plaintiffs herein show that the fraud schemes stated in ¶4.6 herein at §4.6(a) - §4.6(i) are in fact shared, common, and like with substantial corroboration across all the Plaintiffs' Facts (pled in the particular). *Also see, Plaintiff Facts supplemental.*

COMMON LAW RESCISSION
(Unconscionable Successor Liability - Applies to All Plaintiffs)

- 1 3.13 Similarly, but based in the common-law right (vs. statutory), ¶4.7 below at §4.7(b),
2 supported by Plaintiff Facts pled in the particular, show that none (0) of the Plaintiffs
3 would have signed their rights away to obligate their future family generations to ever-
4 rising maintenance fees, which was known by Defendant to be in these Contracts.
5
- 6 3.14 Not one of the Plaintiffs herein, had any knowledge that there was multigenerational
7 liability for ever-increasing fees, and not one of the Plaintiffs would have signed their
8 Contract, if they had known this unconscionable term existed. *See “Successor Liability”*
9 *subheadings contained in the Plaintiff Facts supp. attached hereto.*
- 10 3.15 As a consequence, each & every Plaintiff herein would not have entered into their
11 Contracts had there been fair and open disclosure of the “successors” clause.
12
- 13 3.16 Furthermore, Defendant’s conduct was even more predatory, because Defendant’s staff
14 (sales, management and contracting staff) advised the Plaintiffs that they “could” pass it
15 along in a Will (calling it “property” or “real estate” at the point-of-sale) as an “asset”
16 that Plaintiffs could choose which family member(s) would receive it amongst their
17 family members, where the choices would be entirely up to the Plaintiffs.
- 18 3.17 Since the Plaintiffs did not have a Will at the time that included this interest, it was a
19 *future* contract that was being advised upon by non-lawyers, for Plaintiffs to enter into
20 *someday* (a Will, or a Codicil or Amendment to an existing Will or Trust), when at all
21 times Defendant knows that the timeshare sales Contract being signed in the room *that*
22 *day*, would absolutely adjudicate rights and obligations owed, wherein that same Contract
23 had terms unknown to Plaintiffs for liability lurking for all those same family members
24 discussed by Defendant’s staff (for Wills and assets), as Plaintiffs’ successors, who after
25 Plaintiffs’ demise, all have joint and several liability for ever-rising fees.
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1 3.18 Plaintiffs herein had late discovery of the multigenerational Successors Liability that was
2 in their Contracts and this discovery was very recent though attorneys.

3 3.19 This “successors” term of the Contract, for each & every Plaintiff herein (noting one
4 Plaintiff did not have a contract copy), caused an unconscionable result which is
5 actionable for Contract Rescission through common law fraud relief, and thus within the
6 powers of this Court to remedy.
7

8 **COMMON LAW RESCISSION**

9 (Unconscionable Cost per Use and Value - Applies to All Plaintiffs)

10 3.20 Plaintiffs herein all share an unconscionable result caused by sales inducements for
11 claimed use rights, profitability and value, and in particular, the ultimate “cost per use”
12 which Plaintiffs received (if they could book uses at all, as some Plaintiffs could not).

13 3.21 There are three specific categories of deceptions Plaintiffs were told to induce a sale:
14 (a) that they will save money booking accommodations as “owners”;
15 (b) that it will be easier to book accommodations because they are “owners”;
16 (c) that they will ultimately make money from the timeshare through rentals and sales.
17

18 3.22 However of these, §3.21(a) above, the saving of money, is the most egregious where
19 Plaintiffs lose somewhere between several hundred percent, up to a 1000% in their
20 purchasing power when compared to the public booking Online. *See §4.7(c) below; also*
21 *see, Fn. No. 1 with specific amounts for all Plaintiffs per their particularity pleadings.*
22

23 3.23 Regarding §3.21(b) above, it was extremely difficult to find availability, and for some
24 Plaintiffs it was impossible to book (i.e. no Use, so some figures in *Fn. 1* are pure profit).

25 3.24 For the Plaintiffs that could book, they ended up with:

26 (a) subpar rooms at non-resorts, which is contrary to 5-star resort promises;
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(b) unwanted locations because they were the only “available” bookings; and, (c) noting, there an exception when Plaintiffs were targeted for an “Upgrade”; Upgrade Meetings are referred to as “Owners’ Meetings” (*see §4.5(i) below*) where RCI in conspiracy to obtain profits with Defendant had the authority and readily finds availability to book Plaintiffs within Defendant’s resort chain.

3.25 As for “making money” (*see, 3.21(c) above*) from selling or rental income as promised by Defendant’s sales staff, management and contract closers, the Plaintiffs could hardly book rooms for themselves (let alone rent them out, which has extra restrictions, fees, and costs that were not disclosed, and a suspicious public that has to rent an exact week/location from an unknown person on *Craigslist* et. al).

