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9
10 **UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**
13
14

15 Susan Bailey, Renea Bartholomeo and Daryl
16 Bartholomeo, Diedra Booker, Janice Degeus and
17 Nancy Johnson, Ashley Dixon and Alan Dixon,
18 Donna Fickling and Eric Fickling, Randy Fisher and
19 Thomas Messer, Sonia Gryske, Jeremy Hausman
20 and Jennifer Hausman, Kristine Hernandez and Jose
21 Hernandez, Mark Hobson and Heather Hobson,
22 Harry Jackson, Jemaal Knox and Marlene Knox,
23 Cameron Krug and Sarah Mescher, Kyoungah Lee,
24 Kelly Longenecker, Steven Marks and Vanessa
25 Marks, Lauryn Meyer, Hidolina Miranda and
26 Abraham Miranda, Patricia Phelim and Elly Lin,
27 Doreen Phillips and Stanley Phillips, Richard
28 Robinson and Nancy Robinson, Fria Rogers,
Teresa Sharp (fka Teresa Allred) and Mark Allred,
Richard VanCampen and Ethel VanCampen

Plaintiffs,

v.

WYNDHAM VACATION OWNERSHIP, INC;
AND, WYNDHAM DESTINATION NETWORK,
HOLDING COMPANY FOR, RCI, LLC

Defendants.

Case No.

COMPLAINT FOR DAMAGES FOR
FEDERAL SECURITIES CLAIMS;
CALIFORNIA STATUTORY LAW;
COMMON LAW FRAUD; CONTRACT
RESCISSION; CONTRACT BREACH;
ELDER ABUSE; AND, CALIFORNIA
PRIVATE ATTORNEY GENERAL
ACTION

Demand for Jury Trial, F.R.C.P

Date:

Time:

Courtroom:

Judge:

DEMAND FOR JURY TRIAL (FRCP 38)

1 COMES NOW, the Plaintiffs, by and through their counsel of record, Jack Duran, Esq.
2 of The Abrams Firm, to complain of the above Defendants for Rescission and Damages due to
3 systematic and repeated bait & switch fraud and other unlawful tactics to: (a) induce contracts;
4 and, (b) collusive strategies between Defendants to frustrate or prevent Plaintiffs use; as well as,
5 (c) collusive acts by RCI to induce secondary contracts, all in defiance of established law.
6

7
8 **I. PARTIES AND JURISDICTION**

9
10 1. Plaintiffs are natural persons combining resources, as most were denied no-money
11 settlement by Defendant Wyndham and have only paid \$3500 for the total cost for the litigation
12 as co-Plaintiffs facing a multimillion-dollar timeshare conglomerate, where consolidation is
13 judicially efficient because of shared facts and claims
14

15 2. Plaintiffs share almost all of the same fraud scheme categories [¶66(a) through ¶66(i)]
16 and have highly similar fact patterns due to Defendants' systemic, repeated unlawful conduct
17 that occurs in like fashion in multiple sales facilities, as may be evidenced to support California
18 law pled herein (by all Plaintiffs) showing pervasive and recalcitrant conduct in defiance of
19 established law through 24 Plaintiff Contracts in this matter (couples counted as 1 contract),
20 including 5 Contracts purchased at Defendant Wynham's resorts in California and an organic
21 grouping of cross-national Plaintiffs, where each Plaintiff herein is indispensable to prove
22 elements of applicable California law that all Plaintiffs herein seek relief under.
23

24 3. Plaintiffs all have substantially similar and thereby corroborative patterns of 'fraud
25 schemes' that are each pled with particularity in this Complaint including the Plaintiffs' Facts
26 supplemental with active headings showings applicable categories of fraud and deceit faced by
27 all of the Plaintiffs to this litigation. Although exacting facts and permutations may vary, the
28

1 general categories have remarkable similarity. Defendant Wyndham has procedures and sales
2 practices in facilities spanning the nation, yet acting highly similar, under centralized control.

3 4. Testimony by Plaintiffs herein, shall provide credible and highly corroborative evidence
4 of these fraud schemes to unequivocally support the same causes of action supporting statutory
5 or common law contract rescission, or relief under California law applicable to all Plaintiffs.
6

7 5. The Plaintiffs to this matter are as follows:

8 Susan Bailey is a resident of the State of Washington;

9 Renea Bartholomeo and Daryl Bartholomeo are residents of the State of Oklahoma;

10 Diedra Booker is a resident of the State of California;

11 Janice Degeus and Nancy Johnson are residents of the State of Utah;

12 Ashley Dixon and Alan Dixon are residents of the State of Washington.

13 Donna Fickling and Eric Fickling are residents of the State of Alabama.

14 Randy Fisher and Thomas Messer are residents of the State of Ohio.

15 Sonia Gryske is a resident of State of California.

16 Jeremy Hausman and Jennifer Hausman are residents of the State of Pennsylvania.

17 Kristine Hernandez and Jose Hernandez are residents of the State of Colorado.

18 Mark Hobson and Heather Hobson are residents of the State of Washington.

19 Harry Jackson, Sr. is a resident of the State of Washington.

20 Jemaal Knox and Marlene Knox are residents of the State of Washington.

21 Cameron Krug and Sarah Mescher are residents of the State of California.

22 Kyoungah Lee is a resident of the State of California.

23 Kelly Longenecker is a resident of the State of Kentucky.

24 Steven Marks and Vanessa Marks are residents of the State of Kansas.
25
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1 Lauren Meyer is a resident of the State of Maryland.

2 Hidolina Miranda and Abraham Miranda are residents of the State of California.

3 Patricia Phelim and Elly Lin are residents of the State of California.

4 Doreen Phillips and Stanley Phillips are residents of the State of Washington.

5 Richard Robinson and Nancy Robinson are residents of the State of Nevada.

6 Fria Rogers is a resident of the State of Oregon.

7 Teresa Sharp (fka Teresa Allred) and Mark Allred are residents of the State of Arizona.

8 Richard VanCampen and Ethel VanCampen are residents of the State of Montana.

9
10
11 6. Defendant Wyndham Corporate Headquarters is in the State of Florida, thus preserving
12 complete Diversity Jurisdiction of the parties.

13 7. Although Defendant RCI is headquartered in New Jersey, none of the Plaintiffs are
14 residents of New Jersey, and legally significant is that RCI is a creation by, and wholly owned
15 subsidiary of Defendant Wyndham, under Wyndham Destination Network, the holding company for
16 RCI, that resides along with its LLC Manager who resides at the same address as Defendant
17 Wyndham's Corporate Headquarters located at 6277 Sea Harbor Drive, Orlando, Florida.

