

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

EMILY GEORGE, MICHAEL GEORGE,)
BENJAMIN FENTRESS, GENELYN BONSA,)
CHRISTY LEE, JOSEPH LEE, JEFF ANTON,)
TIFANI ANTON, IDA CARRUTHERS,)
STEVEN CARRUTHERS, JEANNE BRADLEY,)
MARITZA REYES, ERICK LAZO,)
SUSZANNE CAUDELL, JAMES CAUDELL,)
NICOLE CROSS, BRANDON ROBBINS,)
KATYA ROQUE, GUIDO DIAZ,)
LACEY GUILLOTTE, JACOB GUILLOTTE,)
CATHERINE SIMOES DE ABREAU,)
LUIZ EDUARDO PEDROSA, RYAN PETRIE,)
JULIA PETRIE, SHEILA MAITA,)
JULISSA SANTANA,)
VANESSA SHEPHERD WILLIAMS,)
KAREN SOSAK, MICHAEL SOSAK,)
LESLIE COKER, JUSTIN COKER,)
SHAKEYSHA J. SHELTON,)
JACQUELYNE D. SHELTON,)
JOHN E. SHELTON, STEPHANIE VALLECIO,)
CARMINDO VALLECIO, LATOYA NETTLES)
And GREGORY WINN,)

Case No.: 3:18-cv-00512

Plaintiffs,)

v.)

WESTGATE RESORTS, LTD., L.P., CENTRAL)
FLORIDA INVESTMENTS INC., CFI RESORTS)
MANAGEMENT INC., WESTGATE)
RESORTS INC., WESTGATE VACATION)
VILLAS LLC, WESTGATE PALACE LLC,)
WESTGATE FLAMINGO BAY LLC, and)
WESTGATE LAKES LLC,)

Defendants.)

PLAINTIFFS' FIRST AMENDED COMPLAINT

Comes now the Plaintiffs captioned above and listed in the parties section below, by and through counsel, and file this Complaint against Westgate Resorts, Ltd., L.P., Central Florida

Investments Inc., CFI Resorts Management Inc., Westgate Resorts Inc., Westgate Vacation Villas LLC, Westgate Palace LLC, Westgate Flamingo Bay LLC, and Westgate Lakes LLC, sometimes referred to hereinafter collectively as “Defendant Westgate” or “Defendants” or “Westgate”, which includes its officers, agents or subsidiaries, including its Gatlinburg, Tennessee resort, in a private attorney general action alleging the following claims: contract rescission for abusive sales practices; bait and switch; predatory lending; unauthorized practice of law; violations of the Tennessee Time-Share Act and the Tennessee Consumer Protection Act and the California Timeshare Act; and breach of contract.

I. Introduction

Plaintiffs all share similar encounters with Defendant Westgate. Plaintiffs were on vacation at or near a Westgate Resort. Each was enticed in some manner with tickets to shows, meals, or nights to stay at the resort if they would listen to a sales presentation represented to range from thirty (30) minutes to two (2) hours, usually “90 minutes” or less.

What ensued was four (4) to eight (8) hours of deceptive sales-oriented activity, during which representatives of Westgate engaged in tactics designed by Defendant Westgate to manipulate and/or coerce consumers, such as Plaintiffs, to purchase a week at a timeshare. Generally, Plaintiffs were not allowed to eat, drink or have time alone to discuss the presentation.

False promises and concealments (A-J below) were made by Defendant Westgate through its sales persons, its management, and its methods & systems, all with the intention of inducing Plaintiffs to make a purchase that day, which never would have been done absent fraud or had the true contract terms been disclosed in an open light.

With disclosure of material facts, not one of the Plaintiffs herein would have contracted with Defendant Westgate (each Plaintiff’s Facts are pled in the particular for fraud). Instead,

Plaintiffs were deceived and believed those statements by Westgate's staff, and they relied upon Westgate's staff to their unfortunate detriment as victims of Fraud and Deceit.

To induce a sale that disclosure in an open light would not have produced, Plaintiffs were given false and/or misleading information such as (later Discovery, see bold active headers):

A. Westgate's timeshares are good "investments" that always increase in value (appreciation).

B. Westgate's timeshares are valuable as a long-term asset that can be resold for a "profit".

Value (A-B): There is no market value; resales are not possible; thousands of Westgate timeshares on eBay have not sold, even for \$1.00.

C. Timeshare "maintenance fees" either do not exist, or don't go up at all or only very little.

Fees (C): Regular escalations of yearly maintenance fees are commonplace.

D. Westgate's Timeshares are a valuable asset and legacy the Owner "could" put in their Will.

E. Owners (Plaintiffs) "can" decide (optional) who will receive the timeshare in their Will.

F. Plaintiffs were not told about "successors" clause in the Contract invoked after they die.

Wills (D-F): Not one of the Plaintiffs knew the truth that, despite any possible future contract (make a Will or Codicil if a Will exists), the Timeshare Contract being fully executed that day, would bind all their children as "successors" that are jointly & severally liable for ever-increasing generational debt.

G. Anytime, anywhere "easy booking" at 5-Star resorts and hotels worldwide.

H. Better amenities as owners; some were given tours of the type & quality of room bought.

Use (G-H): Bookings are restricted to 6 months out (Expedia is the same day) and none of the destination locations, nor 5-Star resorts (vs. "Motel-like"), are available as promised at the point-of-sale, evidenced by actual and repeated attempts to get what the Plaintiffs paid many thousands for.

I. Plaintiffs own prime resort property and can make "rental" income (pay fees, mortgage).

Rental (I): They can't book rooms for themselves, rental is impossible; plus, on Craigslist?

- J. Promises related to "Upgrades" (costing \$1000s to \$10,000s) to resolve a prior sale's deficiencies created by Defendant. (Often repetitive, the problem is never fixed).

Upgrades (J): Upgrades often double yearly fees, and always increase fees (despite promises) and add many thousands down and to mortgage balances, but never seem to solve the problem, thus requiring a future upgrade(s).

A. Parties

1. Plaintiffs are combining resources as co-Plaintiffs pursuant to Tenn. R. Civ. P. 20.01 to face a billion dollar resort, where consolidation is judicially efficient because of shared claims (many share all [or all but one], causes of action) and very similar factual patterns due to the Defendant Westgate's conduct that occurs in multiple sales facilities, yet all have substantially similar sub-claims, where certain patterns of 'fraud schemes' are all pled with particularity herein, including abusive sales practices and predatory lending.

- 1.1 Michael and Emily George; brother Mitchell George 6768 Purity Rd St. Louisville, OH 43071
- 1.2 Benjamin Fentress and Genelyn Bansa 126 Madeline Way Apt 223 White House, TN 37188
- 1.3 Joseph and Christy Lee 127 Humbird St Cumberland, MD 21502
- 1.4 Jeff Anton and Tifani Eshoo-Anton 2357 Stratford Ave Westchester, IL 60154
- 1.5 Steven and Ida Carruthers 14540 Turnwood Place Charlotte Hall, MD 20622
- 1.6 Jeanne Bradley PO Box 70254 Henrico, VA 23255
- 1.7 Maritza Reyes and Erick Lazo 3201 Wuthering Cir Grand Prairie, TX 75052
- 1.8 James and Suzanne Caudell 609 S Buchanan Danville, IL
- 1.9 Nicole Cross 21119 Bryant St Canoga Park, CA 91304 and Brandon Robbins 1620 Alexander St., Simi Valley, CA 93065
- 1.10 Katya Roque and Guido Diaz 2385 SW 27THST Miami, FL 33133
- 1.11 Jacob and Lacey Guillotte PO Box 675 Baldwin, LA 70514

- 1.12 Luiz Pedrosa and Catherine Simoes de Abreu Rua Carlos Weber 790 Apt 181A Vila Leopoldina São Paulo, Brazil
- 1.13 Ryan and Julia Petrie 5300 Millcreek Cir Independence, KY 41051
- 1.14 Sheila Maita and Julissa Santana 104 Reservoir Ave Jersey City, NJ 07307
- 1.15 Vanessa Shepherd Williams 1422 Milan Ave Akron, OH 44320
- 1.16 Michael and Karen Sosak 110 Orchard Hilands Drive Venetia, PA 15367
- 1.17 Justin and Leslie Coker 2622 Mission Ridge Drive Murfreesboro, TN 37130
- 1.18 Shakeysha, Jacquelyne, and John Shelton 2525 W 39th Ave Pine Bluff, AR 71603
- 1.19 Carmindo and Stephanie Vallecio 7517 Pebble Beach Rd Fort Myers, FL 33967
- 1.20 Latoya Nettles and Gregory Winn, 291 Scarlet Oak Run Clayton, NC 27520

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

3. Defendant Westgate Resorts, Ltd. L.P., operating under the name Westgate Resorts, Ltd., is an active limited partnership with two limited partners: Central Florida Investments Inc. (hereinafter “CFI”), and David Siegel Irrevocable Trust; and one general partner: Westgate Resorts, Inc.; CFI and Westgate Resorts Inc. both have their principal place of business at 5601 Windover Drive, Orlando, Florida 32819, whereas Westgate Ltd. L.P. alleges the David Siegel Irrevocable Trust has a citizen trustee residing in Florida. Westgate Ltd. L.P. can be served through its registered agent at Corporation Service Company, 2908 Poston Avenue, Nashville, Tennessee 37203-1312. At all times relevant to this lawsuit, Defendant Westgate Resorts Ltd. L.P. operated as the developer of the Westgate Smokey Mountain Resort at Gatlinburg, a Timeshare Resort at 915 Westgate Resorts Road, Gatlinburg, Tennessee 37738. Defendant Westgate’s Tennessee control number is 000369233.

4. Central Florida Investments, Inc. (“CFI”) is a Florida Corporation with its principal place of business at 5601 Windhover Drive, Orlando, Florida, 32819. On its website, Westgate Resorts, Ltd. states that it operates as a subsidiary of CFI.

5. CFI Resorts Management, Inc. (“CFI Resorts”) is a Florida Corporation with its principal place of business at 5601 Windhover Drive Orlando Florida 32819. CFI Resorts is the entity that manages the Smoky Mountain Resort at Gatlinburg, located at 915 Westgate Resorts Road, Gatlinburg, Tennessee 37738.

6. Westgate Resorts, Inc. is a Florida Corporation with its principal place of business at 5601 Windhover Drive, Orlando, Florida 32819. Westgate Resorts Inc. is the sole general partner of Westgate Resorts, Ltd. L.P.

7. Westgate Vacation Villas LLC is a limited liability company with Westgate Resorts Inc. as its sole member. Westgate Vacation Villas LLC and Westgate Resorts Inc. have their principal place of business at 5601 Windhover Drive, Orlando, Florida 32819. Four Plaintiffs to this action were fraudulently induced into purchasing a timeshare interest from Westgate Vacation Villas LLC.

8. Westgate Palace LLC, is a limited liability company with Westgate Resorts, Inc. as its sole member. Westgate Resorts Inc. has its principal place of business at 5601 Windhover Drive, Orlando, Florida 32819. Four Plaintiffs to this action were fraudulently induced into purchasing a timeshare interest from Westgate Place LLC.

9. Westgate Flamingo Bay LLC is a limited liability company with Westgate Resorts, Inc. as its sole member. Westgate Resorts Inc. has its principal place of business at 5601 Windhover Drive, Orlando, Florida 32819. Six Plaintiffs to this action were fraudulently induced into purchasing a timeshare interest from Westgate Flamingo Bay LLC.

10. Westgate Lakes LLC is a limited liability company with Westgate Resorts, Inc. as its sole member. Westgate Resorts Inc. has its principal place of business at 5601 Windhover Drive, Orlando, Florida 32819. Six Plaintiffs to this action were fraudulently induced into purchasing a timeshare interest from Westgate Lakes LLC.

11. CFI, CFI Resorts, Westgate Resorts, Inc., and Westgate Vacation Villas, LLC all have the same President/Secretary, David A. Siegel, and the same Treasurer/Chief Financial Officer, Thomas F. Dugan.

12. At all relevant times, each of the Defendants herein named was the agent, servant, partner, aider and abettor, co-conspirator and/or joint venture of each of the other Defendants and was at all times operating and acting within the purpose and scope of said agency, service, employment, partnership, conspiracy and/or joint venture, and rendered substantial assistance and encouragement to the other defendants, knowing that their collective conduct constituted a breach of duty owed to Plaintiffs and injured Plaintiffs.

13. At all relevant times, Defendants and each of them, were fully informed of the actions of their agents and employees, and thereafter no officer, director, or managing agent of defendants repudiated those actions, which failure to repudiate constituted adoption and approval of said actions and all Defendants and each of them, there by ratified those actions.

14. At all relevant times, there existed a unity of interest and ownership between certain defendants and other certain defendants such that any individuality and separateness between the certain Defendants has ceased and these Defendants are the alter ego of the other certain Defendants and exerted control over those defendants. Adherence to the fiction of the separate existence of these certain Defendants as entities distinct from other certain Defendants will permit an abuse of the corporate privilege and would sanction a fraud and/or promote injustice.