3.26 Furthermore, resale claims at the point-of-sale could never produce the promised profits of many thousands of dollars (*see Plaintiff Facts supp. “Value” subheadings*), where a plethora of the Defendant’s timeshares have historically, and now currently, do not sell for even \$1.00.

3.27 These real-world, actual results in practice (versus promises) evidence extremely harsh and one-sided results that are *Unconscionable* because they shock the conscience of a neutral observer, showing the need for Judicial redress (equitable Rescission) for such outrageous acts, perpetrated in brazen defiance of established law.

IV. PLAINTIFF FACTS

(Allegations and Particularity)

4.1 Plaintiffs all share similar encounters with Defendant. Plaintiffs were on vacation at or near a GeoHoliday or Sapphire Resort. Each was enticed to attend a short (hour long) sales presentation.

1 4.2 What ensued was a 2-hour to 4-hour ordeal of deceptive sales-oriented activity, during
2 which Defendant staff engaged in tactics designed to manipulate consumers to purchase
3 what they were told was “real property” with use rights for a week’s lodging each year.
4 Generally, Plaintiffs were not allowed to leave to eat, or have time alone to discuss the
5 presentation, and they were not allowed to read the Contract or to think about the
6 purchase overnight where they could do research or call an attorney.
7

8 4.3 False promises and concealments (*see, 4.6(a) - 4.6(i) below; and Plaintiff Facts supp.*)
9 were made by Defendant through its sales persons, its management, and its contract
10 closers, all with the intention of inducing Plaintiffs to make a purchase that day, which
11 never would have been done absent bait & switch fraud, or had the true contract terms
12 been disclosed in an open light.
13

14 4.4 With disclosure of material facts, not one of the Plaintiffs would have contracted with
15 Defendant as is evident in each Plaintiff’s particularized facts. *See, Plaintiff Facts supp.*

16 4.5 Instead, Plaintiffs were deceived and believed those statements by Defendant’s staff, and
17 they relied upon them to their unfortunate detriment as victims of Fraud & Deceit.

18 4.6 To induce a sale that disclosure in an open light would not have produced, the Plaintiffs
19 were given false and misleading information, which have been listed in categories of
20 fraud schemes in ‘a’ through ‘i’ below, and the later Discovery of the fraudulent
21 inducements and/or concealments by the Plaintiffs is denoted by the corresponding
22 subheadings (in bold below) showing the truth of the matters falsely asserted (note:
23 Defendant is referred to as “Geo” for purposes of this list):
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26 **SUBSTANTIVE ALLEGATIONS**

27 (a) Geo’s timeshares are good “investments” that always go up in value (appreciation).
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1 (b) Geo’s timeshares are valuable as a long-term asset that can be resold for a “profit”.

2 **Value (a-b):** No market value; no resales; thousands have not sold on eBay for \$1.00.

3 (c) Geo’s maintenance fees either do not exist, or don’t go up at all or only very little.

4 **Fees (c):** Maintenance Fees exist and have regular increases, up to 150% to 300% herein.

5 (d) Geo’s Timeshares are a valuable asset and legacy the Owner “could” put in a Will.

6 (e) Owners (Plaintiffs) “can” decide (optional) who will receive the timeshare in their Will.

7 (f) Plaintiffs were not told about “successors” liability after demise within their Contract.

8 **Wills (d-f):** Plaintiffs did not know that despite any possible future contract to make a Will
9 (or Codicil), the Geo Contract being fully executed that day, would bind all their children
10 as “successors” to be jointly & severally liable for ever-increasing *Multi-Generational* debt.

11 as “successors” to be jointly & severally liable for ever-increasing *Multi-Generational* debt.

12 (g) Geo’s staff sold anytime, anywhere, easy to book 5-Star resorts and hotels worldwide.

13 **Use (g):** Bookings are restricted to 11 months (exceptions if targeted for an Upgrade; *see “i”*)
14 in advance (Online is same day), but promised destination locations and 5-star resorts are not
15 available, as evidenced by actual and repeated attempts to get what the Plaintiffs paid for.

16 (h) Plaintiffs can make “rental” income to pay the mortgage, fees and sometimes a profit.

17 **Rental (h):** Plaintiffs can’t book rooms for themselves, rental is impossible as promised.

18 (i) Promises are made for “Upgrades” (costing \$1000s - \$10,000s) to resolve a prior sale’s
19 deficiencies created by Defendant (often repetitive, where the problem is never fixed).

20 **Upgrades (i):** Upgrades always increase (often double) yearly fees and add thousands to
21 mortgage balances, but never seem to solve the problem, thus requiring future upgrades.

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24 4.7 All Plaintiffs have a strong correlation of similar fraud schemes, along with the following
25 3 commonalities occurring to all Plaintiffs:

26 (a) **Plaintiffs (all) did not receive proper Public Offering Statement notice.**

27 (b) **Plaintiffs (all) did not receive any notice, at all, of latent Successor Liability.**

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1 (c) **Plaintiffs, because of high-interest & fees pay from \$8,000 to \$14,000/week.**¹

2
3 4.8 Defendant’s staff, from sales, to management and contract closers, systemically support a
4 fraud strategy to make buyers think they have a real property, with ownership benefits
5 like a Home.