18
19 8. Of the 24 Contracts in this lawsuit, there are 8 Plaintiff Contracts involving California
20 residents, and there are 5 Plaintiff Contracts that were executed in California by Wyndham, and
21 2 of those Plaintiff Contracts were purchased at Defendant's resorts in the Northern California
22 District establishing Specific Jurisdiction for this Court for this Co-Plaintiffs' action joined by
23 *national indispensable Plaintiffs*. See ¶2 & ¶33, and Count One, *California Statutes, elements*.

24
25 9. The above listed Plaintiffs sue in their individual capacity and in their capacity as
26 spouses to the extent that any principles of Community Property law or other laws regulating
27 marital property may apply to their joint assets or debts.
28

1 10. Defendants, WYNDHAM VACATION OWNERSHIP, INC (WVO) and RCI, LLC
2 (sometimes referred to collectively as, “Defendants”) or referred to individually under the
3 names “Wyndham” [which automatically includes its subsidiary *sales entities*] and Wyndham’s
4 subsidiary booking agent, referred to as, “RCI”, aka *Resort Condominium International*.
5

6 11. Both Wyndham and RCI do business within California and have been served with
7 accepted service for a California Legal Remedies Act Notice at the same Registered Agent
8 Corporate Creations California, Inc., 4640 Admiralty Way, 5th Floor, Marina del Ray, CA
9 90292 and RCI is also servable in Florida for its California presence at Corporate Creations
10 California, Inc (underline emphasis added) at 11380 Prosperity Farms Rd, Ste 221e Palm Beach
11 Gardens, Fl 33410, and RCI books Northern California Residents and Northern California
12 hotels outside the Wyndham chain of hotels, all day long, and Wyndham owns a multiplicity of
13 hotels and resorts and regularly conducts business within the Northern California District.
14

15 12. Defendant Wyndham originally created Defendant RCI as a wholly owned subsidiary,
16 and Defendant Wyndham directs and controls RCI’s operations, and both entities have the exact
17 same operations headquarters address at: 6277 Sea Harbor Drive, Orlando, Florida.
18

19 13. Wyndham is in the business of developing and selling vacation timeshares with
20 grandiose promises that are entirely reduced to a “points” system through a booking service,
21 RCI (a subsidiary), that imposes highly restrictive rules to artificially limit Plaintiffs’ point use
22 (i.e. restrict the booking of accommodations) and thereby frustrate or prevent use altogether to
23 lessen costs and protect profits for Wyndham (and actively book meetings for Wyndham
24 presentations) all in the furtherance of Wyndham’s profits that are near or exceed **1000%** to
25 **3000%** [10 times to 30 times with the greatest at 5800%] what the public pays online, or in
26 some cases, pure profit [i.e. no use]), which seems to be fairly deemed, *Unconscionable*.
27
28

1 14. Defendant, Wyndham has corporate headquarters located in Florida at 6277 Sea Harbor
2 Drive, Orlando, Florida, under EIN Number 20-0292443.

3 15. At the Florida Division of Corporations, Defendant Wyndham has many of its corporate
4 officers listed at 22 Sylvan Way, Parsippany, New Jersey, and also listed there is its nearby
5 neighbor, "RCI" that is at 14 Sylvan Way, Parsippany, New Jersey.
6

7 16. RCI is itself an entity, a Florida LLC named: "RCI, LLC" under EIN Number 22-
8 3530212, that was a creation by Wyndham as a wholly owned subsidiary, whose principal
9 address for business is listed at the Florida Division of Corporations of State as 14 Sylvan Way,
10 Parsippany, New Jersey, but is thought to be under the total control and strategic direction of
11 Defendant Wyndham and operates in or near Defendant Wyndham's corporate headquarters at
12 6277 Sea Harbor Drive, Orlando, Florida.
13

14 17. At the Florida Division of Corporations, RCI, LLC lists its Manager as Elizabeth Dreyer
15 at 6277 Sea Harbor Drive, Orlando, Florida which is the exact same Orlando, Florida address
16 listed for Defendant Wyndham at 6277 Sea Harbor Drive, Orlando, Florida.
17

18 18. Should other natural persons or entities at Wyndham and/or RCI be discovered as
19 relevant to this case, Plaintiffs shall seek leave to amend this Complaint for any doe persons
20 and/or roe corporations.
21

22 19. Defendant names throughout this Complaint include all dba entities, assumed names,
23 affiliates, subsidiaries, agents, employees, officers, directors, principals and trustees.

24 20. This Court has jurisdiction over this dispute with specific jurisdiction 2 of the contracts
25 that are Wyndham's resorts within the Norther California District, and those Plaintiffs join with
26 *indispensable national Plaintiffs* (see ¶2, ¶8 and ¶33 with detailed discussions in Count One,
27 *California Statutes* applicable to all Plaintiffs herein), and for both Defendants, as follows.
28

1 21. Defendant Wyndham owns a multiplicity of hotels and resorts located in the Northern
2 California District and there were purchases at these hotels and resorts by some of the Plaintiffs
3 herein (see ¶8 above).

4 22. RCI is required as the exclusive booking agent for most of the Plaintiffs bookings of its
5 own resorts, and for all non-Wyndham hotels located within the Northern California District
6 which were sold to all Plaintiffs simultaneously when making a purchase or upgrade purchase.
7

8 23. Defendant Wyndham does business in the Northern California District, owning many
9 hotels and resorts (that are part of the points system sold to Plaintiffs).

10 24. Wyndham's subsidiary and controlled entity, RCI, is the booking agent to book for
11 rooms at a plethora of hotels and resorts Wyndham and a host of other affiliate timeshare
12 corporations, all located in the Northern California District as part of Defendant Wyndham's
13 *multisite time-share plan*.
14

15 25. Accordingly, this Court has Jurisdiction over both the Defendants captioned above.
16

17 **II. JUDICIAL EFFICIENCY**

18 26. Defendant is subject to common law rescission for Bait & Switch Fraud (Fraudulent
19 Inducement and Fraudulent Concealment), and Defendant is also subject statutory law which
20 includes a timeshare statute from the State of California that applies to timeshare sales within
21 any state if it includes use of timeshare hotel properties within the State of California (detailed
22 herein in Count One), which grants applicability to all the Plaintiffs herein.
23

24 27. Defendant owns numerous timeshare resorts in the U.S., including "accommodations" it
25 owns in the Northern California District, and a vast amount of resort and hotel sites that are
26 located throughout California, including the Northern California District, that are known under
27 California law as "component" sites of the Defendant's "multisite time-share plan" that are part
28