A. Jurisdiction

15. This action is brought pursuant to the Tennessee Consumer Protection Act and the Tennessee Timeshare Act of 1981. Tenn. Code Ann. §47-18-113(b) expressly provides that in a case brought under the Tennessee Consumer Protection Act, “[a]ny provision in any agreement or stipulation, verbal or written, restricting jurisdiction or venue to a forum outside this state or

requiring the application of the laws of another state with respect to any claim arising under or relating to the Tennessee Consumer Protection Act of 1977 and related acts set forth in this title is void as a matter of public policy. Further, no action of a consumer or other person can alter, amend, obstruct or abolish the right of the attorney general and reporter to proceed to protect the state of Tennessee and consumers or other persons within this state or from other states who are victims of illegal practices of persons located, wholly or in part, in Tennessee's borders.”

16. This Sevier County Chancery Court has jurisdiction over this dispute because many of the Plaintiffs purchased from the collective unity of Defendants at its Tennessee based resort and some transactions were with Tennessee citizens, thus invoking Tennessee Law. For each and every Plaintiff, pled with particularity, the facts involve substantially similar fraud schemes and common causes of action.

17. Due to the shared law and extremely high similarity of Facts, judicial efficiency is maximized in this Complaint as pled herein.

C. Facts

All Plaintiffs have a strong correlation of similar fraud schemes along with 4 commonalities:

- a. Plaintiffs did not receive proper Public Offering notice.**
- b. Plaintiffs did not receive proper Statutory Rescission notice. ***
- c. Plaintiffs did not receive any notice at all of Successor Liability.**
- d. Plaintiffs, because of the principal, interest and fees, spend rates up to \$35,000 per week for sub-par “Motel-like” rooms. And a lucky owner by comparison paid only \$6500 for a well-under \$1500 room. ****

These are independent grounds for Rescission in addition to those based upon common law Fraud or statutory relief which are derived from the Plaintiffs' individual facts that are all pled with particularity. There are varying degrees of noncompliance of a-d above, however, a, b, c and d (above) apply to all Plaintiffs herein as evidenced by this pleading. The only possible exceptions, perhaps still fail, and because of the specified rules render them as defective notices:

* Michael & Emily George inquired of, and were told about the statutory right of rescission deadline under Tennessee law, but that [non-lawyer] notice was perhaps defective (8u below). And the Caudells knew they had 15 days, but when they tried to rescind with John McMillian and Cherry Shannon within the 15-day rescission period, they never returned their call.

** Use Fees in these actual cases start at a shocking \$6000/wk., to \$6500, \$8000, \$9000 to \$10,000, \$13,000, \$15,000, \$20,000, \$25,000, to an outrageous: \$30,000/wk. to \$33,000/wk.

In all other cases and circumstances for all the other Plaintiffs to this action, Defendant Westgate did not provide proper legal notices and charged unconscionable fees for use.

18. **Emily and Michael George**

- a. Michael and Emily George (collectively, "the Georges") live in Ohio and have entered into three (3) contracts with Westgate regarding timeshare property in Gatlinburg, Tennessee.
- b. The George's entered the first contract in approximately 2013. Westgate's representatives told the Georges they were contracting for property that someone else had defaulted on such that the Georges would only have to pay the amount still owed.
- c. In 2015, Westgate's representatives told the Georges that there had been a mistake regarding the default and that the Georges had the choice of either upgrading or losing their \$11,000 they had already paid toward equity.

- d. In 2016, Westgate’s representatives told the Georges they could upgrade to an \$89,000 unit and that by using their “equity” they would only have to finance \$35,000.
- e. The Georges entered each contract after lengthy presentations from Westgate’s representatives. The 2013 presentation lasted approximately 10 hours, the 2015 presentation lasted an entire night for about 6 hours, and the 2016 presentation lasted approximately 8 hours for a total of approximately 24 hours for 3 presentations. These presentations were exhausting and caused one of the Georges to get a severe headache and caused both them severe stress. The Georges repeatedly told the Westgate representatives “no”, but Westgate’s representatives kept pushing them each time.
- f. Westgate’s sales representative was Eric Dykes. A concierge named Heather also showed the Georges around.
- g. Westgate’s staff made the following misrepresentations:
 - i. They were buying a defaulted timeshare and would only have to pay the remainder of amount owed;
 - ii. Regarding the first Upgrade, they only had option of upgrading or losing the amount they had already paid;
 - iii. They were purchasing purported real estate (“property”);
 - iv. They could rent or sell the real estate; the property was valuable;
 - v. The property would increase in value and be easy to sell;
 - vi. They “could” leave the property to their heirs;
 - vii. There are IRS tax benefits (deduction) to owning the particular property;
 - viii. As part of the Westgate family, the Georges are “Elite” owners in Gatlinburg, Tennessee which has exclusive inventory; and

- ix. The Georges would receive Westgate cruise & travel for heavily discounted rates.
- h. In addition to paying toward their “mortgage,” the Georges have paid thousands of dollars to Westgate for travel and discounts.
- i. Westgate did not disclose to the Georges that maintenance fees have to be paid yearly.
- j. To date, the Georges have paid approximately \$25,000 to Westgate.
- k. Westgate did not give the Georges the opportunity to read these Contracts. Westgate’s representatives summarized the contract terms and said sign here.
- l. The Georges have experienced difficulties booking stays at the property.
- m. For the one (and only) stay they booked for 2 weeks in June 2016, they were given a space without sufficient rooms for them and their guests. Also, the internet did not work.
- n. The Georges do not plan to use the property again. It is a financial hardship for them to continue payments. They have other financial obligations including medical bills and need to make home and car repairs.
- o. Because of Westgate’s fraud & deceit, and the discovery of actual obligations owing or to be owed under the Westgate Contract, it has caused this (and every Plaintiff to this action, which is hereby pled) severe anxiety and stress.
- p. After all they have paid \$25,000 already and upgraded in 2015 to \$55,000 and upgraded in 2016 to \$57,9000 all to book a better vacation like they keep getting promised (with enticements of resale profits as well).
- q. However, the vacations at those numbers are absurd in result and substantively unconscionable, wherein \$25,000 cash paid since 2013 has produced only 2 weeks in 2016 (3 years) staying in Tennessee and a cruise.
- r. Therefore, it cost \$12,500 cash for a 1-week vacation and an inexpensive cruise.

- s. Over 10 years of mortgages, interest and fees, it is estimated roughly that given the low ability for usage, this Plaintiff shall be spending about two hundred thousand dollars (\$200,000) for 3 cruises and 3 weeks' vacation or **\$33,333 per week or cruise**.
- t. There was no time or provision of the Public Offering Statement (POS) that provided notice of disclosures prior to contracting the purchase of a timeshare.
- u. When they inquired, they were advised about a "10 day" statutory Rescission period under Tennessee law; however, even this advisement may have had a defect, because if they did not inspect the exact room accommodations that they were buying, and under those conditions, Tennessee law gives consumers an extra five days ("15 days"), thus the advice could frustrate and/or prevent the invoking of a viable right for relief.
- v. The Plaintiffs were not told about the successor liability in the Contract, and if they were they confirm it would have been a deal breaker. And they further note that they were told, "you **can** pass it on" to whomever we (the Plaintiffs) chose.

19. **Benjamin Fentress and Genelyn Bonsa**

- a. In November 2017, Benjamin Fentress and Genelyn Bonsa were vacationing in Pigeon Forge and Gatlinburg, Tennessee.
- b. Fentress and Bonsa were visiting the Hollywood Wax Museum in Pigeon Forge when a representative of Westgate approached them and offered them a free show in exchange for listening to a two-hour presentation in Gatlinburg, Tennessee. The presentation was scheduled to start an hour later. Because the presentation occurred so quickly, Fentress and Bonsa had no time to research Westgate before attending.
- c. Fentress and Bonsa went to the presentation in Gatlinburg. They had their 12-year-old son with them and Westgate provided daycare.

- d. The presentation began in a large room with approximately 100 people. Some attendees stood up to announce they were upgrading their timeshare.
- e. Each sales rep took each couple on a tour. After the tour, the sales reps took the couples back to tables for a one on one meeting.
- f. The Westgate representative told Fentress and Bonsa that this was a great way to have a place to vacation every year; he represented they could come anytime they want to and also let family members use the resort.
- g. The sales representative wouldn't take "no" for an answer, even when Fentress and Bonsa made clear from beginning that they couldn't afford a \$26,000 timeshare; the sales rep dropped the price twice and they again told him they could not afford this reduced price.
- h. Fentress mentioned he had served in the military and the Westgate sales representative told them he would see if the Westgate Supervisor could get them a better deal. The sales representative told them he was also ex-military and "he takes care of his military guys."
- i. A supervisor next met with Fentress and Bonsa. They told him they only wanted a 1 bedroom, but the supervisor told them a 2 bedroom was the only option. They continued to make clear that they could not afford this offer. The supervisor kept pushing them until they were broken down to say yes. They only said "yes" in order to get out of there.
- j. The couple was there for approximately six (6) hours and the rep did not leave them alone, they were only able to get away by visiting the restroom.
- k. Westgate then lowered the down payment to \$500 which is all the Plaintiffs had in their account.
- l. Westgate sent Fentress and Bonsa to a smaller room where they met with a lady who was a notary. They waited for another hour. The notary finally reviewed the Contract with them on an iPad and scrolled through the pages quickly.

- m. The Westgate staff member told them what was purportedly on each page, but they did not have the opportunity to review the pages themselves. She told them to sign at the bottom of each page. An unidentified man came in for his signature on the final page. Fentress and Bonsa do not know who he was or why he signed the contract.
- n. Westgate never gave Fentress and Bonsa a copy of the contract, only of the warranty deed that was unsigned.
- o. Westgate did not tell Fentress and Bonsa about the maintenance fee before they signed the contract. Until then, Plaintiff had thought he was told the place would be theirs free and clear after they paid off the mortgage.
- p. Westgate made the following misrepresentations to these Plaintiffs:
 - i. They would get a free show in exchange for a 90 min. presentation.
 - ii. This was a one-time deal.
 - iii. The timeshare was like owning their own home—once they paid it off, it was theirs forever and they could rent it or sell it.
 - iv. They “would be able to” put the place in a Will for their son.
 - v. Signing up right then meant getting a free extra week the following year and an extra week to give to their family (both not received).
 - vi. They would receive a 2-year free membership such that they could pay \$100 to go anywhere in the world in 5-Star hotels & resorts.
 - vii. They could easily rent out the property and because they would buy a 2 bedroom, they could rent out each room for a profit.
- q. Prior to signing contract, Fentress and Bonsa asked if they could think about it. Westgate told them this was a one-time deal and that Westgate would not give them the free show if

they did not agree to buy something. They said Westgate would lose a lot of money if they were just giving away free shows without getting something for it.

- r. Westgate did not tell Plaintiffs that they had a right to rescind the contract.
- s. Westgate did not tell Fentress and Bonsa that this might create a debt for their children under the Contract's successor liability clause.
- t. Fentress and Bonsa in November 2017 had a purchase price of approximately \$15,000, with an immediate down payment of \$500 (draining the account) and additional down payment of \$1,500 spread over time.
- u. They are still paying toward the additional \$1,500 down payment and they still owe approximately \$13,000 on the mortgage.
- v. Westgate has so many "black out" dates that Fentress/Bonsa had to wait six months to use the resort. So, the "extra week" was worthless.
- w. Plaintiffs were not properly notified of Rescission rights (see "r" above), nor POS disclosures and protections, and never learned about "successor" clause liability in the Contract (see "s" above). This is obviated by the fact that they were not provided any Contract at all (see "n" above).
- x. It is a hardship for Fentress and Bonsa to make \$300 payments. They have been billed \$987.00 for the final down payment and cannot afford that. They describe themselves as stressed out by this timeshare ownership.

20. **Christy and Joseph (“Patrick”) Lee.**

- a. In October 2016, Joseph and Christy Lee (collectively, “the Lees”) were vacationing in Orlando, Florida. They were offered cheap Disney tickets if they went to a timeshare presentation.
- b. The presentation lasted approximately 4 hours with no breaks. The Lees were exhausted by the end. Their representative was Barry. They also interacted with a Westgate Manager.
- c. Westgate did not let the Lees review the contract. Instead, Westgate “rapid fire” explained it to them.
- d. The Lees were not provided a Public Offering Statement (POS) to review prior to the sale, thus disclosure and consumer protections were withheld by Defendant.
- e. Westgate did not tell the Lees about the time period for Statutory Rescission. When the Lees called to try to cancel the contract, Westgate laughed at them and told them they had missed the grace period.
- f. The Lees have financial and health hardships. Mr. Lee cannot work (Mrs. Lee only works part-time), as he has severe diabetes, and back issues/pain management, and debilitating colon issues; he describes himself as “falling apart” and much of it is stress exacerbated. This entire timeshare situation has put tremendous stress upon their health and recovery.
- g. The Lees thought they were getting a place for themselves. When they were taken on a tour, they were told they owned that unit. The Lees did not understand they would share the unit with other people, and be unable to book themselves.
- h. Sales representatives made the following misrepresentations to the Lees:
 - i. They could will or gift the property to their children. Westgate did not tell them the property could be a “successor” liability binding their children to debts under the Westgate contract.

