

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Case Number: CGC-15-549094

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COMPLAINT

PEOPLE OF THE STATE OF CALIFORNIA, VS. CORRECTIVE EDUCATION
COMPANY ET AL

001C05167912

Instructions:

Please place this sheet on top of the document to be scanned.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

FOR COURT USE ONLY

Dennis J. Herrera, City Attorney, SBN #139669
 Joshua S. White, Deputy City Attorney, SBN #237223
 Office of the San Francisco City Attorney
 1 Dr. Carlton B. Goodlett Place, Room 234
 San Francisco, CA 94102-4682

TELEPHONE NO.: (415) 554-4661 FAX NO.: (415) 554-4699

ATTORNEY FOR (Name): People of the State of California ex rel. Dennis Herrera

FILED
 Superior Court of California
 County of San Francisco

NOV 23 2015

CLERK OF THE COURT

BY: Adeline Ramon
 Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco

STREET ADDRESS: 400 McAllister Street

MAILING ADDRESS:

CITY AND ZIP CODE: San Francisco, CA 94102

BRANCH NAME:

CASE NAME: People of the State of California, ex rel.
 Dennis J. Herrera, v. Corrective Education Company, et al.

CIVIL CASE COVER SHEET

☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation

☐ **Counter** ☐ **Joinder**
 Filed with first appearance by defendant
 (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

CGC-15-549094

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

- ☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- ☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- ☒ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

- ☐ Wrongful termination (36)
☐ Other employment (15)

Contract

- ☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

- ☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

- ☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

- ☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)

- ☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- ☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

- ☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- ☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
 b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): ONE

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: November 23, 2015

Joshua S. White, Deputy City Attorney

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

CORRECTIVE EDUCATION COMPANY;
MONUMENT SECURITY, INC.; and DOES 1 through 50,
inclusive.

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

PEOPLE OF THE STATE OF CALIFORNIA, acting by and
through San Francisco City Attorney DENNIS J. HERRERA

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA -
COUNTY OF SAN FRANCISCO
400 McAllister Street
San Francisco, CA 94102

CASE NUMBER:
(Número del Caso):

CC-15-549094

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Joshua S. White, DCA, SBN #237223 (415) 554-4661
Office of the San Francisco City Attorney
1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102-4682

Arlene Ramos
ARLENE RAMOS

DATE:

(Fecha)

NOV 23 2015

CLERK OF THE COURT

Clerk, by

(Secretario)

, Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):



1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 RONALD P. FLYNN, State Bar #184186
Chief Deputy City Attorney
3 YVONNE MERE, State Bar #173594
Chief of Complex and Affirmative Litigation
4 JEREMY M. GOLDMAN, State Bar #218888
JOSHUA S. WHITE, State Bar #237223
5 Deputy City Attorneys
City Hall, Room 234
6 1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
7 Telephone: (415) 554-4661
Facsimile: (415) 554-4699
8 E-Mail: joshua.white@sfgov.org

9 Attorneys for Plaintiff
PEOPLE OF THE STATE OF CALIFORNIA,
10 acting by and through San Francisco City Attorney
DENNIS J. HERRERA
11

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF SAN FRANCISCO

14 UNLIMITED JURISDICTION

15 PEOPLE OF THE STATE OF CALIFORNIA,
16 acting by and through San Francisco City
Attorney DENNIS J. HERRERA,

17 Plaintiff,

18 vs.

19 CORRECTIVE EDUCATION COMPANY;
20 MONUMENT SECURITY, INC.; and DOES
1 through 50, inclusive,

21 Defendants.
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FILED
Superior Court of California
County of San Francisco

NOV 23 2015

CLERK OF THE COURT

By: Arlene Ramon
Deputy Clerk

Case No.