1 of a required “reservation system” (RCI) that Plaintiffs herein were sold as an integral part of
2 their timeshare purchase. *Quotations above reference the California Vacation Ownership and*
3 *Time Share Act of 2004, see Article 1, “accommodation” and “component site” at*
4 *§11211.5(a)(1), and §112112(g); and “reservation system” at §112112(u) and “multisite time-*
5 *share plan” at §112112(z)(2)(B).*

7 28. Such service contracts for timeshare use were sold to the Plaintiffs and contracted by
8 Wyndham and its wholly owned subsidiaries (dba entities) such as “Worldmark by Wyndham”
9 and the exclusive booking agent that was presented by Defendant’s sales staff to all of the
10 Plaintiffs herein [and thus were known by all the Plaintiffs at the point-of-sale] as a third party
11 booking entity named “RCI”, but RCI in reality was under the clandestine control Defendant
12 Wyndham.
13

14 29. Plaintiffs are joining together as co-Plaintiffs where consolidation is judicially efficient
15 because they are the same Defendants with the same Plaintiff claims under the same common
16 law principles and same statutory forms of relief, all with highly similar factual patterns where
17 all Plaintiffs have substantially the same substantive claims and experienced ‘fraud schemes’ in
18 common with the other Plaintiffs herein, all pled with particularity.
19

20
21 PUBLIC OFFERING STATEMENT RESCISSION

22 Improper Notice of Public Offering Statement - Applies to All Plaintiffs

23 30. For purposes of Judicial Efficiency, this matter is streamlined with a bright-line statutory
24 rule regarding disclosure of a Public Offering Statement (POS) that could be applied to each
25 and every Plaintiff in this action (see **67(a)** below) wherein they would be entitled to:

26
27 **The right to receive, and to review, a Public Offering Statement**
28 **before Plaintiffs sign or pay any money on a timeshare contract.**

1 31. This relief could apply to all Plaintiffs herein who have purchased a timeshare where a
2 bright-line rule has been violated, thus permitting the Court to grant equitable relief to rectify
3 the violation of statutory mandates.

4 32. Where a Rescission remedy can be furthered without foreclosing additional and further
5 remedies, Punitive Damages may still be put forward for a Jury to decide if the Defendants had
6 recalcitrant conduct in defiance of California law, so pervasive, systematic, and widespread that
7 evidences wrongful conduct impacting many consumers, and where the conduct itself is
8 reprehensible for Punitive Damages under California law, including the Unfair Competition
9 Law, because Defendants' practices were part of repeated corporate practices (nationwide here),
10 rather than just an isolated incident. *See, Johnson v. Ford Motor Co.* (2005) 35 Cal.4th 1191 [29
11 Cal.Rptr.3d 401; 113 P.3d 82]; *also see, the California Unfair Competition Law* (BPC, 17200-
12 17210); *and the Consumer Legal Remedies Act* (Civ. Code, 1750-1784); *and California's*
13 *timeshare law: Vacation Ownership and Time Share Act of 2004* (BPC, 11000-11288).

14 33. Therefore, the addition of the several Plaintiffs herein who did not purchase within the
15 Northern California District, are a small, but widespread representation of both Defendants'
16 practices and conduct throughout the nation, and thus are indispensable to the elements of proof
17 of the underlying law in this case.

18 34. Given that the Plaintiffs' contracts could be rescinded in every case due to violations of
19 the POS notice [to be provided *before* signing or paying money on a timeshare contract], the
20 Plaintiffs to this action would then be entitled to related equitable relief and damages to put the
21 parties into their pre-contract positions, as if no contracts had ever occurred:

22 35. Rescission ends a contract, and thereby its subparts, including its Venue clause and any
23 limitations or waivers to a Jury Trial and/or Punitive Damages.
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1 36. Punitive Damages then become a separate legal question as discussed above, for a Jury
2 to: (a) assess punishment of the Defendants; and, (b) deter such future conduct.

3 37. After the rescission ruling, there being no substantive questions of law to apply as to
4 whether there is liability, the Jury would not be confused because the only task the Jury would
5 have is to assess the elements of the punitive damages statute to be applied, and ultimately how
6 much in Punitive Damages the Plaintiffs shall be awarded.

8 38. The focused task of the Jury would be limited to the statute's standard of assessment.

9 39. As a result, it is highly relevant and will assist the Jury greatly to assess Wyndham's
10 repetitious and systematic sales practices and its consistency of fraudulent tactics through RCI,
11 by including all of the Plaintiffs herein, which taken together evidence the wide-reaching,
12 nationwide impact of Defendants' unlawful conduct and its inherent likelihood of reoccurrence
13 to harm other consumers who fall under the POS statutory basis and the securities fraud
14 standard and common law fraud standards that are detailed in the following paragraphs.
15
16

17 **SECURITIES FRAUD**

18 United States Securities Act - Applies to All Plaintiffs

19 40. As for "making money" (see ¶67(b) below) from resale profits or rental income,
20 Defendant Wyndham's sales staff, management and contract closers, consistently and
21 repeatedly told the Plaintiffs that by purchasing the Plaintiffs would "make money" and that is
22 was a "good investment" with long-term "profits" and sometimes immediate "built-in equity",
23 all of which were later discovered to be false and deceptive representations.
24

25 41. Plaintiffs contend that Wyndham's timeshare sales representations were in fact a fraud
26 in the "Offer of" or "Purchase of" Securities and violated the United States Securities Act,
27 federal common law and state law.
28

1 42. During the course of the sales pitch, the salespeople as agents of Defendant Wyndham
2 made various statements relating to the value and prospective increase in value, leading to the
3 market resale “profit” from what was repeatedly characterized as a “good investment”.

4 43. The salespeople also made various promises to entice the Plaintiffs to purchase with
5 promises that they were getting a “special deal” or “heavily discounted price” or “built-in
6 equity” but they had to buy that day.

7 44. As for annual income (via renting) obtained from the purchase, Plaintiffs were promised
8 yearly revenue, but in reality could hardly book rooms for themselves through RCI, let alone
9 rent them out, which has extra, undisclosed restrictions and fees, and a suspicious public that
10 has to rent an exact week and location from an unknown person online at *Craigslist* et. al.