- ii. They could rent the property to family members or let them use the property and not be responsible for any damage.
- i. It is so difficult to book a stay that the Lees have not even used the property.
- j. The Lees feel like Westgate offered them the promised land but gave them nothing in return.
- k. They had to take the deal that day or the price would go up significantly.
- l. Westgate represented to Lees that the property value would steadily increase (Appreciation) and be worth \$39,000 in 2018, then \$49,000 by 2019, and up to \$79,000 shortly after that (all fabricated).
- m. They were told they can use property at any other Westgate Resorts too. The Lees were told they could go to Westgate in Myrtle Beach, but in application, they cannot.
- n. Westgate represented to the Lees that once they bought the property, they would own it and could vacation for free. Then the Lees learned that a vacation for the whole family would cost \$6,000 including the maintenance fee and mortgage.
- o. That means if they could somehow get their week booked every year, it would still cost \$6000 for the room, and probably not a great room or facility, which is about \$5000 (or \$4000 if you are into opulent luxury) more than the rest of us pay online to book overnight, not 6 months or more into the future.
- p. If it takes twice as long to book, then \$12,000 per stay, which would perhaps be statistically more accurate.
- q. For 10 years at about \$40,000 total costs, \$8000 would be an average stay.

21. **Jeff and Tifani Anton**

- a. In 2012, Tifani Anton and Jeff Anton, collectively “the Antons,” were enticed by the promise of tickets to a Las Vegas show, to attend a sales presentation conducted by Defendant Westgate.
- b. Westgate sales representatives told the Antons that it would be a ninety (90) minute presentation; however, it lasted four (4) hours or more.
- c. As the sales representative became familiar with the personalities of the Antons, he used it to manipulate them.
- d. Westgate staff told the Antons the following misrepresentations:
 - i. The timeshare is an investment.
 - ii. The Antons would be spending money ahead of time to ensure great vacations.
 - iii. The timeshare is a great value because of the amazing locations.
 - iv. The Antons could make enough money from the referral program to cover all costs. Specifically, if they referred people each year.
 - v. The timeshares normally cost over \$30,000.
 - vi. Initially, the one the representative was trying to sell the Antons one that was normally \$50,000 but was a “foreclosure” that normally is not sold to the public, being offered just for them.
 - vii. The foreclosure was week fifty-two (52) Christmas & New Years and reps said, “we have to make sure the price is okay because this week is usually so much more.”
 - viii. Week fifty-two (52) also has “unlimited get-a-ways.”
 - ix. Normally an owner has to have two (2) to three (3) timeshares to get “unlimited get-a-ways” (found later to be illusory).

- x. The previous owner did have a couple and got rid of the one with the weeks built in.
 - xi. A lot of things were being included that were not normally offered.
 - xii. It is such a good deal compared to what it normally sells for (indicating it had value).
 - xiii. Reps said that Westgate was the premier and biggest company in the industry and they have many places to vacation.
 - xiv. Westgate Reps said the property will go up in value because of the new development in Las Vegas and the unit had been remodeled.
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- e. The Antons were told they could take vacations, and this would guarantee they could go a couple of times a year.
 - f. The sales representative did not discuss maintenance fees at all.
 - g. To date, the Antons have been unable to use any Defendant resort (0 Uses) or any Trades (0 Uses), so even if Plaintiffs were to book a vacation in 2019, by 2022 that would be 10 years of payments with only 2 weeks of use.
 - h. That is approximately \$36,000 to be paid due to rising fees (already up 30% +/-), which is a very high interest mortgage.
 - i. Which means, the Plaintiffs may pay \$13,000 per week for a “motel-like” room in a destination which is inferior to the promised destinations, and Plaintiffs would have to book 6 months in advance... for the privilege of being an “Owner”.

- j. The Antons wanted to take time to consider the purchase but were told it was a “foreclosure” and not something ever offered. The rep said they had to make a decision right then because it was a great deal and no one else would get this offer.
- k. The Antons were led to believe the timeshare had deeded property rights.
- l. The Antons had no Public Offering Statement (POS) provisions provided before the sale presentation, nor after, and not before the signing of documents to purchase the timeshare interest.
- m. The Antons were confronted at the contract signing with a skilled Closer and she explained she owned 2 timeshares and everyone in their family can use them.
- n. She told them at the signing that she was for there for quality assurance and “certified by the state” to assist consumers with the signing.
- o. Plaintiffs were told by Westgate staff when they wanted to find out about getting out, that they legally had only “48 hours” to cancel (Contract Rescission misstatement of law).
- p. The contract provision requiring lines of succession pay fees and debts was not discussed with the Antons at all and had it been the outcome would have been different.
- q. The Antons hired a service to try to sell the timeshare. The service was unsuccessful because there is no resale value as promised.

22. Ida and Steven Carruthers

- a. During 2014, Ida Carruthers and Steven Carruthers (collectively the Carruthers) purchased their original timeshare interest at the Gatlinburg, TN Resort location.

- b. The first and only time they were able to book was not until 2016.
- c. On or about Thanksgiving 2016, the resort was damaged by fire.
- d. When the Carruthers learned of the fire, they called to determine the extent of the damage to the property, but the representatives would not disclose this information and were completely uncooperative.
- e. In a 2016 visit to the resort, Plaintiffs were tricked into going to an “owners’ meeting” and short tour to look at the new additions, in actuality this turned out to be a 7-hour sales presentation.
- f. On the day of the presentation, the Carruthers were only given a measly sandwich for lunch and they were very hungry.
- g. Because the representative would not take “no” for an answer, ultimately, the Carruthers relented and upgraded from one week in a studio unit to three (3) weeks in a three (3) bedroom unit.
- h. In contrast to the presentation, the contract signing process took very little time with no opportunity to ask questions or review the information contained in the contract.
- i. More than half of the contract was in: **two (2) point font**.
- j. The Carruthers signed the contract on a tablet.
- k. The Carruthers were never provided a copy of the paperwork, thus no Rescission or Public Offering Statement (POS) provisions as are required by law.
- l. Westgate staff stated to the Carruthers the following misrepresentations:

- i. The Carruthers were being sold deeded property that is a valuable and saleable real estate investment, just like their house.
 - ii. Only VIPs were eligible to purchase an upgrade and it was a one-time deal that would not be available the next day.
 - iii. Westgate Timeshares are cheaper and nicer than staying in hotels.
 - iv. This timeshare would be easy to sell because it is an investment that will go up over time.
 - v. This timeshare could be left in a Will to the Carruthers children.
 - vi. The Carruthers would receive a deed.
 - vii. The Carruthers would be able to trade for places at all the major hotels and resorts in the US, and all over the world.
 - viii. The Carruthers could rent out their unused weeks.
 - ix. The Carruthers could bank their unused weeks.
- m. Westgate staff gave unlicensed legal advice regarding the nature of what was being purchased, transferability of the interest, and that it was subject to probate.
- n. The Carruthers communicated to Westgate staff that they wanted out and that they had to re-mortgage their home just to pay for the timeshares.
- q. At no time did the Westgate representatives discuss with the Carruthers their Right to Rescission, nor how long that right existed.
- r. The ability to rent out the timeshare would be administered by Westgate staff, but later Plaintiffs found out Westgate kept all the money.

s. They bought the timeshare interest in 2014, but were unable to book a reservation until 2016, this was the only time they were able to use the timeshare and the following problems ensued:

(1) no promised Deed, forever “tied up in escrow,”

(2) they had to pay a user fee upfront to stay, and three (3) Westgate staff persuaded them into a \$47,000 Upgrade.

t. The actual money spent over three (3) years in which the Plaintiffs were permitted only one (1) stay was \$6000 in down payments and other costs, and about \$10,000 in very high-interest mortgage payments and rising fees, or about \$15,000 for a one (1) week stay.

u. The accommodations provided were nothing like the model rooms they were promised (5-Star appointed) but rather, it was described by Plaintiffs as: “it was a resort that was like a Motel 6 with a bunch of issues.”

v. The economic harm far exceeded the initial \$18,000, because this was prior to the Upgrade with \$5000 down and \$42,000 in high interest debt, or about another \$90,000 in total obligations over ten (10) years with a usage rate of three weeks (1 per 3 years), or \$30,000 per week. Even if the Plaintiffs are permitted to double that usage (to get them in for more Upgrades), the Plaintiffs will have been charged \$15,000 per week for potentially “Motel 6” like resorts.

w. Westgate staff told the Carruthers that they had a valuable asset and investment that they “could” will to their children, but they say they would not have bought it because we have only one son and he could not afford it.

- x. The Carruthers never were told about the “successors” clause in the Contract, even though it was the same child they talked about in regard to wills & assets.

23. **Jeanne Bradley**

- a. On the first morning of her 2016 vacation, Ms. Bradley, a preexisting Westgate owner was awakened at 8:30 a.m. by a Westgate staff person who exclaimed there was a: “mandatory owners’ meeting” that she must attend.
- b. When Ms. Bradley explained that she had no money and did not wish to purchase anything, the manager took her to a room with all white modern décor.
- c. After Ms. Bradley told them she could not pay anything, the Westgate representatives opened a Westgate credit card in her name without the debtor’s authorization or approval. **Wire Fraud under 18 USC 1343.**
- d. Westgate staff members never told her the debt and fees would pass to her children by the “successors” clause (discovered in a recent phone call); Plaintiff has fervently stated she never would have signed up if she had known.
- e. The Westgate manager and/or sales representative told Ms. Bradley the following misrepresentations:
 - i. She was purchasing the same style room as the one with all white modern décor.
 - ii. She would always be able to book the week she wanted.
 - iii. The property would increase in value and would easily sell.
 - iv. The property could be sold for a profit or rented for income.
 - v. The deal had to happen that day, or the opportunity would be gone.
 - vi. It was an asset that she could leave it to her family as she wanted.

- f. The discovery of issues over the years led Ms. Bradley to many revelations regarding the use benefits and other promises which were not as they had been represented.
- g. She discovered there is no market value or exclusivity, and the public can get \$99 rooms that she cannot get despite the fact that she is paying a lot more as an owner.
- h. She also found out that the promised 5-Star resorts and hotels are in actuality “shabby rooms” in inferior grade resorts, hotels, and motels.
- i. The contract signing process took another half hour of contrived delays (after nearly 4 hours of sales), but the actual time spent signing was rapid, with no discussion or explanation of the contract clauses.
- j. She was abruptly told to “sign here” and “initial here” at a time when the Plaintiff was very physically, mentally, and emotionally worn down and just needed to get out of the room and somehow get back to what was supposed to be a “vacation”.
- k. The Plaintiff’s vacation turned into a sales endurance marathon—all the Plaintiffs herein experienced this ordeal. Plaintiffs are still totally unaware of the Fraud perpetrated against them until revelations of mistruths become apparent, this is due to the Defendant’s scheme of systems and procedures which often go undetected for years.
- l. Because of the orchestrated efforts by Defendant’s staff and the methods they employed, the physical and mental pressures which were experienced by this Plaintiff and others, essentially forced contract acquiescence in order to gain:

“**Flight**” - Freedom from sales imprisonment and back to a vacation, where

“**Fight**” - Was not an option given the sales prowess and aggressive predatory lending and abusive sales practices experienced by Plaintiffs.

- m. To some degree this *Flight or Fight response* is felt by all the other Plaintiffs to this action, and is hereby pled on behalf of all Plaintiffs to this action along with paragraphs “k” & “l” of this page (above).
- n. There was no Public Offering Statement (P.O.S.) provided to the Plaintiff or reviewed prior to the sales discussions or the contracting process for the purchase of the timeshare.
- o. Plaintiff did not know of the Right to Rescission, and avers that she definitely would have rescinded if she had the chance (no copy of the Contract).
- p. The original interest was about \$30,000 over 10 years with high interest and rising fees, and it was practically paid down to the last principal laden payments.
- q. Unfortunately, Defendant Westgate found a way to upgrade Ms. Bradley (described above).
- r. The economic impact of which means she now owes \$40,000 more over 10 years (*the upgrade cycle*).
- s. She actually paid \$1500 and used it only one (1) time since 2009 (and the 2017 upgrade wouldn’t help).
- t. It also means that she paid \$30,000 for just one (1) week of vacation and the accommodations were far less than the promised destination 5-star resorts and hotels.

- u. Ms. Bradley was then fraudulently induced into an Upgrade for another \$40,000.
- v. Consequently, she will, given the same use rate, pay the highest of the fee/wk. ratio for the Plaintiffs herein:

\$35,000 per week

- w. This is an unconscionable process, including many hours of aggressive tactics and acts (such as Wire Fraud), evidenced from the grotesque result of \$35,000 per week.

24. Maritza Reyes and Erick Lazo

- a. Ms. Reyes and Mr. Lazo were planning a trip to Disneyworld.
- b. The couple found an advertisement touting a special at Westgate.
- c. In return for attending a ninety (90) minute presentation, that actually lasted 5-Hours, attendees would receive tickets to Disneyworld and good room rates.
- d. On or about August 14, 2017, Ms. Reyes and Mr. Lazo attended the presentation in Orlando, Florida.
- e. The sales presentation lasted five (5) hours.
- f. Westgate representatives did not provide anything to eat or drink.
- g. Ms. Reyes and Mr. Lazo never received a Public Offering Statement (POS).
- h. The Plaintiffs also never had a disclosure of their Right to Rescission.
- i. The couple said “no” for many hours, but representatives relentlessly hounded them by leaving and returning with a better deal.
- j. Westgate’s representative, Patricia Smith, who helped with the signing, was nice the day of the presentation but when the couple called her back in an attempt to sell back their interest, as they were promised they could do, she was very rude and hateful.