6 4.9 Despite a reference to specific room number and specific week of the year what looks
7 like a deed-like document, this is subterfuge, as the Plaintiffs cannot by right stay at that
8 resort, let alone that week number or room number, and the document is used by
9 Defendant as a sham to deceive timeshare purchasers into thinking they own a valuable
10 “real estate” investment.

11
12 4.10 Defendant’s staff told Plaintiffs that they have “property” with rights similar to a Home:
13 (1) resale value; (2) appreciation; (3) rental income; and for some Plaintiffs, (4) IRS
14 mortgage interest deduction, or (5) “owners” use of resort chain amenities. And for many
15 Plaintiffs, recent discovery of familial debt (“successors” liability per the contract) has
16 just begun with their Lawyers in this litigation.

17 4.11 “Points” are used up for service fulfillment, which is the main task to do, and that uses
18 the booking service, RCI, as required by Defendant.

19
20 4.12 However, the booking service fulfillment, actually restricted the Plaintiffs’ ability to book
21 a room, noting that representations made by Defendants Geo Holiday and Sapphire at the
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23 ¹ Actual and estimated per week rates are presented below in the same order as in the Plaintiff Facts
24 supplement: (1) \$12,000/week assuming they get their first booking in the 3 years owned (“no
25 availability” and prohibitive costs and fees); (2) \$15,000 paid for no use and 150% rise in yearly
26 [unknown] maintenance fees; (3) \$14,000/week based on the only booking available for 4 days at \$2000
27 cost per night; (4) \$40,000 spent for mortgage and maintenance fees with restricted availability and cost
28 prohibitive daily use fees of \$250 per day/per person (a couple is \$500/day or \$3500/week) for a room
costing \$3000 more than booking online at Expedia; (5) \$8000/week estimated where the only booking
was a room viewing a brick wall; and, (6) \$12,000/week for an average room, which still was very
difficult to book. Please note that the calculations herein are rough approximations, however, after
provision of Discovery, Plaintiffs shall provide exact figures.

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point-of-sale claimed easy booking services for anytime, anywhere booking, and extra real property rights, benefits and/or profitable values, which have been more recently discovered as deceptive. *See, Plaintiff Facts supp.*

4.13 The Plaintiffs’ “Points” are definitely involved in the booking service provision in accordance with RCI’s rules and restrictions, but the “Deed” specifically, is not involved in the service provision to book rooms, and neither is the Deed’s named Resort, nor the specified week, nor the assigned room number.

4.14 “Points” are merely numerical figures where the amount is one factor to book use, subject to rules that are purposely and with intent to make profits, designed by RCI and Defendant to be highly restrictive, including the frequently claimed, “no availability” by RCI, and its obtuse rules (such as, 11 months advance booking), and for some Plaintiffs, changing rules to individually restrict or prevent yearly services due that were clearly due to these Plaintiffs.

4.15 Since the promised profits for resale and rental income said to be a sure thing by Defendant’s staff, were false and deceptive, the entirety of the arrangement is reduced to a pure *Service Contract*, albeit poor quality, over-restricted and for some, there was a complete impossibility to book, thus there was no “Use” in a Use Service Contract, even if they paid 1000% more than the public pays (∇ 4.7(c); and, *Fn. 1 figures*).

4.17 Defendant did not provide proper [statutory] legal notices under applicable law and had unconscionable family liability terms and fees charged for use. Any of these three grounds alone could support Rescission. *See, Facts supp. headings: “POS”, “Successor Liability” and “Cost per Use” [noting: the last two support statutory grounds as well].*

4.18 These grounds support Rescission based upon statutory relief or common law fraud, and are all derived from the Plaintiffs’ individual facts and the Facts raised in this Complaint,

1 including the pleadings with particularity that have been integrated into this Complaint by
2 this reference. *See, Plaintiff Facts supplemental.*

3 **V. COUNT ONE**

4 **CALIFORNIA TIMESHARE ACT AND UNFAIR COMPETITION LAW**

5 (Rescission and Punitive Damages - Applicable to all Plaintiffs)

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7
8 5.1 Plaintiffs incorporate by reference all the preceding paragraphs, as though fully set forth
9 herein.
- 10 5.2 Choice of Law principles permit state courts to apply the substantive laws of states other
11 than a state of general jurisdiction in order to provide remedies to Consumers in
12 consumer fraud and deceit cases. California’s *Vacation Ownership and Time Share Act*
13 *of 2004* can apply in the case at bar to all Plaintiffs herein, because Defendant owns
14 numerous resorts in California (9 in California), and all of these California timeshare
15 properties are offered to Plaintiffs as an “accommodation” pursuant to California law.
16 *See, BUSINESS AND PROFESSIONS CODE – BPC, DIVISION 4, REAL ESTATE*
17 *[11000 – 11288] CHAPTER 2. The Vacation Ownership and Time-Share Act of 2004*
18 *[11210 – 11288], Article 1 General Provisions [11210 – 11219], cited in this Count as*
19 *the “Act”, and on-point to this paragraph, at §11211.5(a)(1) which states that the Time-*
20 *share Act is applicable to:*

21
22 Time-share plans with an accommodation or component site in this
23 state [California].
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1 5.3 Defendant also sold the Plaintiffs herein, use rights to access hundreds more hotels and
2 resorts in California as “component sites” physically located in the State of California.