11 45. These real-world, actual results in practice. *See true costs in, ¶67(d), where the average*
12 *per Plaintiff herein, 1930% more than non-owners pay online. This evidences extremely harsh*
13 *and one-sided results that appear Unconscionable because they shock the conscience of a*
14 *neutral observer, showing the need for Judicial redress, perhaps through equitable Rescission*
15 *for such outrageous acts perpetrated in brazen defiance of securities law and common law fraud.*

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COMMON LAW RESCISSION

Unconscionable Successor Liability - Applies to All Plaintiffs

22 46. A common-law right (see ¶67(c) below), is specifically supported by Plaintiff Facts pled
23 in the particular (*Plaintiff Facts supp.*), showing that none (0) of the Plaintiffs would have
24 signed contracts which latently harbor obligations to their successor family members and future
25 generations to force payment of unpaid mortgages and ever-rising maintenance fees, had the
26 Plaintiffs known that *successor liability* existed in their contracts—a fact which was absolutely
27 known by Defendant Wyndham.

1 47. Not one of the Plaintiffs herein, had any knowledge whatsoever, that there was liability
2 for their children (if none, siblings) to pay financial obligations owed to Defendant Wyndham.

3 *See “Successor Liability” subheadings contained in the Plaintiff Facts supp.*

4
5 48. Furthermore, Wyndham’s conduct was even more predatory, because its sales reps,
6 management and contract closers advised Plaintiffs of their legal rights to bequeath the interest,
7 describing how they “can” or “could” pass it along in a Will or Trust.

8 49. Defendant often called the timeshare interest “property” or “real estate” to the Plaintiffs
9 at the point-of-sale, which would be a valuable “asset” and discussed how Plaintiffs could
10 transfer the asset amongst family members.

11
12 50. However, upon later revelation often by a lawyer, the Plaintiffs discover that their
13 children (if none, then siblings) are all jointly and severally liable under the sales contract for
14 any timeshare related debts owed to the resort.

15 51. And real-world consequences (as Testimony of such victimization by Defendant
16 Wyndham shall show), means that an Owner’s family successors-in-interest would be forced to
17 pay the debts of their deceased parents or else wage a legal battle against a multibillion dollar
18 corporation without a living witness to the fraud, which is harsh and *Unconscionable* outcome.

19
20 52. Since the Plaintiffs did not have a Will at the time that included this interest, it was a
21 *future* contract being advised upon by Defendant’s non-lawyers, for Plaintiffs to enter into
22 *someday* (a Will, or a Codicil), when at all times Defendant’s staff knows that the timeshare
23 sales Contract being signed in the room *that day*, would absolutely determine the obligations
24 owed to Defendant Wyndham with terms completely unknown to Plaintiffs lurking in that sales
25 Contract imposing automatic liability upon those same family members that were being
26 beneficially discussed by Defendant’s staff.
27
28

1 53. This “successors” term of the Contract, for each & every Plaintiff herein, caused an
2 unconscionable result which appears actionable for Contract Rescission through common law
3 fraud relief, and thus within the powers of this Court to remedy.
4

5 COMMON LAW RESCISSION

6 Unconscionable Cost per Use - Applies to All Plaintiffs

7 54. Plaintiffs herein all share an unconscionable result caused by sales inducements where
8 saving money on vacations, claimed luxury use benefits, profitability and investment value, in
9 then end are all discovered as falsehoods, and the true ultimate *cost per use* which Plaintiffs
10 receive is astronomically high (if they could book uses at all, as some Plaintiffs could not).
11

12 55. The saving of money for booking vacations, is highly divergent from actual outcomes,
13 where Plaintiffs lose somewhere between several hundred percent, or up to a 1000% or more,
14 and one Plaintiff herein pays 3000% more than the public pays online. *See ¶67(d) below; also*
15 *see, Fn. No. 1 with specific per day dollar amounts and percentage of cost over non-owners*
16 *booing online done for all Plaintiffs per their pleadings with particularity.*
17

18 56. Because of Wyndham’s clandestine control of RCI (unknown by any of the Plaintiffs
19 herein until later revelation by a lawyer), it was extremely difficult to find availability, and for
20 some it was impossible to book (i.e. no Use, so pure profit for Defendant Wyndham).
21

22 57. For the Plaintiffs that could book, they ended up with:

- 23 i. subpar motel-like rooms that were contrary to promised 5-star hotels
24 and resorts;
25
26 ii. unwanted locations because they were the only “available” bookings;
27 however,
28

1 64. With disclosure of material facts, not one of the Plaintiffs would have contracted with
2 Defendant as is evident in each Plaintiff's particularized facts. *See, Plaintiff Facts supp.*

3 65. Instead, the Plaintiffs herein were deceived and believed the false statements made by
4 Wyndham's staff, and relied upon such statements to their unfortunate detriment.

5
6 66. To induce a sale that disclosure in an open light would not have produced, the Plaintiffs
7 were given false and misleading information by defendant Wyndham ("WVO" below), which
8 have been listed in categories of fraud schemes pursuant to 'a' through 'i' below, and the later
9 discovery of the fraudulent inducements and/or concealments by the Plaintiffs is denoted by the
10 corresponding subheadings (in bold below) showing the truth of the matters falsely asserted.
11

12 **SUBSTANTIVE ALLEGATIONS**

13 (a) WVO ownership is a good "investment" that always go up in value (appreciation).

14 (b) WVO ownership is valuable as a long-term asset that can be resold for a "profit".

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

16 (c) WVO's maintenance fees don't go up at all or only very little and other fees do not exist.

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

18 (d) WVO ownership is a valuable asset and a legacy the Owner "could" put in a Will.

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

20 (f) Plaintiffs were not told about "successors" liability after demise within their Contract.

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

24 (g) WVO's staff sold anytime, anywhere, easy to book 5-Star resorts and hotels worldwide.

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

28 (h) Plaintiffs can make "rental" income to pay the mortgage, fees and sometimes a profit.

Rental (h): Plaintiffs can't book rooms for themselves, so rental is impossible as promised.

1 (i) “Upgrades” are often suggested/booked by RCI (costing \$1000s - \$10,000s) to resolve a
2 prior deficiencies created by WVO (often repetitive, where the problem is never fixed).