- k. The interest was sold to Ms. Reyes and Mr. Lazo for \$10,000.
- l. Westgate representatives hid the documents during the signing.
- m. Westgate representatives only released the documents to Ms. Reyes and Mr. Lazo once everything had been signed.
- n. Westgate representatives made the following misrepresentations to Ms. Reyes and Mr. Lazo:
 - i. If Ms. Reyes and Mr. Lazo ever needed to sell the interest, Westgate would help.
 - ii. The original price of the interest was \$60,000.
 - iii. The discounted price of the interest would be \$40,000.
 - iv. The owner was selling their interest they had purchased a long time ago (and it was proof of a buyback program).
 - v. One day for this price of \$10,000 today only.
 - vi. Westgate's staff told Plaintiffs this was a once in a lifetime special offering, because this was an old interest it was reduced by \$30,000, far less than market value, as stated by Westgate representatives.
 - vii. Because of the special rules, they were in the "timeshare database" right then, but they took down the Plaintiffs' names and said it was illegal for them to ever go to another one of these "special buyback" presentations.
 - viii. However, they did say that Plaintiffs could only participate in the special offer today because they were in the "database" for that day.
 - ix. The interest was an investment with built in equity (\$30,000).
 - vii. In the future, the interest will be worth much more.
 - x. The interest is like a gift to your family, for your children.
 - xi. Plaintiff's interests "could" be passed on to the kids by a Will.

- xii. Vacationing would cost more without this interest.
- xiii. The interest could be used for vacations in Hawaii or Mexico.
- xiv. Only owners have access to Westgate's luxury resorts.
- xv. The interest could be rented out and Ms. Reyes and Mr. Lazo could profit from the proceeds.
- xvi. If Mr. Lazo dies, Ms. Reyes would have no further financial obligation, no Mortgage, other than the maintenance fees.
- xvii. There was no contrary [truthful] disclosure of the "successors" clause contained in the Contract
- xviii. There was no disclosure concerning the familial liability for generations to come.
- o. Ms. Reyes and Mr. Lazo called and wanted to book another hotel in Florida but were told they could not use the interest they had already purchased, and they ended up paying regular price for a hotel.
- p. The cause of this inability reserve their desired hotel was blamed on a waiting period, which was not disclosed at the outset.
- q. Every time Ms. Reyes called to get out of the fraudulent transaction, Westgate's representatives kept blaming someone else for the misrepresentations.
- r. Ms. Reyes called the resort to cancel and was told that Westgate "can't take it back."
- s. Ms. Reyes was told by Defendant's Notary, Patricia Smith:

There is no buyback but if you continue making the payments on it for a year or more, maybe something could be done.
- t. If the Plaintiffs calculate expenses over 10 years at about \$30,000, the "investment" is probably getting them five (5) or less uses in 10 years, or about \$6,000 per use.

- u. However, during the same ten (10) year period Westgate could persuade the Plaintiffs into Upgrading their interest, pay more money, so that they could actually book the vacations they have already paid for.
- v. These are typically medium to poor quality rooms at less-than advertised destination resorts/areas, which would at most cost \$1,000 per week, so the Westgate weeks are roughly 500% over-priced.
- w. These particular Plaintiffs' room cost estimates are slight when compared to the \$15,000-\$35,000 range for many of the Plaintiffs herein.

25. **James and Suzanne Caudell**

- a. In July 2016, James and Suzanne Caudell, collectively "the Caudells" were vacationing in Gatlinburg, Tennessee.
- b. During their vacation they attended a presentation at the Westgate resort.
- c. The presentation lasted five (5) to six (6) hours.
- d. The Caudells' thirteen (13) year old daughter was with them.
- e. The Caudells told their daughter to go up to the room and wait.
- f. After an hour, the Caudells told their daughter to go to the water park and they would meet her there in a short time.
- g. The Westgate representative who spoke with the Caudells was John McMillian.
- h. Westgate's manager kept coming back with better deals (Berton Mirakaj).

- i. The Westgate representative who gave explanations and signing instructions of the contract was Cherry Shannon.
- j. The Caudells signed the contract on a tablet and were not given a copy of the Contract, neither electronically nor a hard copy prior to signing.
- k. Westgate's staff stated to Plaintiffs the following misrepresentations:
 - i. Your children, or anyone you know, can freely use the timeshare.
 - ii. Your family will have extra travel options for flights and cruises.
 - iii. You will have the ability to book any time.
 - iv. You will have the ability to trade anywhere in the world.
 - v. Interval International members get exclusive access to top resorts.
 - vi. Unprohibited use of Interval International (all fees not disclosed).
 - vii. Westgate's staff will always be available to help the Caudells book vacations.
 - viii. You can call and schedule a vacation stay at a unit at any time.
 - ix. The property being purchased was a deeded piece of real estate.
 - x. Westgate would buy back the interest if the Caudells ever desired to resend their ownership in the timeshare.
 - xi. That if the Caudells attended a 30-minute sales presentation, they would receive accommodations for a one-night stay and three (3) tickets to two (2) separate events.
 - xii. Although the tickets were used, the accommodations were not received in exchange for the attendance.

- l. When the Caudells attempted to sell back their interest to Westgate, as they had been promised they could do, the customer service staff with whom they spoke said that “Westgate has no incentive” because “you are on the hook” for fees.
- m. The Caudells have been unable to book their timeshare at all, zero (0) uses since 2016.
- n. On one occasion when they tried to book, Westgate’s customer service said there were units available but since the Caudells were behind by a single payment a unit could not be booked.
- o. Soon thereafter, the Caudells became current on their payments.
- p. They called Westgate back and were told that no units were available.
- q. Therefore, the current rate (assuming they could finally get one booking in 2019), would be one (1) booking per three (3) years.
- r. Plaintiffs would pay about \$20,000 in ten (10) years for three (3) uses, or \$6500 per week.
- s. Because Mr. Caudell works for a railroad he cannot change vacation time.
- t. The booking staff made up special rules imposed upon the Caudells, which entirely prohibit them from any use.
- u. Westgate staff said Plaintiffs “could” leave this valuable deed to their heirs.
- v. But, the Caudells were not properly notified of the POS disclosures and protections, and were never told about the “successor” clause liability in the Contract.

- w. The Westgate representative disclosed to the Caudells that they had fifteen (15) days to rescind the contract.
- x. Plaintiffs tried to rescind the contract, but their attempt was ignored.
- y. They called John McMillian and Cherry Shannon within the 15-day rescission period, but John and Cherry never returned their call.
- z. A big reason Plaintiffs took the deal was because they were promised the Deed would be put in their daughter's name too, unfortunately this promise was never fulfilled.

26. Nicole Cross and Brandon Robbins

- a. On or about March 22, 2013, Ms. Cross and Mr. Robbins were visiting Las Vegas, Nevada staying at another resort/hotel.
- b. Prior to eating breakfast, the couple was enticed, through the offer of magic show tickets, to attend "a seminar".
- c. The sales presentation lasted three (3) to four (4) hours without food or drink.
- d. Westgate's representatives took the couple to another room to sign documents.
- e. Westgate's representatives did not allow the couple to review any of the documents.
- f. Ms. Cross and Mr. Robbins wanted to leave so that they could go to the promised magic show but were told if they left the deal went away.
- g. Westgate's representatives orchestrated delays, and then told the couple that they would explain the contract in order to get the couple to the magic show on time.
- h. Westgate's representatives rushed through the paperwork.

- i. Ms. Cross and Mr. Robbins received a packet when they left the signing room, but it did not include the contract.
- j. Plaintiffs had no copy of the Contract, thus no Right of Rescission (no verbal or written notice was given) and no statutory POS was given to them prior to signing, and possibly not after.
- k. Westgate's representatives did not inform Ms. Cross and Mr. Robbins of the interest rate or even that there was interest.
- l. Westgate's staff said that these interests were "different from timeshares" and did not inform Ms. Cross and Mr. Robbins that there were any extra fees at all.
- m. Westgate representatives made the following misrepresentations to Ms. Cross and Mr. Robbins:
 - i. The price of the timeshare interest during the sales pitch began at \$30,000 to \$40,000 but a current owner (who was upgrading) traded in their interest and made a buyback available for \$9,000.
 - ii. The interest would appreciate in value.
 - iii. The couple's children could have this amazing value.
 - iv. This purchase was like buying a home because it was a great investment.
 - v. If the couple needed or wanted out of the timeshare then the interest could be sold.
 - vi. The couple had a "high priority week."
 - vii. If the week purchased was not used, then the couple could trade it for a week of equal or lesser value.
 - viii. There was guaranteed availability.

- ix. If the couple was able to get referrals for the resort, then the couple would be able to vacation for free or even get money back.
 - x. Purchasing this interest would build good credit reports.
 - xi. Credit bureaus would treat this purchase the same as buying a home.
 - xii. This purchase would help them qualify for a home loan.
 - xiii. The interest could be used at five (5) star resorts around the world, including Dubai, Australia, and Hawaii.
 - xiv. The transaction was not binding, they could get out whenever they desired.
 - xv. The resort had a buyback program.
 - xvi. Getaways with Westgate Cruise and Travel were included.
 - xvii. The resort only sells thirty-six (36) of the fifty-two (52) weeks.
- n. Westgate emailed the contract after Ms. Cross and Mr. Robbins had returned home.
- o. Despite their many attempts, Ms. Cross and Mr. Robbins have been unable to sell or otherwise dispose of the property.
- q. Ms. Cross and Mr. Robbins ended their relationship, and neither are able to afford keeping up the payments by themselves.
- r. There was no mention of Rescission and there was no Contract (see Rescission, POS in “j” above) and no verbal warning was made to Plaintiffs about the Successor Liability lurking in the Contract.
- s. As a result, Plaintiffs have stated there is no way they would have signed had they known about potential forced liability on family members.

27. **Justin Coker and Leslie Coker**

- a. In 2016, Justin Coker and Leslie Coker (collectively “the Cokers”) went to Westgate’s Gatlinburg, Tennessee location for vacation. This was the first time they were able to use their timeshare.
- b. On the last day of their vacation, they attended an owners’ meeting, which was a 4-hour sales presentation where they were induced into an “Upgrade” of their timeshare contract for \$30,000, noting that term “Upgrade” is synonymous with a *Novation Contract* subsuming the old interest and forming one new Contract between the parties.
- c. Westgate’s sales representative misled the Cokers as to the value and salability of the timeshare.
 - i. The sales representative told the Cokers the timeshare would increase in value and this was really a hot market for a timeshare.
 - ii. The sales representative stated that there was such a high demand for this resort that it would be easy to sell.
 - iii. The sales representative told the Cokers their timeshare was worth more because they had a warranty deed. That it was a piece of property.
 - iv. The Cokers were told since this was a piece of real estate, they would get an IRS tax deduction for property taxes.
- d. The Cokers later learned the timeshare had no value. There was no resale value. They listed it for sale and dropped the price, but it still did not sell.
- e. The sales representative told the Cokers they would be able to exchange for other resorts throughout the county and worldwide.

- f. The sales representative told the Cokers that booking would be quick and there would be availability. When the Cokers tried to book their week, there was no availability.
- g. The travel points were to be invaluable to the Cokers. They received 1500 points to use through Westgate Cruise and Travel with the understanding the points were equal to a dollar value. However, the use of the points was very limited. The Cokers could only apply a small portion of the points to a vacation, which resulted in a \$10 discount.
- h. The Cokers were misled on the “successors” clause of the contract.
 - i. The sales representative told them this was a life-long gift of benefits and profit for their children.
 - ii. They could put it in their Will for their children.
- i. The sales representative did not mention the forced debt liability on their children. Had the Cokers known that their children would end up with the debt, they would have never entered into the transaction.
- j. A Westgate manager told the Cokers this was a deal, which was available that day only. If they did not sign the contract that day, they would never get this deal again.
- k. The Cokers were very intimidated during the rushed signing of the contract because the representative told them it was being recorded.
- l. The Plaintiffs were manipulated by Westgate’s representatives misrepresentations as follows:
 - i. The representative knew the Cokers were on time constraints because Mrs. Coker told them many times, “I have to go back to work today.”

- ii. However, salespeople held them for four (4) hours, right up until it was time for Plaintiff to leave for work.
 - iii. The representative paraphrased in reduced form and false interpretations what was supposedly on the Contract and told them where to sign.
 - iv. The Cokers tried to ask questions but the representative made them feel like they were stupid for asking questions.
 - v. The Plaintiffs were tired and worn down by the sales event and rough treatment in general, so they signed just to get free.
- m. During the signing of the Contract, the Cokers learned of additional costs. They had to pay \$2500 for life insurance and \$89 for Interval.
- n. Plaintiffs were manipulated by inducements and intimidated to sign, and they have only used the timeshare one time.
- o. An upgrade to stay cost them \$15,000 more for \$30,000 in debt.
- p. The true cost is even more with high interest and ballooning fees (forever). In just over 10 years could cost about \$75,000, at the current rate.
- q. Since 2014, the Plaintiffs have had only 1 booking, this equates to no more than 3 vacation weeks in 10 years or about \$25,000 per week.
- r. This is an unconscionable result with harsh and traumatic economic impact upon Plaintiffs.