3 *Act at §11211.5(a)(1) and known by definition under §112112(g) as:*

4 “Component Site” means a specific geographic location where
5 accommodations of a multisite time-share plan are located.
6

7
8 5.4 The Defendant sold the Plaintiffs timeshares under a marketing system known under
9 California law to be a “multisite time-share plan”. *See, Act at §112112(z)(2)(B)*. Such
10 use rights exist in the written Contracts between Defendant and Plaintiffs and are known
11 by California law as:

12 (z) “Time-share plan” means any arrangement, plan, scheme, or similar
13 devise... [with] the right to use accommodations.... A timeshare plan may
14 be either of the following:

15 ...

16 (2) A “multisite time-share plan,” which includes either of the following:

17 ...

18 (B) A “nonspecific time-share interest,” which is the right to use
19 accommodations at more than one component site created by or acquired
20 through the time-share plan’s reservation system, but including no specific
21 right to use any particular accommodations.

22 5.5 Further, Defendant has a central booking “reservation system” that Plaintiffs must use as
23 part of Defendant’s “multisite time-share plan” where the Plaintiffs are required to go
24 through Defendant’s intermediary, “RCI” (Resort Condominium International, whose
25 Parent Company is “Wyndham” that is itself a multibillion-dollar timeshare resort
26 company). RCI handles the central reservations for Defendant’s multisite plan that
27 Plaintiffs are required to use to attempt to make bookings for accommodations the
28

1 Defendant owns or that are component sites for resorts and hotels in the multisite time-
2 share plan that Defendant sold to the Plaintiffs. *See, “reservation system” at §112112(u),*
3 *stating:*

4 “Reservation system” means any method, arrangement, or
5 procedure by which a purchaser, in order to reserve the use or
6 occupancy of any accommodation of a multisite time-share plan
7 for one or more time-share periods, is required to compete with
8 other purchasers in the same multisite time-share plan....

9 If a purchaser is required to use an exchange program as the
10 purchaser’s principal means of obtaining the right to use and
11 occupy accommodations in a multisite time-share plan, that
12 arrangement shall be deemed a reservation system.

13 [for full citation, see Law supp.]

- 14 5.6 The Facts of the Plaintiffs are replete with actual experiences that demonstrate the
15 primary purpose and function of RCI’s reservation system is to frustrate, obstruct and
16 deny bookings on behalf of its collusive resort partners.
- 17 5.7 RCI is an affiliate reservation system to all other Defendants herein, and performs acts to
18 prevent use, as coordinated and strategically planned with Defendant, who profits
19 immensely selling [useless] use rights at exorbitant rates up to 1000% over online rates.
- 20 5.8 Defendant through this method does not permit fair use of its accommodations, nor other
21 resorts’ component sites that it would have to compensate for such uses.
- 22 5.9 GeoHoliday and Sapphire “owners” [told by reps that they own valuable “property”,
23 “real estate”] are actually victims of complex fraud scheme where “owners” pay many
24 thousands for little or no use in degraded facilities and/or substandard accommodations.
- 25 5.10 These are unfair and deceptive systems and strategies used to perpetrate sales fraud: (a)
26 high interest loans (often doubling the principal amount); with further profits from, (b)
27 ever-rising, multi-generational fees (and hidden use fees), and to avoid expenses, (c) use
28

1 rights execution that is substandard, and sparse to nonexistent, such that “owners” are in
2 practice, *victims* of abusive sales practices and predatory lending.

3 5.11 The operations and acts of all Defendants (including Wyndham and RCI) qualify for
4 coverage under the Act (*see ¶5.2 - ¶5.7 above*), where subsection 11285, provides:

5 An action for damages or for injunctive or declaratory relief for a
6 violation of this chapter may be brought by any time-share interest
7 owner....

8 Relief under this section does not exclude other remedies provided
9 by law.

10 [for full citation, see Law supp.]