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

5 67. All Plaintiffs have a strong correlation of similar fraud schemes, along with the
6 following 4 commonalities occurring to all Plaintiffs:

7 (a) **All Plaintiffs did not receive proper Public Offering Statement notice.**

8 (b) **All Plaintiffs were told that buying was an “investment” to “make money”.**

9 (c) **All Plaintiffs did not receive any notice, at all, of latent Successor Liability.**

10 (d) **Plaintiffs, because of huge high-interest mortgages, high annual fees and**
11 **restricted RCI use, would pay about 800% to 3000% more than online.¹**

12
13 **1 Plaintiffs Cost per Night and Percentage over Online Booking in the same order as the Plaintiff Facts ***

14 Bailey: \$2,000/ night or about **1000%** higher than booking online;
15 Bartholomeo: \$9,166/ night or about **800%** higher than booking online;
16 Booker: \$2,666/ night or about **1500%** higher than booking online;
17 Degeus & Johnson: \$4,750/ night or about **3000%** higher than booking online;
18 Dixon: \$3,000/ night or about **1000%** higher than booking online;
19 Fisher & Messer: \$12,500/ night or about **3000%** higher than booking online;
20 Fickling: \$2,000/ night or about **800%** higher than booking online;
21 Hausman: \$4,000 / night or about **2000%** higher than booking online;
22 Hernandez: \$1,600/night or about **800%** higher than booking online;
23 Hobson: \$1,666/night or about **6666%** higher than booking online;
24 Jackson: \$1,200/night or about **800%** higher than booking online;
25 Knox: \$2,916/night or about **1300%** higher than booking online;
26 Krug & Mescher \$4,000/night or about **1600%** higher than booking online;
27 Lee: \$2,500/night or about **1200%** higher than booking online;
28 Longenecker: \$13,750/night for a room that books for \$200 or about **6800%** higher than booking online; **
Marks: \$5,750/night or about **2300%** higher than booking online;
Meyer: \$4,666/night or about **2300%** higher than booking online;
Miranda: \$1,400/night or about **1000%** higher than booking online;
Phelim & Lin: \$2,200/night or about **2700%** higher than booking online;
Phillips: \$1,833/night or about **1200%** higher than booking online;
Robinson: \$1,750/night or about **950%** higher than booking online;
Rogers: paid \$4,498 in extra fees (last good trip) and a **1000%** estimated for others;
Sharp & Allred: \$2,000/night or about **1300%** higher than booking online;
VanCampen: \$2,666/night or about **1300%** higher than booking online;

* Please note that the calculations herein are rough approximations (especially cases of no documents provision or missing documents), however after Discovery, the Plaintiffs shall have the ability able to provide exact figures.

** The average cost of our Plaintiffs to book a room via RCI as a Wyndham “owner” is 1930% more than online.

1 68. Defendant's sales and management, systemically support a fraud strategy to make
2 buyers think they have a real property, with ownership benefits like a Home.

3 69. Despite a reference to specific room number and specific week of the year in what looks
4 like a deed, this is subterfuge, as Plaintiffs cannot by right stay at that resort, let alone that week
5 number or room number, and the document is used by Defendant as a sham device to deceive
6 timeshare purchasers into thinking they own a valuable "real estate" investment.
7

8 70. Wyndham staff told the Plaintiffs herein that they own "property" with rights similar to
9 a Home: (a) resale value; (b) appreciation; (c) rental income; and for some Plaintiffs, (4) IRS
10 mortgage interest deduction.
11

12 71. "Points" are used up for service fulfillment, which uses RCI as the booking service that
13 is required by Defendant Wyndham.

14 72. However, the booking service fulfillment, actually restricted the Plaintiffs' ability to
15 book a room.
16

17 73. Plaintiffs' "points" are definitely involved in the booking service in accordance with
18 RCI's highly restrictive rules, but the "Deed" specifically is not involved in booking rooms, and
19 neither is the Deed's named Resort, nor the specified week, nor the assigned room number, all
20 of which are often claimed as highly significant at the point-of-sale.
21

22 74. "Points" are merely numerical figures where the amount is one factor to book use,
23 subject to rules that are purposely and with intent to make profits, designed by RCI for its parent
24 Defendant Wyndham to be highly restrictive, including the frequently claimed, "no availability"
25 by RCI, and its obtuse rules (such as, 11 months for advance booking), and for some Plaintiffs,
26 changing rules to individually restrict or prevent yearly services that were clearly due.
27

28 75. Frequently, the manipulative reason for rule changes is to force a costly upgrade.

1 76. Since the promised profits for resale and rental income said to be a sure thing by
2 Defendant's staff, were false and deceptive, the entirety of the arrangement is reduced to a pure
3 *Service Contract*, albeit poor quality, over-restricted and for some, there was a complete
4 impossibility to book, thus there was no "Use" in a Use Service Contract, even if they paid
5 1000% or more than the public pays to book online (§67(d); and, **Fn. 1 figures**).

7 77. Defendant did not provide proper [statutory] legal notices under applicable law and had
8 unconscionable family liability terms and extra fees charged for use (by "owners").

9 78. Any of these the four grounds raised in (§67(a)-(d) above), alone, could support Judicial
10 Rescission. *Also see, Facts supp. headings: "Value" [Securities Fraud], "Public Offering*
11 *Statement", "Successor Liability" and "Cost per Use"*.

12 79. These grounds support Rescission based upon statutory relief or common law fraud, and
13 are all derived from the Plaintiffs' individual facts and the Facts raised in this Complaint,
14 including the pleadings with particularity that have been integrated into this Complaint by this
15 reference. *See, Plaintiff Facts supp.*

18 IV. PRIVATE ATTORNEY GENERAL ACTION

19 80. Claims presented in this Complaint are under the California Private Attorney General's
20 Act, California Civil Code, Section 1021.5 et seq., entitling Plaintiffs to attorneys' fees because
21 this litigation is brought in the public interest and confers a benefit upon the public.
22

24 IV. CALIFORNIA LEGAL REMEDIES ACT

25 81. Plaintiff attempted settlement with Defendant under the California Legal Remedies Act,
26 however, Defendants did not respond at all. This would entitle the Plaintiffs to attorney fees, but
27 that is not necessary if the Private Attorney General Action or other statute provides such fees.
28

COUNT ONE

CALIFORNIA TIMESHARE ACT AND UNFAIR COMPETITION LAW

(Rescission and Punitive Damages - Applicable to all Plaintiffs)

82. Plaintiffs incorporate by reference all the preceding paragraphs (including the Plaintiff Facts supplemental that has been incorporated by reference in the preceding paragraph) as though fully set forth herein.

83. Choice of Law principles permit federal district courts to apply the substantive laws of any state, including the state of general jurisdiction (California) in order to provide remedies.

84. California's *Vacation Ownership and Time Share Act of 2004* applies to the case at bar to all Plaintiffs herein, because Wyndham owns numerous hotels and resorts in California, some of which is where Plaintiffs purchased their timeshare or subsequent upgrade.

85. All of these California timeshare properties are offered to the Plaintiffs herein as an "accommodation" pursuant to California law. *See, BUSINESS AND PROFESSIONS CODE – BPC, DIVISION 4, REAL ESTATE [11000 – 11288] CHAPTER 2. The Vacation Ownership and Time-Share Act of 2004 [11210 – 11288], Article 1 General Provisions [11210 – 11219], cited in this Count as the "Act", and on-point to this paragraph, at §11211.5(a)(1) which states that the Time-share Act is applicable to:*

Time-share plans with an accommodation or component site in this state [California].