28. **Lacey and Jacob Guillotte**

- a. On or about February 2016, Lacey and Jacob Guillotte (“the Guillotes”) agreed to attend a 1-hour sales presentation in exchange for a purportedly discounted vacation in Gatlinburg, Tennessee.
- b. While the Guillotes and their 3 children were eating breakfast, Westgate’s sales representative began the presentation. They were determined to not make a purchase, but the Representative sent his boss who works in Westgate’s management to speak further with them.
- c. After many (3-4) hours their kids were bored and antsy, and Plaintiffs were “worn down”. This is a common method used by Defendant Westgate’s staff and was used on all Plaintiffs herein.
- d. The Guillotes were kept there for what ended up being a 6-Hour ordeal.
- e. After the long presentation, the Guillotes still did not want to purchase anything, but a sales representative named Bert got angry with them when they declined the offer to purchase.
- f. The Guillottes signed the contract for the sole purpose of escaping the arduous sales presentation to which they had been subjected.
- g. There were many pages to sign but they were all electronic and Westgate’s staff briefly explained what the pages meant (interpreting, not reading) to the Guillotes.
- h. Westgate’s representatives made the following misrepresentations to the Guillotes:
 - i. Their children would have free access to the water park;
 - ii. They would have a concierge and never have to leave their cabin;
 - iii. There would be no charge to the Guillotes to send the concierge to get groceries and other items for them;

- iv. Westgate would buy back the property from the Guillotes if they wanted to sell later on;
 - v. They could use the timeshare as a business;
 - vi. They would get a huge IRS tax write-off by describing their vacations as coming to check out their property;
 - vii. They would own a piece of property;
 - viii. The timeshare was an asset that they “could” pass on to their children;
 - ix. Use their unit “anytime” and voucher or sell it for any amount they wanted;
 - x. They had cruise vouchers; and
 - xi. They could stay at any other Westgate location.
- i. Approximately one week after they signed the Contract, within Tennessee’s 10-day Rescission period, Mrs. Guillote called Michael Rochelle of Westgate.
 - j. She told Westgate’s representative that they are having financial issues and they wanted to get out of the contract.
 - k. Mr. Rochelle (Westgate) told Mrs. Guillote that she could not get out of the Contract and the reason given was:
 - “because the deed had already been sent out and was in her name.”
 - l. When she insisted that they wanted out of the contract, Mr. Rochelle told her Westgate could put the Contract in her husband’s name.
 - m. Mr. Rochelle offered some incentives.
 - n. Mr. Rochelle offered extra trips and reward bucks.
 - o. Mr. Guillote also called to try to get out of the Contract.
 - p. Despite these calls, Mr. Rochelle of Westgate’s staff did not take any steps to rescind the contract or let the Guillotes know about their right to rescind.

- q. When Mr. Guillote called to try to sell the timeshare back to Westgate, he was told they do not have a buyback program.
- r. When the Guillotes called Westgate about trying to get out of the contract or sell back the property they were told nothing could be done.
- s. Westgate's customer service staff told the Guillotes that the sales representatives will say anything to make a sale.
- t. The Guillotes immediately regretted entering this contract and have never used it.
- u. Ms. Guillote has since lost her job.
- v. It became a hardship for the Guillotes to continue with this contract.
- w. They are behind on their mortgage.
- x. They cannot afford the maintenance fee payments.

29. Catherine Simoes de Abreu and Luiz Eduardo Pedrosa

- a. In 2012, Ms. Abreu and Mr. Pedrosa were visiting Orlando Florida. They attended a Westgate presentation that lasted for a 7-Hour marathon. They only signed the Contract because they were extremely tired and worn down after the presentation and just wanted to leave to go to Disney.
- b. Westgate's representative Bert, manager Cory and closer Michael Rochelle, told Ms. Abreu and Mr. Pedrosa false promises (inducements), and in the very end, after a 7-Hour wear-down, Westgate staff would not spend much time on the Contract.
- c. Mr. Abreu and Mr. Pedrosa trusted the representatives to tell them what the terms of the Contract said. As described, the Plaintiffs did not even understand that the Contract would be a binding agreement.
- d. Westgate made the following misrepresentations to Ms. Abreu and Mr. Pedrosa:
 - i. The timeshare was an investment;

- ii. The timeshare would increase in value;
 - iii. It was currently worth \$20,000. Since they were buying it for \$15,000, they could sell it right then and make a \$5,000 profit;
 - iv. They could rent it to make money;
 - v. The timeshare would be easy to sell, and they had a buyback program;
 - vi. They “could” put it in a Will for their children or other family members; and
 - vii. Maintenance fees are fixed at \$300 every other year (only to find out they are annual at about \$700 and rising).
- e. They have never used the timeshare themselves. It is too hard to plan ahead for availability. They did let one colleague use it for a week.
- f. That means for the three (3) years of ownership, only one (1) use and projected for the 10-year high-interest mortgage (plus rising fees) the cost could amount to nearly \$30,000.
- g. Because they cannot afford the mortgage and maintenance payments and even though Defendant said the value of the interest would go up, they tried to sell it for \$10,000 but there was absolutely no interest.
- h. There was no POS disclosure made prior to purchase, if at all.
- i. Rescission was just recently discovered by Plaintiffs, described by Plaintiffs as:

“Buried separately in a different part of the contract.”

- j. Rescission was specifically inquired of directly by Lacey Guillotte, however it was never disclosed, and this is significant because:

“We immediately regretted it and would have taken advantage of it.”

30. Julia and Ryan Petrie

- a. Julia and Ryan Petrie (“the Petries”) live in Kentucky. In 2010, they were visiting Gatlinburg, Tennessee.

- b. They saw a guy in a street booth who told them they could get free attraction tickets in exchange for sitting through a 45-minute presentation.
- c. The Westgate presentation lasted approximately three (3) hours. Loud music played throughout the presentation and made it very confusing.
- d. The Petries entered the contract because they were told by Westgate's staff that they were getting a good deal, and that once the Petries paid off the mortgage, their children would be able to vacation for "free".
- e. The representative who reviewed the deal with them acted surprised that the Petries were getting such a good deal and called the initial sales representative to make sure the paperwork was right.
- f. A Westgate representative quickly summarized [*interpreted*, though not faithfully] the Contract. The Petries did not have an opportunity to review the Contract themselves.
- g. Westgate made the following misrepresentations to the Petries:
 - i. The Petries would be buying actual property not points;
 - ii. The Westgate property is in Gatlinburg, Tennessee with high appreciating values;
 - iii. The Petries were getting a great deal because the property had just been let go by a previous owner;
 - iv. The Petries would only have to pay the remainder of the payments left to pay;
 - v. The Petries were getting property worth thousands more than the sales price;
 - vi. Maintenance fees are only used for maintenance not further development;
 - vii. The Petries could trade for a week stay at Myrtle Beach;
 - viii. The Petries could will the property to their children (no mention of them as "successors" bound to future obligations);

- ix. The Petries would get a valuable deed to the property;
 - x. The Petries could rent the property;
 - xi. By using the “referral program” maintenance fees would be paid for the Petries;
 - xii. Once the mortgage was paid off, the Petries and their children would get “free vacations for life” as frequently stated by Westgate staff, including management;
and
 - xiii. New attractions would be built soon making the resort more fun and the property even more valuable for resale purposes.
- h. The Petries spent a few days at the timeshare in June 2016 but were unable to book a full week because it was booked up. They did not get credit for the days they were unable to use. They have basically ended up paying \$20,000 for about 3 weeks of vacation.
 - i. Over a ten-year approximation of costs and economic impact of high-interest and rising fees, they could pay around \$35,000 for about 4 weeks, or almost \$9000 per week for average to below average accommodations.
 - j. The Petries cannot afford to keep the timeshare. They have no savings and no retirement benefits. This timeshare debt hangs over their heads.
 - k. These plaintiffs have no clue of whether or not buried in a huge packet somewhere may be a POS, but they are sure they never reviewed it that day.

31. Sheila Maita and Julissa Santana.

- a. Sheila Maita and Julissa Santana live in New York.
- b. In approximately March 2016, they were vacationing in Florida.
- c. Westgate told them they could get discount tickets for the parks in exchange for listening to a “90-minute” presentation. They were paid \$40 each to attend the presentation.

- d. The sales presentation lasted approximately 6 hours or “360 minutes” which is about 270 minutes over the limit.
- e. Their daughters were there with them and really wanted to leave to go to the parks, they were on vacation.
- f. The Westgate agents who met with Maita and Santana were an individual named Dorian and his manager Michael Brown.
- g. They used high pressure sales tactics.
- h. Maita and Santana arrived for the presentation at 9 a.m. and were there until approximately 3 p.m.
- i. The representatives did not leave Maita and Santana alone, so they could talk with each other about whether to make this purchase.
- j. When they entered the contract, they were exhausted.
- k. Plaintiffs had not eaten since breakfast.
- l. They were not given an opportunity to fully review the contract.
- m. The notary did not explain everything on the paperwork.
- n. She said what it was and then told them “so just sign here and here.”
- o. She told them there were some discrepancies with the paperwork and they ended up signing two contracts.
- p. She told them just to sign it and not worry.
- q. Maita and Santana did not have the money for the down payment.
- r. Westgate’s representatives wrote down one of their social security numbers and then opened a credit card in their name so that they could use the credit card for the down payment.

- s. Westgate's representative did not ask Maita or Santana for permission to open the credit card account and did not tell Maita or Santana that they were going to open an account for them. **Wire Fraud under 18 USC 1343.**
- t. Westgate's representatives made the following misrepresentations to Maita and Santana:
- i. The timeshare was an investment that would be good for their credit.
 - ii. They could write the timeshare off on their IRS taxes. They would get enough money back that it would cover their maintenance fees.
 - iii. This was like owning a home. This would help them buy other property in the future.
 - iv. This was an asset and they could put it in a Will for the benefit of their children, but without disclosure of the *Successor Liability* already in the Contract.
 - v. They could sell it later and make money because everybody wants Westgate properties.
 - vi. Westgate would buy it back if Maita and Santana wanted to sell it in the future.
 - vii. Westgate has a travel partners referral program which Maita and Santana could use to make money.
 - viii. In exchange for \$100, Westgate would give Maita and Santana a license to refer the timeshare to others and make lots of money.
 - ix. Westgate said for each referral Maita and Santana would get \$100 and then if a referral buys a timeshare Maita and Santana would get \$600.
 - x. So many people buy these, they would not even have to work at a job anymore.
 - xi. Westgate told Maita and Santana there is no way they can lose on this timeshare.
 - xii. Buying the timeshare would help with costs for airfare and cars.
 - xiii. They would be able to stay in 5-star resorts all over the world.

- xiv. They would get a \$1,000 credit for cruise and travel.
- u. Santana was laid off after they entered the contract. Maita and Santana have not used the timeshare even once and can no longer afford it.
- v. They have paid thousands of dollars and received zero value in return.
- w. The economic impact of this level of fraud is evidenced by a *high cost—zero return* contract.

32. **Vanessa Shepherd Williams**

- a. In 2012, after numerous phone calls from Westgate representatives, Vanessa Shepherd Williams (“Mrs. Williams”) attended an Owner Update meeting, where she was induced into “Upgrading” her timeshare interest during a five (5) hour focused sales presentation.
- b. The presentation was high pressure and left Mrs. Williams with no choice but to sign a contract in order to leave.
- c. Mrs. Williams was led to believe that she could upgrade for just an additional \$30 a month, then she would be able to rent her interest, which would not only pay her mortgage but also make extra income.
- d. Westgate’s representatives made other misrepresentations as well:
 - i. They told her to buy a “lock out”, which would allow her to rent out her timeshare and would not have to pay her mortgage or maintenance fees; and
 - ii. The representatives told her they were renting these places for \$2500-\$4000 because the Orlando location was in high demand and tons of people were lining up to rent these properties.

- e. Westgate's sales representatives misled the value of the timeshare by falsifying the market resale worth of the timeshare.
- f. Mrs. Williams thought her existing interest was worth more than \$25,000 (as she was told). Westgate's sales representative told her that the lock out was worth \$40,000, and that they were rolling over the "equity" of her original purchase into this upgrade, which meant the value had doubled.
- g. Westgate's sales representative further told Mrs. Williams they were upgrading her to a foreclosed unit, which was "taken-back" and it was really cheap to upgrade to it because the owners needed to get rid of it. This was a steal.
- h. Mrs. Williams was subject to a fast-paced contract signing process, which gave her no opportunity to read the contract prior to signing it.
- i. There were several "finance people" present during the signing process. They said they were looking out for her best interest. They told her to where to sign and went over the contract for her.
- j. Mrs. Williams believes the contract she signed is not the same contract the sales representative showed her (*Switched Document*).
- k. The sales representatives told Mrs. Williams she had the option to put the property in her Will for her children, just like she would leave a house to them. They told her it could always stay in the family. That it was a valuable asset that she can pass on and keep in her family.