11 5.12 The Act can apply in the case at bar for all Plaintiffs herein, including cases of recent
12 discovery of the harm caused by the Defendant’s herein, because Defendant
13 GEOHOLIDAY CLUB, INC.; GEOPARTNERS DEVELOPMENT, LLC; AND,
14 SAPPHIRE RESORTS, LLC own and/or operate within California as follows: (a)
15 Defendant GeoHoliday owns a hotel property in CA , Aquamarine Villas, located at 711
16 S. Myers Street, Oceanside, CA 92054; (b) Defendant Sapphire owns a hotel property in
17 CA, San Diego Country Estates, located at 25385 Pappas Rd., Ramona, CA 92065; and,
18 (c) Defendant Starpoint owns a hotel property in CA, Wyndham Harbour Lights, located
19 at 911 Fifth Avenue, San Diego, CA 92101, and these California hotel properties are
20 time-share properties known as an “accommodation” under the Act.

21
22 5.13 In addition, all of the Geo/Sapphire/Starpoint Defendants herein sell access to hundreds
23 more “component sites” located in California as part of its time-share plan, which was
24 sold to all the Plaintiffs herein and they are then required (to get any use at all) to
25 exclusively book through Defendant RCI/Wyndham, which is the largest timeshare
26 “booking service” in the timeshare industry (and specifically, the “booking agent” for
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Defendants Geo/Sapphire/Starpoint) working for most major billion-dollar timeshare conglomerates.

5.14 Defendant Wyndham owns a substantial amount of California resorts and hotels, including these resort/hotel properties in California: Wyndham Oceanside Pier Resort, 333 N Myers St, Oceanside, CA; Xola A Trademark Hotel Collection by Wyndham, 4630 Sunnymead Boulevard, Moreno Valley, CA; and a large amount of hotels, resorts, and chains, in California, even Super 8 Motels is believed to be owned by Wyndham.

5.15 Thus, Defendant Wyndham and its subsidiary RCI, are under the Act as owning “accommodations” geographically within the State of California.

5.15 By its acts and practices as herein described, Geo/Sapphire/Starpoint Defendants and Wyndham/RCI Defendants, thus all Defendants to this lawsuit (as specified in each section below), violated the Act in multiple ways:

- a) Defendants Geo/Sapphire/Starpoint violated §11225 & §11238 by failing to provide certain documents and certain disclosures clearly and conspicuously as required by law;
- b) All Defendants violated §11237 by failing to make proper disclosures as required by law with regard to the incidental benefits offered to the Plaintiffs;
- c) All Defendants violated §11245 by making material misrepresentations, including, but not limited to misrepresentations in connection with the promotion of a time-share plan, the nature, qualities and/or characteristic of the offered time-share plan, and/or incidental benefits;
- d) Defendants Geo/Sapphire/Starpoint violated §11265 by charging assessments in amounts not proscribed by law, or by failing to provide proper notice regarding the increase of assessments;

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e) All Defendants violated §11265 by failing to deliver on certain items within the time represented to the Plaintiffs;

f) Defendants Geo/Sapphire/Starpoint violated §11265 by including conflicting, misleading and/or unlawful provisions among the various documents provided to the Plaintiffs;

5.16 Plaintiffs herein have suffered great financial losses and have been harmed by Defendant’s intentional and deceptive acts, which comprise precisely the type of conduct the California Legislature sought to protect all consumers from when it enacted the Time-Share Act of 2004.

5.17 Based on the foregoing, Plaintiffs request damages, including Punitive Damages, and any other available remedies.

5.18 As may or could be applicable to any of the Plaintiffs herein, the California Unfair Competition Law is an available remedy, which normally provides treble damages for violations of the statute. The violations of the timeshare act pled in this Count One, meet the standards for coverage under the California’s *Unfair Competition Law (UCL)* which is an equivalent to a consumer protection act. *Cal. Bus. & Prof. Code § 17200*.

5.19 However, applying that statute in matters where Defendants do systematic and repeated violations of law (as is alleged herein, for all Defendants with regard to timeshare act violations) then Punitive Damages are available for redress.

5.20 All Defendants’ systematic and repeated violations of law under the timeshare statute, fit well under the UCL Act, and its seminal case for application of Punitive Damages, *Johnson v. Ford Motor Co.* (2005) 35 Cal.4th 1191, 29 Cal.Rptr3d. 401; 113 P.3d 82, and *Johnson’s* progeny of case law in support of applying Punitive Damages to Plaintiffs.

- 1 5.21 The UCL confers standing on both private parties, but only private plaintiffs who have
2 “suffered injury in fact and lost money or property as a result of such unfair competition”
3 may file suit. *Cal. Bus. & Prof. Code §17203 and §17204 (2010)*.
4
5 5.22 California’s UCL is broadly written. Section 17200 includes five definitions of unfair
6 competition: (1) an unlawful business act or practice; (2) an unfair business act or
7 practice; (3) a fraudulent business act or practice; (4) unfair, deceptive, untrue,
8 or misleading advertising; or (5) any act prohibited by Sections 17500-17577.5.
9 5.23 In addition, a Section 17200 claim that is based on a violation of another law -- an
10 "unlawful" claim – precisely as is the case with the California Timeshare Act and all
11 other laws pled pursuant to this Complaint, may lie even where no private right of action
12 exists pursuant to the underlying law, thus the coverage is broad.