86. Wyndham also sold the Plaintiffs points to be used in a booking service by RCI to access hundreds more hotels and resorts in California as "component sites" physically located in the State of California. *Act at §11211.5(a)(1) and known by definition under §112112(g) as:*

"Component Site" means a specific geographic location where accommodations of a multisite time-share plan are located.

1 87. Defendant Wyndham sold the Plaintiffs timeshares under a marketing system known
2 under California law to be a “multisite time-share plan”. *See, Act at §112112(z)(2)(B)*. Such
3 points use exist in the written Contracts between Wyndham and Plaintiffs that are known by
4 California law as:
5

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

9 ...
10 (2) A “multisite time-share plan,” which includes either of the following:

11 ...
12 (B) A “nonspecific time-share interest,” which is the right to use
13 accommodations at more than one component site created by or acquired
14 through the time-share plan’s reservation system, but including no specific
15 right to use any particular accommodations.

16 88. Further, Wyndham has a central booking “reservation system” that most Plaintiffs must
17 use for all bookings and other for some bookings, as part of Defendant’s “multisite time-share
18 plan” where the Plaintiffs are required to go through Defendant’s subsidiary, “RCI”, whose
19 Parent Company is “Wyndham”
20

21 89. RCI handles the central reservations for Wyndham’s multisite plan that Plaintiffs are
22 required to use to attempt to make bookings for accommodations or component sites in the
23 multisite time-share plan sold to Plaintiffs. *See, “reservation system” at §112112(u), stating:*

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

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

1 90. The Facts of the Plaintiffs are replete with actual experiences that demonstrate the
2 primary purpose and function of RCI's reservation system is to frustrate, obstruct and deny
3 bookings on behalf of its parent corporation, Wyndham, where "owners" pay many tens of
4 thousands, even hundreds of thousand as documented herein, for paltry bookings in degraded
5 facilities and/or substandard accommodations.
6

7 91. These are unfair and deceptive systems and strategies used to perpetrate sales fraud by:
8 (a) high interest loans (often doubling the principal amount); (b) ever-rising, multigenerational
9 fees (and hidden use fees), and to avoid expenses, (c) RCI use execution that is substandard,
10 and sparse to nonexistent, such that "owners" are in practice, *victims* of abusive sales practices
11 and predatory lending.
12

13 92. The operations and acts of all Defendants (including RCI) qualify for coverage under the
14 Act (see ¶71 - ¶76 above), where subsection 11285, provides:

15 An action for damages or for injunctive or declaratory relief for a violation
16 of this chapter may be brought by any time-share interest owner.... Relief
17 under this section does not exclude other remedies provided by law.

18 93. Defendant Wyndham owns a substantial amount of California resorts and hotels,
19 including the resort/hotel properties in the Northern California District where Plaintiffs herein
20 had their most recent purchase or upgrade, and a large amount of hotels, resorts, and chains, in
21 California, including Days Inn, Howard Johnson, Ramada, Travelodge and even Super 8 Motels
22 are all owned by Wyndham.
23

24 94. Thus, Defendant Wyndham and its subsidiary RCI, are under the Act as owning
25 "accommodations" geographically within the State of California.
26

27 95. By its acts and practices as herein described, Defendants in (a) - (f) below violated the
28 Act in multiple ways:

1 (a) Defendant Wyndham violated §11225 & §11238 by failing to provide certain documents
2 and certain disclosures clearly and conspicuously as required by law;

3 (b) Defendants Wyndham and RCI violated §11237 by failing to make proper disclosures as
4 required by law with regard to the incidental benefits offered to the Plaintiffs;

5 (c) Defendants Wyndham and RCI violated §11245 by making material misrepresentations,
6 including, but not limited to misrepresentations in connection with the promotion of a
7 time-share plan, the nature, qualities and/or characteristic of the offered time-share plan,
8 and/or incidental benefits;

9 (d) Defendant Wyndham violated §11265 by charging assessments in amounts not
10 proscribed by law, or by failing to provide proper notice regarding the increase of
11 assessments;

12 (e) Defendants Wyndham and RCI violated §11265 by failing to deliver on certain items
13 within the time represented to the Plaintiffs;

14 (f) Defendant Wyndham violated §11265 by including conflicting, misleading and/or
15 unlawful provisions among the various documents provided to the Plaintiffs;

16
17
18
19
20 96. Plaintiffs herein have suffered great financial losses and have been harmed by
21 Defendant's intentional and deceptive acts, which comprise precisely the type of conduct the
22 California Legislature sought to protect all consumers from when it enacted the Time-Share Act
23 of 2004.

24 97. Based on the foregoing, Plaintiffs request contract rescission, damages, including
25 Punitive Damages, and any other available remedies.

26
27 98. As may be available to any of the Plaintiffs herein, the California Unfair Competition
28 Law is a remedy, which normally provides treble damages for violations of the statute.

1 99. The violations of the timeshare act pled in this Count One, meet the standards for
2 coverage under the California's *Unfair Competition Law* (UCL) which is an equivalent to a
3 consumer protection act. *Cal. Bus. & Prof. Code §17200*.

4
5 100. However, applying that statute in matters where Defendants do ***systematic and repeated***
6 ***violations of law*** (as is alleged herein, for the Defendants with regard to timeshare act violations
7 and evidenced by many of the other causes of action and requests for relief herein, then the
8 court may include Punitive Damages as an available redress.

9
10 101. Defendants' systematic and repeated violations of law under the timeshare statute, fit
11 very well under the UCL Act, as well as its seminal case for application of Punitive Damages,
12 *Johnson v. Ford Motor Co.* (2005) 35 Cal.4th 1191, 29 Cal.Rptr3d. 401; 113 P.3d 82, and the
13 *Johnson* progeny of case law in support of Punitive Damages for acts precisely like the acts of
14 the Defendants herein.

15
16 102. The UCL confers standing on both private parties, but only private plaintiffs who have
17 "suffered injury in fact and lost money or property as a result of such unfair competition" may
18 file suit. *Cal. Bus. & Prof. Code §17203 and §17204 (2010)*.