- l. The sales representative did not tell Mrs. Williams that her children would be forced to take on the debt automatically. Had this been disclosed to her, she would not have made this transaction because she would ever burden her children.
- m. Mrs. Williams also purchased the Upgrade to make booking vacations easier. She later learned that was an impossibility when she purchased airline tickets for a trip. Then when she tried to book “her” resort (she was told she was an owner there), she was informed about restrictions that she had not called far enough in advance for booking.
- n. Plaintiff was not given a POS to review before the sales or signing of the contract, and she never was told about the Contract’s provision for Rescission rights.
- o. As for successor liability, Mrs. Williams was told that willing it to certain family members was her choice, but they all could use it. They said it was just like leaving a house to your kids because it is a valuable asset you pass on.
- p. Plaintiff stated she would have never burdened her children with this; she further stated “I thought it was worth a lot, I was not told they have to keep paying money on this thing.”
- q. Mrs. Williams is the sole provider for 6 months out of the year for her family, which includes her 4 children. Her family was already struggling financially. She would note that this has financially ruined her.

33. Michael Sosak and Karen Sosak

- a. In 2013, Michael Sosak and Karen Sosak (collectively, “the Sosaks”) were approached with an offer of free tickets to a show if they attended a presentation, which they were told would not last more than one hour. The presentation lasted about 5 hours.

- b. At the presentation, the Sosaks met Westgate's Sales Representative Jason Kerashall, manager Krysta, and finance officer Nancy Taylor and were induced into purchasing this timeshare interest through a relentless and high-pressure sales presentation.
- c. Michael Sosak recalled that "I felt like I had been kidnapped, they were high pressure."
- d. The Sosaks told the sales representative that they work a lot and that due to the nature of their employment, sometimes they have to take vacations on a moment's notice when their schedule allowed.
- e. Westgate's representatives seized on this information and fabricated the specific type of timeshare interest the Sosaks needed.
- f. Westgate's Sales Representative made the following misrepresentations to the Sosaks:
 - i. The Sosaks could do short vacations;
 - ii. They would just have to "pay \$49 to exchange through Interval" and it would be easy to book their vacation;
 - iii. There were no time restrictions given for booking;
 - iv. The Sosaks could do a *short stay exchange*;
 - v. Westgate is worldwide and has properties everywhere with partners that the Sosaks could easily use for vacations.
- g. To further induce the Sosaks, Westgate's representative told the Sosaks he had travelled everywhere and had just gone to Russia and stayed at a 5-star resort.
- h. Westgate's representatives showed the Sosaks a place and said they had a "lock off" and they do not make many like this and the Sosaks could divide it in half and use two weeks.

- i. Westgate’s representatives told the Sosaks that they were purchasing odd years with a two bedroom “lock off” which they were told, they could use one bedroom for one week and the other bedroom the following year so that they could for 1 week every year.
- j. When the Sosaks tried to take advantage of the “lock off” deal, they learned that they had been swindled. Westgate’s customer service said they had no idea what it was.
- k. When the Sosaks said it was too expensive, the representatives made them a great deal because a woman had just upgraded her timeshare and the Plaintiffs could just take over the payments of the remaining balance, but they had to act fast.
- l. By the time the Sosaks signed the contract, it was late, they were physically and mentally drained (after a 5-Hour high pressure session), and they were starving. They did not have an opportunity to read the contract. The representatives just told them what the documents were and where to sign.
- m. The Sosaks have since discovered that the interest they purchased was worthless:
 - i. It was impossible for the Sosaks to book anything;
 - ii. They have not been able to use the timeshare and were told they had to “Upgrade” the timeshare in order to use it; and
 - iii. They paid their annual fee of \$974 early to use it and they were still unable to use it because there was no availability.
- n. Westgate’s sales representatives concealed the true costs and fees required to use the interest.
 - i. The representatives told the Sosaks they would be paying \$300 a month but when we wanted to go on vacation, it would be already paid for.

- ii. The representatives did not tell the Sosaks how much the maintenance fees would be. They started at \$974 but have gone up since.
- o. Westgate's sales representatives told the Sosaks the interest was an investment and that the timeshare would continue to appreciate in value making it easy to sell.
- p. The Sosaks were told that the interest was such a great investment and it does not die with them (generically, without any specification to successor liability in the Contract). They had the "option", as Mr. Sosak specifically recalls, to pass the property on to their kids.
- q. The Sosaks neither recall any disclosure documents before the sale like a huge Public Offering Statement (POS), nor any discussion of Rescission rights whatsoever.
- r. Michael Sosak has since been injured on the job. As a result, he collected disability for a short time but was eventually forced to take a demotion due to his constrained physical abilities.
- s. The Sosaks are struggling to meet their financial obligations, and this timeshare is economically, physically, mentally and emotionally impacting their lives.

34. **Katya Roque and Guido Diaz**

- a. On or about October 7, 2017, Ms. Roque and Mr. Diaz attended a presentation given by Westgate's representatives for which they were to receive a 40% room discount for attending a "tour". However, there never was a tour (see "i" and "m" below).
- b. Ms. Roque and Mr. Diaz never received a Public Offering Statement (POS), although they said they got lots of papers after they signed up.
- c. Ms. Roque and Mr. Diaz declined at first, but Westgate's representative who presented the offer to them left and came back with another representative who had additional deals.

- d. The sales presentation lasted three (3) hours prior to acceptance, four (4) hours total.
- e. Ms. Roque and Mr. Diaz were famished and had people waiting for them.
- f. Ms. Roque and Mr. Diaz were only offered orange juice at the signing.
- g. Westgate's representatives gave verbal explanations of the legal terms supposedly contained in the Contract and told Plaintiffs where to sign, but Plaintiffs were not allowed to read the Contract.
- h. Ms. Roque and Mr. Diaz only received copies of the documents after signing.
- i. Ms. Roque and Mr. Diaz were never shown any units, thereby extending their Rescission Rights, which they were never told of in either case.
- j. Ms. Roque and Mr. Diaz were duped into signing up for an additional program called Interval International for trades.
- k. Westgate's staff made the following misrepresentations to Ms. Roque and Mr. Diaz:
 - i. Ms. Roque and Mr. Diaz could split their interest in two (2) and have two (2) independent week stays if they agreed to add it onto Interval;
 - ii. The Interval program would allow them to trade and be able to go anywhere;
 - iii. Ms. Roque was told they could book anytime (but in practice they say you would have to reserve a unit six (6) months ahead of the requested visit date);
 - iv. Booking a stay would be inexpensive and easy;
 - v. Vacations for as little as \$99.00 or \$150;
 - vi. Ms. Roque and Mr. Diaz could get a week in Hawaii;
 - vii. That Plaintiff's interest was the most desirable;
 - viii. These deals were for owners only;
 - ix. Ms. Roque and Mr. Diaz would make a lot of money and be able to cover the mortgage by reserving a room and renting it out for more;

- x. Ms. Roque and Mr. Diaz “could” to leave it to their children, with no mention of the “successors” clause binding all children; and
 - xi. Plaintiff’s location was the most desirable in the world.
- l. Approximately a month after the Plaintiffs purchased the timeshare, Ms. Roque called Westgate and attempted to rescind.
 - m. Westgate’s representative told Ms. Roque that it was too late because the period for Rescission is three (3) days, which is untrue as it is ten (10) days and possibly extended (see “i” above, no unit tour).
 - n. When Ms. Roque went to the Interval website, it appeared to have rooms available at discounted prices.
 - o. However, when Ms. Roque clicked into the site, the stays were much more expensive than booking a room on her own.
 - p. Ms. Roque attempted to deposit into Interval but was unable to do so because the maintenance fees were due at the beginning of the year.
 - q. Ms. Roque did not receive a user identification and password for Interval until one (1) month. As a result, this frustrated and prevented the Plaintiffs’ statutory right for a Rescission from being invoked.
 - r. No Public Offering Statements (POS) was provided to Plaintiff’s prior to or during the signing of the contract.
 - s. Thus, disclosures and consumer protections of the POS were circumvented by systems designed specifically by Defendant to undermine the law.

35. Jacquelyne, Shakeysha and John Shelton.

- a. Shakeysha, Jaquelyne, and John Shelton (collectively, “the Sheltons”) checked into a Westgate Resort while vacationing in Orlando, Florida in 2017. Westgate promised the

Sheltons a free gift in exchange for listening to a presentation. The presentation was fast paced and lasted for four (4) hours.

- b. The Sheltons had six young children with them and it was difficult to keep the children entertained during the lengthy presentation.
- c. Westgate's sales representative, Benjamin, quoted the Sheltons a price of \$60,000 but advised them to refuse to purchase at that price so that the representative could go to his manager and try to get a better deal for them. When the representative returned, he told them he had secured a reduced price of \$15,000.
- d. The Sheltons were not ready to invest in anything at the time of the presentation. They told Westgate's representatives they could not afford to purchase an interest at this time. They struggled to make the down payment and had to use multiple credit cards to do so.
- e. Westgate's representatives left the Sheltons alone to talk for approximately ten minutes but told the Sheltons that their conversation was being recorded.
- f. Westgate's representatives did not explain the yearly maintenance fees or the "successor clause" debt assignment to their family.
- g. Westgate's representatives rushed them through signing the contract. The contract pages were on an electronic tablet. The Sheltons did not have the opportunity to read through the pages. Westgate even charged them an extra fee for a debt waiver in the event of death.
- h. Westgate's representatives made the following misrepresentations to the Sheltons:
 - i. This offer was not available at any other place or at any other time;
 - ii. The price had been reduced from \$60,000 to \$15,000;
 - iii. They had to agree to purchase the timeshare interest at that time or opportunity would be gone;

- iv. This property had just become available due to the foreclosure of a prior owner's interest;
- v. The property was worth more than the Shelton's mortgage amount would be;
- vi. This is real property interest, which is an investment;
- vii. This investment will increase in value;
- viii. Because the property is right by Disney, the Sheltons could rent it out and make good money; and
- ix. The Sheltons would have a floating week and could get bookings anywhere (including places like Hawaii and Paris) anytime they wanted.
- i. The Sheltons have owned the timeshare interest for over a year with no bookings, and even if they were to book next year (they will not), that would be a rate of only five (5) weeks over 10 years for approximately \$40,000 or \$8000 per week.
- j. There was no prior notice POS given to the Plaintiffs, nor discussion of Rescission rights which were not discovered until it was too late.
- k. Furthermore, they were told that once the mortgage was paid off, the Sheltons "could" will the property to their children (no mention of *Successor Liability* in the Contract).
- l. The Sheltons did not realize the interest rate on the mortgage was so high. Even when they make the minimum payments, the total mortgage amount goes up. They cannot afford to keep this timeshare and they have come to realize that they cannot use it as promised.

36. **Stephanie Vallecio and Carmindo Vallecio**

- a. In 2014 Stephanie Vallecio and Carmindo Vallecio (collectively, "the Vallecios") were at a welcome center in Florida trying get tickets to Legoland for their four (4) children when they were approached by a Westgate representative and asked to attend a 90-minute presentation.

- b. The 90-minute presentation turned into a six (6) hour high pressure sales pitch. The Vallecios arrived at 8 am and were not allowed to leave until 2:30pm.
- c. Mrs. Vallecio told Westgate's sales representatives, repeatedly, "I have to work the afternoon shift." In response to her statements, the transaction was stamped "Rush".
- d. The Vallecios told Westgate's sales representatives that they purchased and invested in properties for a living.
- e. Westgate's sales representatives used this information to induce the Vallecios into purchasing a timeshare, leading them to believe this was a business investment opportunity.
- f. Westgate's sales representative told the Vallecios that this was an investment and that it was a valuable property that would appreciate in value.
- g. The Vallecios were guaranteed to make their money back or even double their investment. Also, it would "help their debt-to-income ratio" which would allow the Vallecios to continue to buy properties.
- h. The Vallecios were misled about the rental income. Westgate's staff told the Vallecios they had unlimited getaways and could make \$2500 a week by renting out their interest.
- i. Westgate's sales representative gave the Vallecios financial advice and told them they could refinance their 17% interest rate loan.
- j. Westgate's representative also said that there were IRS tax incentives because it was a business investment.

- k. Westgate's sales representative explained to the Vallecios they were buying a unit for \$12,000, which was a great deal because someone was making payments on it and did not want it anymore, "turned-in unit" with built in equity given the regular market value.
- l. Westgate's team was fully warned upon the Plaintiffs' arrival and repeated thereafter, that Mrs. Vallecio had to go to work.
- m. Yet, Westgate's staff orchestrated six (6) plus hours of sales pitches and manufactured various reasons to sign the contract, leaving only minutes of time for Mrs. Vallecios to get to work.
- n. Finally, the contract signing process started, and was thus fairly described by the Plaintiffs as "extremely rushed" because Mrs. Vallecio had to go to work.
- o. Plaintiffs were not given an opportunity to read the Contract or consult with an attorney.
- p. Westgate's "Notary" told the Vallecios what the clauses and pages of the contract "allegedly" said and where to sign.
- q. The "Notary" did not disclose to the Vallecios the statutory period for contract Rescission.
- r. Nor were the Public Offering Statement (POS) documents, their disclosures, or consumer protection information provided to Plaintiffs before signing.
- s. The Vallecios have since learned this would not be a profitable investment, as they had been promised by Westgate's sales representatives.
- t. The Vallecios have paid \$6000 into this interest, they have only been able to use it once at the place they thought they purchased it, and had to pay a large transfer fee.
- u. Plaintiffs estimated the cost of the room at \$1000 per day.