13 **VI. COUNT TWO**

14 **COMMON LAW FRAUD**

15 (Rescission and Support for Statutory Punitive Damages - Applicable to all Plaintiffs)

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17
18 6.1 Plaintiffs incorporate by reference all the preceding paragraphs, as though fully set forth
19 herein. Acts of all Defendants (including Wyndham/RCI) evidence Fraud.
20
21 6.2 Defendant’s staff engaged in high-pressure (and sophisticated hybrid sales tactics)
22 through sales presentations that were designed to induce Plaintiffs to make a significant
23 financial decision in a short time span based upon false information.
24
25 6.3 Defendant’s representatives intentionally misrepresented certain material facts as
26 referenced in the Plaintiff’s Facts section. *See, Section IV and Plaintiff Facts supp.*
27
28 6.4 Defendant’s representatives knew (as this was their training) that their representations via
tactics and fraud schemes detailed herein, were false and misleading.

- 1 6.5 Specific examples of these fraud schemes are set forth in Section IV Facts and its
2 component of Plaintiff Facts supplemental which is pled with particularity therein.
- 3 6.6 Defendant's sales and management stated falsities intentionally for the purpose of
4 inducing Plaintiffs to enter into contracts to pay many thousands in purchase funds and
5 future obligations, and collusively with RCI, eradicated expenses (restricted use/nonuse).
6
- 7 6.7 Defendant via RCI, protected profits with obtuse requirements to access (*see ¶¶6.5 - 6.7*)
8 where Plaintiffs pay \$8,000 - \$14,000 per week, 1000% more than online. *§4.7(c); Fn. 1.*
- 9 6.8 The end result to the Plaintiffs herein was: (a) high-interest mortgages (typically doubling
10 the principal amount); along with, (b) ever-rising maintenance fees that bind alive family
11 members and future generations, evidencing blatant Unconscionability.
- 12 6.9 At all relevant times herein, Defendant's staff was acting as agents of one or more of the
13 Defendant entities in this matter, and the acts of the staff are attributable to Defendant,
14 because they were performed in the course of work, and trained, directed and managed
15 daily by Defendant's management which is involved from the inception of hiring sales
16 agents, through their education in the fraud schemes and refinement in tactics and
17 strategies, including daily execution designed to defraud consumers.
- 18
- 19 6.10 For all the reasons set forth herein, the Plaintiffs became induced to purchase a timeshare
20 interest from Defendant by means of fraud & deceit. The false representations of
21 material facts, combined with the high-pressure sales pitches, deceptive procedures,
22 defective [or absence of] disclosures, were all used to separate the Plaintiffs from their
23 money in exchange for substantially less than what was promised (including Defendant's
24 collusive partner for booking, RCI).
- 25
- 26 6.11 Because of ***Unconscionability*** – **the absurdity and harshness exemplified by paying**
27 **up to 1000% more for a room than before they contracted -and- Multi-**
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Defendant’s Contract that forces obligations upon living family and their future generations held jointly & severally liable for the ever-rising maintenance fee debt.

- 7.4 The signing is orchestrated by a *Closer* which is referred to as a “Loan Officer” but they do not go over the loan in any detail, and only give loan information when forced by questions, and then only minimal or false information, usually by Management.
- 7.5 After a 2-hour to 4-hour that was used to mentally and physically wear down Plaintiffs in the sales room, there is a rapid signing of a huge amount of documents (with all the restrictions and obligations) that lasts only about ten (10) to fifteen (15) minutes.
- 7.6 The entire contract signing process is controlled from start to finish by Defendant’s contract *Closer*, and the Plaintiffs are not permitted to read the contract, nor permitted to leave the room with only one Plaintiff as an exception, nor to discuss the contract alone, and thereby the Plaintiffs were not permitted to research Defendant’s timeshares online, or to review the Contract terms with an Attorney.
- 7.7 And Defendants staff, including Management and Contract Closers, take these tired and weary consumers and essentially force them to sign a contract that day or they will be deprived of many thousands of dollars [typically based on based upon overt lies concerning value].
- 7.8 The Contract Closer artfully controls the flow and [non-]viewing of the huge pile of Contract documents, and interprets the Contract terms at an extremely rapid pace described by the Plaintiffs herein as: “this means this” and “that means that” which is then promptly followed by advisement thereupon based on those [faulty and deceitful] interpretations, to “sign here” and “initial here” in a well-orchestrated strategy to finally [after 2-4 hours of sales] get these hungry, physically tired and mentally drained Consumers back to their vacation.