19
20 103. California's UCL is broadly written. Section 17200 includes five definitions of unfair
21 competition: (1) an unlawful business act or practice; (2) an unfair business act or practice; (3) a
22 fraudulent business act or practice; (4) unfair, deceptive, untrue, or misleading advertising; or
23 (5) any act prohibited by Sections 17500-17577.5. In addition, a Section 17200 claim that is
24 based on a violation of another law—an "unlawful" claim—precisely as is the case with the
25 California Timeshare Act and all other laws pled pursuant to this Complaint, may lie even
26 where no private right of action exists pursuant to the underlying law, thus the coverage is
27 broad.
28

COUNT TWO

COMMON LAW FRAUD

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

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

105. Acts of both Defendants (Wyndham and RCI) evidence Fraud.

106. Defendant's staff engaged in high-pressure (and sophisticated hybrid sales tactics) through sales presentations that were designed to induce Plaintiffs to make a significant financial decision in a short time span based upon false information.

107. Defendant's representatives intentionally misrepresented certain material facts as referenced in the Plaintiff's Facts section. *See, Section III and Plaintiff Facts supp.*

108. Defendant's representatives knew (as this was their training) that their representations via tactics and fraud schemes detailed herein, were false and misleading.

109. Specific examples of these fraud schemes are set forth in Section III Facts and its component of Plaintiff Facts supplemental which is pled with particularity therein.

110. Defendant's sales and management stated falsities intentionally for the purpose of inducing Plaintiffs to enter into contracts to pay many thousands in purchase funds and future obligations, and collusively with RCI, eradicate expenses (restricted use/nonuse).

111. Defendant via RCI, protected profits with obtuse requirements to access (*see, ¶71 - 76*) where Plaintiffs pay \$8,000 - \$14,000 per week, which is 800% to 3000% or more than online. *See, ¶67(d); also see, Fn. 1, 1930% average increased charge for a Wyndham "Owner".*

112. Plaintiffs herein were also deceived with hidden contract terms that were concealed with active misrepresentations to the contrary, such as ever-rising maintenance fees which transfer to successor family members and future generations, evidencing blatant *Unconscionability*.

1 Defendants' staff members were acting as agents of the Defendant entities in this matter, and
2 the acts of the staff are attributable to Defendant, because they were performed in the course of
3 work, and trained, directed and managed daily by Defendants' Management that is involved
4 from the inception of hiring agents, through their education in the fraud schemes and refinement
5 in tactics and strategies, including daily execution designed to defraud consumers.
6

7 113. For all the reasons set forth herein, the Plaintiffs became induced to purchase a
8 timeshare interest from Defendant Wyndham by means of fraud & deceit. The false
9 representations of material facts, combined with the high-pressure sales pitches, deceptive
10 contracting procedures, defective [or absence of] disclosures, and frustration and refusal of
11 preexisting duties for booking services, as well as profit schemes, strategies and tactics to obtain
12 secondary upgrade contracts, were all used to separate the Plaintiffs from their money in
13 exchange for substantially less than what was promised.
14

15 114. Because of *Unconscionability* – **the absurdity and harshness exemplified by paying up to**
16 **1000% more for a room than before they contracted -and- Multi-Generational debt liability** –
17 the sales contracts between the parties should be Rescinded, and then permit this Court or a Jury
18 to award damages, including Punitive Damages that are warranted for the intentional, deceptive
19 and fraudulent acts of the Defendants.
20

21 **COUNT THREE**

22 **FRAUD IN THE OFFER OF SECURITIES**

23 (Violations of Section 17(a) of The Securities Act)

24 115. Plaintiffs incorporate by reference all the preceding paragraphs, as though fully set forth
25 herein.
26

27 116. Defendants, and each of them, by engaging in the conduct described above:

28 (a) directly or indirectly, in the offer or sale of securities by the use of means or

1 instruments of transportation or communication in interstate commerce or by use
2 of the mails: with scienter, employed devices, schemes, or artifices to defraud;

3 (b) obtained money or property by means of untrue statements of a material fact
4 or by omitting to state a material fact necessary in order to make the statements
5 made, in light of the circumstances under which they were made, not misleading;
6 or,

7 (c) engaged in transactions, practices, or courses of business which operated or
8 would operate as a fraud or deceit upon the purchaser.

9 117. By engaging in the conduct described above, each of Defendants violated, and unless
10 restrained and enjoined will continue to violate, Section 17(a) of the Securities Act, 15 U.S.C.
11 §77q(a).

12 Violations of Section 10(b) of The Exchange Act and Rule 10b-5 Thereunder

13 118. Defendants, by engaging in the conduct described above, directly or indirectly, in
14 connection with the purchase or sale of a security, by the use of means or instrumentalities of
15 interstate commerce, of the mails, or of the facilities of a national securities exchange, with
16 scienter:
17

18 (a) employed devices, schemes, or artifices to defraud;

19 (b) made untrue statements of a material fact or omitted to state a material fact
20 necessary in order to make the statements made, in the light of the circumstances
21 under which they were made, not misleading; or

22 (c) engaged in acts, practices, or courses of business which operated or would
23 operate as a fraud or deceit upon other persons.

24 119. By engaging in the conduct described above, each of Defendants violated, and unless
25 restrained and enjoined will continue to violate each of, Section 10(b) of the Exchange Act, 15
26 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. §240.10b-5.
27
28

COUNT FOUR

ELDER FINANCIAL ABUSE

(Qualifying Plaintiffs - CA Welfare & Institutions Code §15610.30)

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

121. Plaintiff claims that defendant violated the Elder Abuse and Adult Civil Protection Act by taking financial advantage of some of the older Plaintiffs.

122. Defendant was selling them timeshares that they did not need, were difficult to use and misrepresented as to various terms and conditions of the sale such as value, resale, rental, use, inheritance, and the purported need for costly and repetitive (predatory) upgrades that resulted in large mortgages and high maintenance fees.

123. Plaintiffs within their Co-Plaintiffs group have a sub class that are those Plaintiffs who were 65 years of age or older (some are very old and widowed) at the time of the fraudulent, abusive and/or predatory conduct took place either in the purchase process or the fulfilment process with RCI.

124. Defendant Wyndham took these Plaintiffs money and sold them a timeshare to defraud them or did so by placing them in duress and creating an environment where these Plaintiffs were subjected to Defendants undue influence. Plaintiffs herein were confronted with high pressure tactics, and tag-teaming sales presentations lasting for 4 to 8 hours to the point of physical exhaustion and mental stress, such that some Seniors herein were alarmed about their health and gave-in to the relentless pressure and agreed to the purchase as a matter of survival.