- v. Westgate's representatives did not disclose to the Vallecios the economic impact (they, like all plaintiffs herein, are told they will save money) of purchasing this Westgate interest.
- w. Plaintiffs were never told that their children shall be bound by the terms of the timeshare Contract they were signing that day ("successors" clause).
- x. Westgate's sales representative never told the Vallecios about their right to rescind.
- y. Westgate's sales representative concealed the rescission period from the Vallecios by hiding the deed in the pocket of a folder which contained a voluminous collection of documents.
- z. This again evidences the lawless nature that is systemic to Westgate, implemented through systems and tactics like this "hidden deed" to deprive consumers of the lawful rights and statutory protections.

37. Latoya Nettles and Gregory Winn

- a. In July 2016, Gregory Winn and Latoya Nettles (collectively "Winn and Nettles") were vacationing in Gatlinburg, Tennessee, where they were convinced to attend a timeshare presentation in return for free attraction tickets.
- b. During the 4-hour ordeal, with 4 hungry impatient kids, they were induced into purchasing a \$45,000 timeshare interest.
- c. Winn and Nettles were unable to leave until they made a purchase. Westgate's representative took Mr. Winn's credit card and held it hostage until it was time to sign the contract.

- d. Westgate's sales representatives, including Rick Campbell, convinced Winn and Nettles that they were making a valuable investment, which would appreciate in value and be profitable, and also made the following inducements:
- i. Winn and Nettles were told they were purchasing a foreclosed property, which was a good deal and below market value. It was a one-time deal;
 - ii. Westgate's representatives told them this was a good investment because the resort was in a good area to enjoy the great outdoors;
 - iii. Winn and Nettles were told it was a deeded property that they own;
 - iv. They would see a substantial appreciation in the property because Westgate was building more in the area; and
 - v. They were told the property would appreciate in value. If they wanted to sell it, they could sell it for a profit. They were told that it would be easy to sell, however they were unable to sell the timeshare for even a dollar.
- e. Westgate's sales representatives told Winn and Nettles they could book anywhere, anytime, and all around the world, which Winn and Nettles later found out was untrue.
- f. Winn and Nettles have not been able to use the timeshare because there is never any availability and because the resort in which they purchased their Gatlinburg, Tennessee interest in was later destroyed by a fire.
- g. Defendant Westgate denied preexisting duties for performance.
- h. Winn and Nettles were told by Westgate's representative this was a valuable asset, which they could put in their Will for their children.
- I. Westgate's sales representative never said this was a forced debt liability to their children ("successors" clause).

- j. During the signing of the contract, Winn and Nettles met with Daniel Sanders, who was a “Title Agent” for Defendant Westgate.
- k. Westgate’s Title Agent Sanders explained to Mr. Winn and Ms. Nettles what the documents legal terms meant, in his own words, that it was his function at Westgate to assist them with the contracts.
- l. He said he was “reading” from the screen of an electronic “pad” that the Plaintiffs could not see and told them what he thought (interpreted) the pages contents were.
- m. Westgate’s Title Agent (Mr. Sanders) also instructed Plaintiffs where to sign and initial the Contract documents.
- n. Winn and Nettles are a single income family. This timeshare has put additional financial hardship on a family that was already financially struggling.
- o. In addition to taking care of their Autistic son, Mr. Winn is also caring for his elderly mother who suffers from Alzheimer’s disease.
- p. The price of this timeshare was \$45,000 with \$5000 down and will cost the Plaintiffs about one hundred thousand dollars in principal, high interest, maintenance fees and other use fees over 10 years.
- q. The use average for Plaintiffs is estimated at about 3-5 in a 10-year period, so even at the top end of that parameter, 5 uses would mean about \$20,000 per use.
- r. Even if their booking use somehow doubled, how good would the accommodations have to be to pay \$10,000 per week, or with extra fees, over \$1500 per night—which is approximately 10 times the rate of the quality accommodations provided.

- s. For this absurd usage rate, Plaintiffs discovered that there is absolutely no return (*not selling for \$1.00 on eBay*), and financial liability passed on to family for an eternity of escalating fees.

**COUNT ONE
TENNESSEE CONSUMER PROTECTION ACT
(AGAINST ALL DEFENDANTS)**

1. Plaintiffs incorporate by reference, as though fully set forth herein, section “I” and paragraphs 1 through 37s above.

2. Westgate Defendants actions violate the Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-101, *et seq.*

3. As a company that sells timeshare interests and related services to the general public in Tennessee, Westgate Defendants are covered by the Tennessee Consumer Protection Act.

4. Plaintiffs are consumers within the meaning of the Tennessee Consumer Protection Act.

5. Specifically, Defendants led Plaintiffs to believe that their purchase of a timeshare interest conferred rights upon them that it did not confer.

6. As described above, Defendants fraudulently induced the Plaintiffs to contract with Westgate by making a series of misrepresentations of material facts, all in the context of a high-pressure sales pitch.

7. By leading Plaintiffs to believe that the transaction conferred rights upon them that it did not in fact confer, Defendants violated Tenn. Code Ann. § 47-18-104(b)(12).

8. Defendants promised to deliver various services to Plaintiffs, incidental to the timeshare, where such services are necessary to utilize the timeshare interest, specifically the booking, reservations, customer service and support services that allow them to utilize their Westgate interest, and , around the world with a Westgate affiliate (Interval International).

9. The actions of Westgate and its agents and affiliates were designed to frustrate Plaintiffs and impede their utilization of the timeshare interest they had purchased.

10. Defendants utilized a pattern of evasion and diversion of the statutorily mandated *Right of Rescission* designed to frustrate Plaintiffs' ability to realize the truth in the immediate days after closing when the rescission period was indisputably still open. This was done systematically, where one such method and means was denial and intimidation (i.e. *frustration of statutory protections*) and the most detrimental form, *absolute denial of statutory protections*, was done by: (1) preventing Plaintiffs from reading the Contract documents containing such statutory provisions at closing, and (2) not providing Contract documents timely, or at all, as happened to many of the Plaintiffs herein. Because of Defendant Westgate's defiance of statutory consumer laws, and ultimate failure to provide such disclosures, it is arguable that it renders the entirety of the underlying transactions to be rescindable.

11. By failing to provide services that had been promised, Defendants violated Tenn. Code Ann. § 47-18-104(b)(5).

12. For the reasons described in detail above, Defendants also violated Tenn. Code Ann. § 47-18-104(b)(7), (9), (12), and (21).

13. Plaintiffs and Westgate Defendants ostensibly entered into contracts (attached as exhibits hereto, in the cases where Defendant provided them to Plaintiffs), These contracts should be rescinded pursuant to Tenn. Code Ann. § 47-18-109(a)(3).

14. Plaintiffs should be entitled to an awarded of treble damages from Defendants pursuant to Tenn. Code Ann. 47-18-109(a)(3).

15. Plaintiffs should be entitled to an award of attorneys' fees from Defendants pursuant to Tenn. Code Ann. 47-18-109(e)(1).

16. Westgate Defendants' conduct, as described in this Count One and also as described elsewhere in this Complaint, is unfair and deceptive within the meaning of Tenn. Code Ann. 47-18-104(b)(27).

17. Pursuant to Tenn. Code Ann. 47-18-109(f)(1), a copy of this Complaint should be mailed by the Clerk and Master to the Division of Consumer Affairs in the Tennessee Department of Commerce and Insurance.

**COUNT TWO
(RESCISSION)
THE TENNESSEE TIMESHARE ACT OF 1981
(AGAINST ALL DEFENDANTS)**

18. Plaintiffs incorporate by reference, as though fully set forth herein, section "I" and paragraphs 1 through 37s above and to the extent of any mutual facts, Count 1 above.

19. Tenn. Code Ann. § 66-32-101, *et seq.*, entitled the Tennessee Timeshare Act of 1981, regulates sellers of timeshare interests, and this statute applies to and governs the conduct of Westgate.

20. Tenn. Code Ann. § 66-32-112 affirmatively requires Westgate Defendants to provide Plaintiffs with the Public Offering Statement which “must contain” or “fully and accurately disclose” fifteen (15) different categories of factual information including, but not limited to, the name and address of the developer, a description of the building units (including completion dates), the type and number of units, a budget and information regarding fees that will be charged, and lists of liens and encumbrances.

21. Tenn. Code Ann. § 66-32-114 provides that the contract is voidable until the purchaser has received the public offering statement.

22. Tenn. Code Ann. § 66-32-116 requires Westgate to amend its public offering statement to report any material changes to the information required by Tenn. Code Ann. § 66-32-112.

23. Tenn. Code Ann. § 66-32-118 provides Plaintiffs with a claim for relief, including punitive damages and attorneys’ fees, for Westgate’s failure to provide a correct public offering statement.

24. Tenn. Code Ann. § 66-32-119 contemplates a private right of action for rescission and damages.

25. In short, the Tennessee Timeshare Act of 1981 establishes very clear requirements regarding Public Offering Statements (POS) each of which Westgate completely ignored. In fact, upon information and belief, this document was available to Westgate’s representatives at the time of each Plaintiffs’ interactions.

26. Westgate Defendants failed to provide the clear, precise disclosures in the form and manner contemplated by the Tennessee Timeshare Act of 1981.

27. The Tennessee Timeshare act also regulates and governs the use of “promotional offers” in conjunction with the sale of timeshares.

28. Tenn. Code Ann. § 66-32-133(5) requires that any: prize, gift, or thing of value offered be accompanied with a statement of the item or items' approximate verifiable retail value.

29. Tenn. Code Ann. § 66-32-133(6) prohibits representations that the prize, gift, or thing has characteristics that it does not have.

30. Plaintiffs were promised various "gifts" or "things of value" in order to induce them to purchase a time share interest from Westgate.

31. These inducements were material to Plaintiffs and but for these inducements, Plaintiffs would not have entered the contract.

32. Several of the inducements had specific program names, suggesting that they were part of a promotional program offered by Westgate Defendants.

33. By offering the inducements described in Paragraph 36 above, Westgate Defendants ignored the requirements of Tenn. Code Ann. § 66-32-133.

34. For most if not all Plaintiffs, the inducements were offered without any indication of the value thereof.

35. Tenn. Code Ann. § 66-32-114 provides that a purchaser in a timeshare transaction may rescind the contract at any time prior to the purchaser's receipt of the "public offering statement and any amendments thereto." This statute also provides for an unequivocal right of rescission within ten (10) days after the contract is signed.

36. Abuse of statutory Rescission Rights are detailed in the Plaintiffs' fact statements and notable examples are:

- i. Westgate's sales representatives rarely told anyone accurate information regarding the right to rescind.

- ii. The Carruthers were not told about their right to rescind when they purchased the timeshare. When they learned there was a fire at the resort in Gatlinburg, Tennessee, and the Carruthers were told they could not use their timeshare and they tried to get out of their contract but were told that they could not.
- iii. Westgate's representative disclosed to the Caudells that they had 15 days to rescind the contract. They tried to rescind the contract, but their attempt was ignored. They called John McMillian and Cherry Shannon within the 15-day rescission period, but John and Cherry never returned their call.
- iv. During the presentation, the Guillottes asked if they could get out of their contract. Westgate's representatives never disclosed to them they had a right to rescind the contract. They called Michael Rochelle who told them they could not get out of the contract.
- v. Westgate's sales representative did not tell the Lees about their rescission rights (like almost all other Plaintiffs herein). They learned about it when they called Westgate to cancel their contract because they could not use the timeshare as promised. They were told they missed their grace period.
- vi. Westgate's sales representatives misrepresented the rescission period to the Petries. They were told they had 3 days to rescind the contract.
- vii. Westgate's sales representative concealed the rescission period from the Vallecios. They never told the Vallecios about their right to rescind.
- viii. The Vallecios discovered that they had a cancellation period when they found the deed that was **surreptitiously concealed** (a systematic refusal of

notice for Rights of Rescission) in a pocket in the file of paperwork given to them by the Westgate representative after signing.

37. Accordingly, for its various violations of the Tennessee Timeshare Act of 1981 as described herein and particularly for a failure to provide Plaintiffs with the required disclosures, Defendants are liable to Plaintiffs.

38. Specifically, pursuant to Tenn. Code Ann. § 66-32-118(a), Plaintiffs respectfully submit that they are entitled to rescission of the Contract, compensatory damages, punitive damages, attorneys' fees, and other relief.

**COUNT THREE
FRAUDULENT MISREPRESENTATION
(RECISSION)
FRAUD IN THE INDUCEMENT
(AGAINST ALL DEFENDANTS)**

39. Plaintiffs incorporate by reference, as though fully set forth herein, section "I" and paragraphs 1 through 37s above and to the extent of any mutual facts, Counts 1-2 above.