- 1 7.9 This rapid closing orchestration, is often coupled with clever holding of the Plaintiffs up
2 to the last possible minute to leave to a planned event, thus falsely creating, what
3 becomes a real urgency to sign a huge amount of paperwork in an instant.
- 4 7.10 Because the non-lawyer’s interpretations were known to be untruthful (supporting
5 falsehoods made by the sales persons and management), these interpretations of contract
6 terms were by design, intended to deceive the Plaintiffs herein.
- 7
8 7.11 In the end, the Plaintiffs believed they were signing and initialing a document that
9 conformed with everything that they were told by Defendant’s salespeople and
10 Defendant’s management during the many hours spent in sales-related activity; however,
11 the rapid verbal interpretation of the Contract terms by non-lawyer Closers, did not, at all,
12 conform with the actual, written terms of the Contract which the Plaintiffs were signing.
- 13 7.12 As a result of the Defendant’s staff’s unlawful practice of law, overlaid with fraud &
14 deceit, there never was any *meeting of the minds*, and there was no meaningful disclosure
15 of the Contract’s true terms, thereby appropriate for Rescission.
- 16
17 7.13 Violations of UPL prohibitions serve to evidence the deserved need for providing relief
18 for fraud and/or statutory relief claims herein, and such acts include Defendant’s
19 collusive partner, Wyndham/RCI, that gives legal advisement as to statutory rescission
20 laws, in a falsified fashion, to cause the caller to not invoke their statutory rights.
- 21
22 7.14 The other form of UPL conduct, Wills & Estates Law (*described at ¶7.3 in §(b) above*),
23 which is also performed upon the Plaintiffs herein, is for Defendant staff to interpret the
24 law as it applies to Wills & Estates, and thereby deceive Plaintiffs herein, when
25 Defendant knows a standard Defendant Contract feature is the “successors” liability
26 contract term that defeats all of the staff’s discussions with Plaintiffs about an asset to be
27 used for optional Will bequests.
- 28

1 7.15 Consumers are advised that they “can” put the timeshare in their Will, when it is known
2 that familial obligations [forcible] are already contained in the Contract.

3 7.16 Owners are told they “could” or “can” do whatever they want with the timeshare with
4 regard to their estate such as leave it to one or more of their children.

5 7.17 However, due to the “successors” clause buried in the Contracts’ *legalese*, the Plaintiffs
6 were committed, without knowledge, to a contract for the purchase of a timeshare which
7 inherently forms joint and several liability to all those same family members who are in the
8 Plaintiffs’ lines of succession, that any one of which or all can be forced to assume the timeshare
9 obligations upon the final owner’s demise.

10 7.18 This successor liability was a standard term of the Contracts known by all of the
11 Defendants, yet for each of the Plaintiffs herein, not one Plaintiff had a disclosure of this
12 perpetual and generational debt obligation.

13 7.19 The actual word “successors” was buried in a boilerplate sentence with heirs and
14 assigns... [and other potential future parties], however, the Plaintiffs were unwittingly and by
15 surreptitious design of Defendant, signing an instrument that transferred any remaining mortgage
16 debt, special assessments (in the thousands and no Plaintiffs know what they are) before or after
17 death, and escalating annual debt (maintenance fees) to the Plaintiffs’ successor children (if no
18 children, then siblings) and to future generations.

19 7.20 Not one of the Plaintiffs had any idea, whatsoever, they were obligating successors,
20 including children or grandchildren, and their future generations, to any remaining mortgages
21 and ever-rising fee debt, and in all cases disclosure would have prevented the Contract signing.

22 *See, Facts supp., on-point heading for Successor Liability.*

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VIII. COUNT FOUR
CIVIL CONSPIRACY

(Against All Defendants to this Action)

8.1 Plaintiffs incorporate by reference all the preceding paragraphs, as though fully set forth herein.

8.2 Defendants Geo/Sapphire/Starpoint and Defendants Wyndham/RCI agreed to join a conspiracy related to defrauding consumers in the purchase of timeshare property seemingly, but not actually, in compliance with the laws of California and Nevada.

8.3 The conspiracy had a common design, jointly and knowingly established by Defendants acting through their agents and employees, and those of their subsidiary entities.

8.4 Defendants knew that the object of this conspiracy was to market and sell timeshare interests to Plaintiffs, without disclosing, among other material facts described herein, that Plaintiffs would not be able to use their points as described Defendants Geo/Sapphire/Starpoint sales representatives when desired due to Defendant's conspiracy with Wyndham/RCI, where fraud (intentional misrepresentation) was used as the method to maximize profits.

8.5 Defendants knew that this was unlawful and have continued to use such means as fraud, misrepresentations, and omissions.

8.6 Defendants had a meeting of the minds on the object of or course of action for this conspiracy. Defendants knew and agreed upon the unlawful object or course of action for this conspiracy. Defendants also knew that their wrongful actions would inflict injury upon the targets of the conspiracy, including Plaintiffs.

8.7 As described in the Sections above, Defendants committed multiple unlawful and overt acts to further the object or course of action for this conspiracy and these unlawful acts

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proximately caused the damages suffered by the Plaintiffs.