125. Many of these Senior abuse victims were on fixed incomes or highly limited incomes and could not afford an upgrade.

1 126. Despite hours upon hours trying to resist, these Seniors were forced take on severely
2 high mortgages or to take out credit cards they are still struggling to pay

3 127. At least one Senior who had said tried to resist for hours but ended up with an unknown
4 increase of \$900 in his monthly payment.
5

6 128. That Senior (Harry Jackson) had no idea Wyndham raised his obligations \$900 and was
7 tricked into signing documents he did not see the contents of until returning home, and he was
8 not given copies, so he had no idea he was abused in that way (although he knew about the
9 abusive pressure and insistence to force him to enter into a contract despite many hours of
10 saying: “no”), until the unseen contract documents arrived by mail after the statutory time to
11 rescind.
12

13 129. Many Senior Plaintiffs in this litigation were financially harmed by Defendant
14 Wyndham’s abusive and outrageous conduct, including sophisticated trickery and substantial
15 undue influence.
16

17 130. Defendant Wyndham and their highly trained salespersons using sales tactics directed
18 from the highest levels of Defendant Wyndham’s corporate activity, were a substantial factor in
19 the Plaintiffs’ harm, where Defendant has purposefully targeted Seniors.
20

21 131. Defendants knew or should have known their conduct would cause harm to these elderly
22 Plaintiffs.
23

24 132. This is especially true where there was obvious cognitive issues and a history known
25 abuse victimization, only to continue to upgrade these vulnerable Plaintiffs.
26

27 133. Defendant Wyndham’s timeshare contract’s terms and conditions deprived and continue
28 to deprive senior Plaintiffs of their finances, resulting in Plaintiffs being saddled with large
amounts of debt and maintenance fees in their golden years.

1 134. Defendant Wyndham’s subsidiary RCI is also responsible for confusing and tricking
2 vulnerable Senior Plaintiffs herein, and most disturbing, the predatory manipulation to set up
3 Upgrades for Seniors that are mentally vulnerable and/or on limited incomes, in order to coerce
4 them into unnecessary upgrade meetings for those who cannot properly defend or protect
5 themselves from such abuse.
6

7 135. And for those Senior Plaintiffs with some money, Defendants relentlessly pushed them
8 into upgrades totaling many tens of thousands in liability that would be owing and due in their
9 twilight years, and surreptitiously pass on to their children.
10

11 136. The Senior Plaintiffs herein have been damaged in an amount determined at trial.

12 **COUNT FIVE**

13 **BREACH OF CONTRACT**

14 137. Plaintiffs incorporate by reference all the preceding paragraphs, as though fully set forth
15 herein.
16

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

19 139. As pled herein with specificity for fraud, Defendant enticed Plaintiffs by promising that
20 owning a timeshare would allow them to specific use benefits to plan vacations easily for less
21 money than the non-owner in the public could book them for, and how Plaintiffs were making
22 an “investment” in real property that the owner can make money from future rental and resale,
23 which was a defining and persuasive benefit as the basis for the bargain.
24

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

1 141. Most if not all Plaintiffs experienced great difficulty in planning vacations and reserving
2 accommodations with the RCI, and Wyndham timeshares are ultimately valueless in the
3 common marketplaces, as they harbor significant debt, including escalating, recurring fees.

4
5 142. In addition to any post-contracting breaches that have occurred since the sale, Defendant
6 induced Plaintiffs by using many tactics and [contract misrepresentation] schemes pled in the
7 particular herein, in which each such act of misrepresentation, concealment and/or other acts of
8 deceit, shall serve to evidence breaches of the underlying Contract, and in all cases herein, those
9 breaches shall serve to evidence Breach of Contract due to Contract Misrepresentation.

10
11 **COUNT SIX**

12 **NEGLIGENT MISREPRESENTATION**

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

15
16 144. Plaintiffs seek rescission of any contract and further damages and relief pursuant to the
17 Counts above. In the alternative, to the extent needed for any Plaintiff's relief that is not
18 eligible for Fraud/Rescission or a statutory remedy, Plaintiffs are entitled to recover damages
19 for the negligence of the Defendants.

20
21 145. Specifically, the salesmen made false or at least negligent representations of highly
22 material facts (value, salability, debt obligations, inheritance and the fundamental use
23 privileges), as shown in the Facts, Section III above, including the Plaintiffs' pleading in the
24 particular. *See, Plaintiff Facts supp.*

25 146. Plaintiffs reasonably and justifiably relied on such representations by Defendant's staff.

26
27 147. This reliance was to the detriment of Plaintiffs who paid substantial funds and were
28 defrauded. *See, 67(d); also see, FN 1: an average of 1930% more cost than online bookings.*

1 148. Plaintiffs' down payments, high-interest mortgages debts and increasing fees were paid
2 as a direct and proximate cause of Defendant Wyndham's and Defendant RCI's predatory and
3 abusive misrepresentations.

4
5 149. At the time the misrepresentations were made, Defendant's representatives knew that
6 they were overtly false or were at least were negligently made. *See, Facts described in Section*
7 *III and the Plaintiff Facts supp. detailing the misrepresentation schemes.*

8 150. Defendant's staff and its subsidiary/partner/co-conspirator Wyndham/RCI, deceived and
9 frustrated and/or prevented use of points by the Plaintiffs intentionally, or at least negligently.

10
11 151. As a result of these intentional, or at least negligent misrepresentations, the Plaintiffs
12 herein have been harmed by Defendant's staff, its management, its agents, and its booking
13 company (specifically including Wyndham/RCI that intentionally or at least negligently
14 prevented the Plaintiffs from obtaining room bookings which is the purported purpose of a
15 timeshare contract and/or prevented the occurrence and realization of use promises made by
16 Defendant's staff).

17
18 152. And each of the Defendants to this lawsuit, including Wyndham/RCI, would
19 consequently be liable for damages that the Plaintiffs herein are entitled to, including Punitive
20 Damages.

21
22 153. Plaintiffs herein have suffered great loss financially and have been harmed and have
23 been distressed emotionally, some with physical manifestations.

24 154. Finally, some Plaintiffs have additional negligent harm from medical injury and/or
25 exacerbation, where such harm can be ignored by this Court if the same Plaintiffs were to
26 receive a rescission at a minimum, and the possibility of damages, possibly punitive in nature,
27 or to have a Jury evaluate Punitive Damages under this lawsuit.
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REQUEST FOR RELIEF

Plaintiffs request that relief be granted and ordered as follows:

1. For rescission of their Contracts;
2. For general damages in an amount according to proof;
3. For common law relief, and statutory relief under applicable state laws;
4. For punitive damages to punish the Defendant and deter such future conduct;
5. For attorney's fees as pled and requested hereinabove, court costs, prejudgment interest; and,
6. For such other and further relief as this Court may deem just and proper.

Dated this 26th day of August 2019.

THE ABRAMS FIRM

/S/Jack Duran, Jr

Jack Duran, CA Bar No. 221704
Attorney for the Plaintiffs

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38 (b), Plaintiff requests a jury trial of all issues triable of right by a jury.