40. Westgate Defendants' representatives engaged in high-pressure sales presentations designed to induce Plaintiffs to make a significant financial decision in a short time span with inaccurate information.

41. Westgate Defendants' representatives intentionally misrepresented certain material facts as referenced in the "Fact" sections herein.

42. Westgate Defendants' representatives knew or should have known, that their representations were false.

43. Examples of these fraud schemes are set forth in the section "I" and Plaintiff facts "C" pled in paragraphs 8 through 37 therein.

44. Defendants' representatives intentionally made misrepresentations for the purpose of inducing Plaintiffs to enter into contracts, close the sale, and pay many thousands in purchase funds and enormous future obligations, including high-interest mortgages along with ever-rising, generational maintenance fees.

45. Westgate's corporate culture is driven from the top, down. Its COO during some of the relevant years herein, as well as the son of the CEO were all determined to please the top-down instructions from the CEO. This drove the sales and drove the profits for the company and personal immense stored wealth of its CEO. At the heart of it all, was driving the sales model from the top and that meant insistence on methodical use of well-developed and proven fraud schemes, including the manipulation and tweaking of those fraud schemes toward the personal demographics of the purchaser (some Plaintiffs were targeted for that very purpose). All such evidence to be presented at trial.

46. In the alternative, if Westgate's representatives' misrepresentations were not intentional, they were grossly negligent, as Westgate's representatives knew or should have known the truth regarding Westgate, its policies, and procedures.

47. At all relevant times, Westgate's representatives were acting as agents of Westgate, and the acts of the representatives are attributable to Westgate, because they were performed in the course of work, and went well beyond the standard, Westgate was specifically applying top-down scope of the representatives' work as directed by Westgate's highest management.

48. For all the reasons set forth herein, Plaintiffs were induced to purchase a timeshare interest from Westgate by fraud. The false representations of material facts, combined with the high-pressure sales pitch, deceptive documents (if provided), the failure to provide

required documents and disclosures, and the confusing nature of the written documents between the parties (if provided) were all part of a scheme devised to separate Plaintiffs from their money in exchange for substantially less than was promised.

49. The sales, and any contracts between the parties, should be Rescinded with any funds paid returned to Plaintiffs and the timeshare interest returned to Westgate, and/or Reformed to permit the Court to award all damages and other relief to which they are entitled, including Punitive Damages, which are warranted for the intentional, deceptive, unfair, and fraudulent conduct of Westgate and their agents/representatives.

**COUNT FOUR
UNAUTHORIZED PRACTICE OF LAW
(AGAINST ALL DEFENDANTS)**

50. Plaintiffs incorporate by reference, as though fully set forth herein, section “I” and paragraphs 1 through 37s above and to the extent of any mutual facts, Counts 1-3 above.

51. Unauthorized Practice of Law (UPL) violations are an independent cause of action and can also support other causes of action where UPL violative conduct is intermeshed with fraud and deceit. In the instant matter, UPL conduct supports a claim of fraud.

52. These UPL acts came in two forms:

A. Their *de facto* lawyer explains the legal terms of the Contract and states what it really means as opposed to reading the terms of the contract aloud, providing copies, and/or permitting the consumers to read the contract.

B. Consumers are told about how they can plan their Estate with this new “Asset” to leave a “Legacy” to their child or children (or anyone they choose) using a “Will”

while fraudulently concealing a known “successor” clause that forces obligations upon future generations who are all jointly and severally liable for the ever-rising debt.

53. The signing is orchestrated by a *Closer* called a Loan Officer, Quality Assurance or a Compliance Director.

54. After often five (5) to eight (8) hours of mentally and physically wearing the consumers down in the sales room, there is a rapid signing of many documents that lasts only about ten (10) to fifteen minutes.

55. The entire process is controlled from start to finish by the Closer, and Consumers are not permitted to read the contract, nor permitted to leave the room, nor to discuss the contract alone, and they are not permitted to review the contract with an Attorney.

56. Consumers are also not permitted to take the contract and come back the next day, and they are forced to sign the contract that day or they will be deprived of many thousands of dollars.

57. The Closer artfully says “this means this” and “sign here” and “initial here” to get these hungry, physically tired and mentally drained Consumers back to their vacation.

58. Because the non-lawyer’s interpretations were untruthful, these interpretations of contract terms were used to deceive the Consumer-Plaintiffs herein.

59. In the end, the Consumers believe they are signing and initialing a document that conforms with everything that they were told by Westgate’s salespeople and the management of the resort during the many hours spent in sales-related activity; however, verbal explanations did not, at all, conform with the written terms of the Contract which they were actually signing.

60. As a result of Westgate's representatives unlawful practice of law overlaid with fraud and deceit there was no meeting of the minds and there was no meaningful disclosure of the contract terms thus forming appropriate grounds for contract rescission and fraud.

61. The violations of UPL prohibitions serve to evidence the legal grounds as well as the deserved need for providing relief for fraud and/or statutory relief claims herein.

62. The other form of UPL described at 52.B above that is rampant at Westgate Smoky Mountain Resort at Gatlinburg is for representatives to interpret the state law (such as done for Tennessee Law in eight cases herein) as it applies to Wills & Estates, and thereby deceiving Plaintiffs herein by having a standard successors' liability contract term that defeats all discussions of optional Will bequests.

63. Consumers are advised that they "can" put the timeshare in their Will, when familial [forced] obligations are already in the Contract.

64. Owners are told they "could" do whatever they want with the timeshare with regard to their estate such as leave it to one or more of their children.

65. Due to the "Successors" clause in the contract, Consumers/Plaintiffs are fraudulently committed to a contract for the purchase of a timeshare which inherently forms joint and several liability to all those same family members who are in the lines of succession to the owners upon their demise.

66. This successor liability was an express term of the parties' Contracts for each of the Plaintiffs herein, yet none of the Plaintiffs had any disclosure of this generational debt obligation.

67. The actual word “successors” was buried in a boilerplate sentence with heirs and assigns and other potential future parties, however, consumers are unwittingly and by surreptitious design of Defendant Westgate, signing an instrument that transfers escalating debt to future generations upon the last contracted owner’s demise.

68. None of the Plaintiffs herein had any idea they were obligating their future generations and in all cases this information would have prevented the signing of the contract.

**COUNT FIVE
BREACH OF CONTRACT
(AGAINST ALL DEFENDANTS)**

69. Plaintiffs incorporate by reference, as though fully set forth herein, section “I” and paragraphs 1 through 37 above and to the extent of any mutual facts, Counts 1-4 above.

70. To the extent that there is not full tort and/or statutory relief granted to certain Plaintiffs of this multi-party action, such Plaintiffs are entitled to a finding of breach of contract by Defendant Westgate.

71. Specifically, as pled herein for fraud, Defendant Westgate enticed Plaintiffs by promising each that owning a timeshare would allow them to specific use benefits (use rights) to plan vacations easily, and an investment to make money, which was part of the basis for the bargain.

72. Most if not all Plaintiffs experienced great difficulty planning vacations and reserving accommodations with the Resort and Westgate timeshares are valueless in the common marketplaces and carry significant debt and high recurring fees.

73. In addition to any post-contracting breaches that have occurred since the sale, Defendant Westgate induced Plaintiffs by using many tactics and fraud schemes pled in the

particular herein, in which for each such act of fraud, misrepresentation, concealment and/or other acts of deceit, let it serve as breaches of the underlying Contract, and in all cases, any and all forms of misrepresentation shall serve to evidence Breach of Contract due to Misrepresentation.

74. Plaintiffs should be entitled to an award of costs and prejudgment interest under this cause of action.

**COUNT SIX (IN THE ALTERNATIVE)
VIOLATIONS OF THE CALIFORNIA TIMESHARE ACT ET. AL
RESCISSION AND PUNITIVE DAMAGES UNDER ALTERNATIVE STATE LAW**

75. Plaintiffs incorporate by reference, as though fully set forth herein, section “I” and paragraphs 1 through 27s above and to the extent of any mutual facts, Counts 1-5 above.

76. Choice of Law principles permit state courts to apply the substantive laws of states other than a state of general jurisdiction, as well as apply federal law, in order to provide remedies to Consumers in consumer fraud situations. The California Vacation Ownership and Time Share Act of 2004 can apply in the case at bar (to the extent where some Plaintiffs do not qualify for protections under the Tennessee timeshare statute, but shall readily fall under similar applicable consumer law), because Defendant owns numerous timeshare properties in California offered as an “accommodation”, and sells access to hundreds more in California as part of a “component” or an exchange resort under the marketing system of the Corporate Defendant. Additionally, such rights exist in the written Contracts between Defendant Westgate and Plaintiffs.

77. Under the California Business and Professions Code Section 11211.5(a), The California Vacation Ownership and Time Share Act of 2004 applies to:

(a) Time-share Plans with an accommodation or component site in this state [CA].

78. The California Business and Professions Code, Section 11285, provides:

An action for damages... may be brought by any timeshare interest owner....

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

79. California Business and Professions Code, Section 11285, provides owner relief where the Defendant has at least one Timeshare property located in the State of California.

80. Statutory remedies are available to Plaintiffs under the California Vacation and Ownership Time-Share Act of 2004 which permits remedies for some of the Plaintiffs herein for Contract Rescission.

81. California Vacation and Ownership Time-Share Act of 2004 permits remedies for Damages, including Punitive Damages as applicable in conjunction with the California Consumer Protection Act.

82. Where appropriate for the other Plaintiffs, the Florida Timeshare Act, or any other state's statute that could apply to provide necessary relief, including Punitive Damages to all of the Plaintiffs to this action.

83. Plaintiffs herein have suffered great loss financially and have been harmed and have been distressed emotionally with physical manifestations.

84. Plaintiffs herein have medical injury and/or exacerbation, where such harm and impetus for damages are apparent from the Facts and Causes of Action that are raised herein and applicable other state consumer protection standards.

85. An award of general damages, punitive damages, attorney's fees, costs, and prejudgment interest in favor of Plaintiffs, and against Defendant Westgate would be appropriate under the alternative state's law, and Plaintiffs request such relief.

**COUNT SEVEN (IN THE ALTERNATIVE)
NEGLIGENT MISREPRESENTATION
(AGAINST ALL DEFENDANTS)**

86. Plaintiffs incorporate by reference for this final count, as though fully set forth herein, section "I" and paragraphs 1 through 37 above and to the extent of any mutual facts, Counts 1-6 above.

87. Plaintiffs seek rescission of any contract and further damages and relief pursuant to the Counts above. In the alternative, to the extent any contract is deemed enforceable and the sale of the timeshare is not rescinded, Plaintiffs are entitled to recover damages for the fraud of the Defendants.

88. Specifically, the salesmen made false representations of material fact as shown in the fact paragraphs above.

89. Plaintiffs reasonably and justifiably relied on these representations made by Defendant Westgate's staff.

90. This reliance was to the detriment of Plaintiffs who paid the amount as a down payment and incurred additional damages as a direct and proximate cause of the misrepresentations of Defendant Westgate's representatives.

91. At the time the misrepresentations were made, Westgate's representatives knew that the misrepresentations they made were false (as described in the facts above detailing fraud schemes that were expertly planned and executed).

92. The representatives deceived and duped Plaintiffs intentionally and for the purpose of closing the sale for Westgate.

93. As a result of these intentional or negligent misrepresentations, Plaintiffs have been damaged by Westgate, all of its subsidiaries, its management, its agents, affiliates, and Westgate is liable for these damages.

94. As a Matter of Justice and prevention of future unlawful conduct, the amounts of all payments of monies made by the Plaintiffs should be recovered as damages, plus consequential harm and losses, and punitive damages.

95. As applicable by law, an award of Attorney's Fees pursuant to the Private Attorney General Action asserted by the Plaintiffs or awarded as elsewhere permitted under the various Counts and statutory remedies raised in this Complaint.

**WHEREFORE, PREMISES CONSIDERED, PLAINTIFFS' PRAY AS
FOLLOWS:**

1. That they be given leave to amend this Complaint as additional facts are discovered;
2. That a jury of twelve (12) be empaneled as the trier of fact in this action;
3. That judgment be entered for Plaintiffs and against Defendant Westgate, including its subsidiaries; its management, its agents and affiliates;
4. That the contracts between Westgate Defendants and each Plaintiff be rescinded, with any monies paid returned to the Plaintiffs and the timeshare interest being canceled and returned, and/or deeded-back as appropriate, to Westgate;
5. That Plaintiffs be awarded compensatory damages against Westgate Defendants, in an amount to be proven at trial;
6. That Plaintiffs be awarded treble damages under the Tennessee Consumer Protection Act;

7. Alternatively, to Number 6 above, that eight Plaintiffs be awarded punitive damages in an amount not less than \$500,000 each under Tennessee Law, and that the other Plaintiffs are awarded similar relief under the other remedies listed in Count 6 above;
8. That Plaintiffs be awarded their attorneys' fees, expenses, and discretionary costs; and
9. That Plaintiffs be awarded such further and additional relief to which this Honorable Court may deem they are entitled.

12/28/18

Respectfully submitted,

s/ Alan C. Lee
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CERTIFICATE OF SERVICE

I hereby certify that this 28th day of December 2018, a copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

s/ Alan C. Lee
Alan C. Lee, Attorney for Plaintiffs