8.8 Accordingly, Plaintiffs are entitled to recover their actual damages, plus costs, attorneys’ fees, and pre-judgment interest and post-judgment interest.

IX. COUNT FIVE

BREACH OF CONTRACT

9.1 Plaintiffs incorporate by reference all the preceding paragraphs, as though fully set forth herein, and noting that ¶8.3 and with emphasis ¶8.4 hereunder, also apply to all the other cause of action Counts.

9.2 To the extent that there is not full tort and/or statutory relief granted to certain Plaintiffs of this action, they are entitled to a finding of breach of contract.

9.3 As pled herein with specificity for fraud, Defendant enticed Plaintiffs by promising that owning a timeshare would allow them to specific use benefits (use rights) to plan vacations easily for less money than the non-owner in the public could book it for, and how Plaintiffs were making an “investment” in real property that the owner can make money from future rental and resale, which was a defining and persuasive benefit as the basis for the bargain.

9.4 Plaintiffs were in fact told that they should buy their “property” because of the benefits and value associated with the “Deed”. However, as an Owner of Defendant’s timeshares, there are absolutely no real property rights, and it is not at all “just like a home” as described by Defendants sales staff Management and Contract Closers.

9.5 Most if not all Plaintiffs experienced great difficulty planning vacations and reserving accommodations with the RCI, and GeoHoliday/Sapphire timeshares are valueless in the common marketplaces, as they harbor significant debt, including escalating, recurring fees.

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9.6 In addition to any post-contracting breaches that have occurred since the sale, Defendant induced Plaintiffs by using many tactics and [fraud] schemes pled in the particular herein, in which each such act of misrepresentation, concealment and/or other acts of deceit, shall serve to evidence breaches of the underlying Contract, and in all cases herein, where those breaches serve to evidence Breach of Contract found upon a Breaches due to Contract Misrepresentation.

X. COUNT SIX

NEGLIGENT MISREPRESENTATION

- 10.1 Plaintiffs incorporate by reference all the preceding paragraphs, as though fully set forth herein.
- 10.2 Plaintiffs seek rescission of any contract and further damages and relief pursuant to the Counts above. In the alternative, to the extent needed for any Plaintiff’s relief that is not eligible for Fraud/Rescission or Statutory remedy, Plaintiffs are entitled to recover damages for the negligence of the Defendants.
- 10.3 Specifically, the salesmen made false or at least negligent representations of highly material facts (value, salability, debt obligations, and the fundamental rights for use in a use rights contract), as shown in the Facts, Section IV above, including pleading in the particular. *See, Plaintiff Facts supp.*
- 10.4 Plaintiffs reasonably and justifiably relied on such representations by Defendant’s staff.
- 10.5 This reliance was to the detriment of Plaintiffs who paid money for a down payment and incurred additional debt as a direct and proximate cause of the misrepresentations of Defendant’s representatives.

- 1 10.6 At the time the misrepresentations were made, Defendant’s representatives knew that
2 they were overtly false or were at least were negligently made. *See, Facts described in*
3 *Section IV and the Plaintiff Facts supp. detailing the fraud schemes.*
- 4 10.7 Defendant’s staff and its affiliate/partner/co-conspirator Wyndham/RCI, deceived and
5 duped Plaintiffs intentionally, or at least negligently.
- 6 10.8 As a result of these intentional, or at least negligent misrepresentations, the Plaintiffs
7 herein have been harmed by Defendant’s staff, its management, its agents, and its
8 affiliates (specifically including Wyndham/RCI that intentionally or at least negligently
9 prevented the Plaintiffs from obtaining room bookings which is the purpose [“Use”] of a
10 use rights contract and/or prevented the use promises made by Defendant’s staff).
- 11 10.9 And each of the Defendants to this lawsuit, including Wyndham/RCI, would
12 consequently be liable for damages the Plaintiffs herein are entitled to, including Punitive
13 Damages.
- 14 10.10 Plaintiffs herein have suffered great loss financially and have been harmed and have
15 been distressed emotionally, some with physical manifestations.
- 16 10.11 Finally, some Plaintiffs have additional harm from medical injury and/or exacerbation,
17 where such harm can be ignored by this Court if the co-Plaintiffs receive or at least have
18 a Jury evaluate Punitive Damages under this lawsuit.

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22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiffs pray for relief against Defendants as follows:

- 24 1. For judgment in favor of Plaintiffs and against Defendants;
25 2. For special damages in an amount in excess of \$50,000.00;
26 3. For general damages in an amount in excess of \$50,000.00;
27 4. For rescission of the agreements;
28 5. For attorney’s fees and costs incurred herein as special damages;

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- 6. For prejudgment interest;
- 7. For punitive damages;
- 8. For treble damages;
- 9. Alternatively, for unjust enrichment; and
- 10. For such other and further relief as the Court deems just and proper.

DATED this 17th day of April, 2019.

THE HAYES LAW FIRM

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