CGC -15-549094

**COMPLAINT FOR INJUNCTIVE AND
EQUITABLE RELIEF AND CIVIL
PENALTIES FOR VIOLATIONS OF
BUSINESS AND PROFESSIONS CODE
SECTIONS 17200**

1 Plaintiff, the People of the State of California ("THE PEOPLE"), acting by and through San
2 Francisco City Attorney Dennis J. Herrera, is informed and believes and alleges as follows:

3 INTRODUCTION

4 1. The California legislature has authorized cities and counties to adopt legislation that
5 allows first-time offenders accused of most misdemeanors the opportunity to participate in pretrial
6 diversion programs. San Francisco has done so, along with a dozen other counties in California.
7 Pretrial diversion programs reflect the California legislature's view that the goals of crime reduction
8 and rehabilitation are best served not by placing misdemeanor offenders in jail, but instead, by
9 allowing them to participate in programs that focus on education, counseling, and community service.
10 These programs have become an integral part of the criminal justice system, and people who choose to
11 participate have had the benefit of due process of law and the opportunity to consult with a lawyer and
12 avail themselves of the panoply of other rights guaranteed by the federal and state Constitutions. The
13 California legislature has placed strict rules on how these programs must operate. By law, each
14 program must be annually approved by the local district attorney and subject to strict oversight. In
15 addition, state law prohibits pretrial diversion programs from requiring participants to sign an
16 admission of guilt and requires a dismissal of all charges upon successful completion of the program.

17 2. Defendant CORRECTIVE EDUCATION COMPANY, INC. ("CEC") holds itself out
18 as a "pre-complaint educational program" that is "consistent with California's statutorily authorized
19 diversion programs." In fact, it is nothing of the sort. Founded in 2010 by two Harvard business
20 school graduates, CEC's "vision is to reinvent the way crimes are handled, starting with retail theft."
21 That vision involves making threats and false and misleading statements to people detained by private
22 security guards in the back room of a store to induce them to sign unlawful and unconscionable
23 contracts confessing to crimes and agreeing to pay CEC hundreds of dollars for an "educational" video
24 program that operates without the knowledge or involvement of the criminal justice system, and that
25 flouts many of the laws that regulate pretrial diversion programs as well as a host of other laws.

26 3. CEC pays retailers and security companies to offer accused shoplifters the Hobson's
27 Choice between criminal prosecution and paying CEC hundreds of dollars to participate in a six hour
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1 long, CEC-created behavioral modification program. Faced with this “choice,” approximately 90
2 percent of the 20,000 people CEC and its partners have accused of shoplifting have chosen to enroll in
3 CEC’s program. CEC prides itself on its coercive business model, touting its program as “completely
4 offender funded.”

5 4. In a typical scenario, a security guard in a retail store leads a suspected shoplifter to a
6 secluded area in the back of the store and shows a short video created by CEC that presents this
7 “choice.” As described below, the video is rife with false and misleading statements designed to
8 pressure people into committing to pay CEC money.

9 5. To enroll in CEC’s program, the accused shoplifter must sign a contract that includes
10 not only a promise to pay CEC a fee listed as five hundred dollars, but an admission of guilt. CEC
11 then uses this “confession” as leverage to coerce accused shoplifters into paying CEC—if the person
12 does not pay, CEC threatens to turn the case over to the police for prosecution, including by providing
13 the police with the signed confession.

14 6. To increase the number of enrollees, and in turn, CEC’s profits, CEC pays retailers and
15 security companies for each enrolled “student.” CEC has agreed to pay Defendant MONUMENT
16 SECURITY, INC. (“MONUMENT SECURITY”) ten dollars per enrollee, and has agreed to pay at
17 least one retailer over one hundred dollars per enrollee. This payment structure creates a powerful
18 incentive to pressure people to enroll in CEC, regardless of the evidence, if any, of their guilt. CEC
19 thus encourages security companies, including MONUMENT SECURITY, to target not just
20 individuals who may have shoplifted, but those who are most likely to fear getting turned over to the
21 police. CEC wholly supplants the criminal justice system, allowing a single security guard to play the
22 role of police, prosecutor, judge, and jury.

23 7. The financial incentive for retailers and security guards, the secluded and isolated
24 location where the interaction typically occurs, the fact that the interaction occurs while the suspect is
25 detained, the threat of criminal prosecution, the false and misleading statements in the video, and the
26 fact that the accused shoplifter has a limited time to make his or her or choice blend together to place
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1 suspected shoplifters in a highly coercive predicament, and it is no surprise that, as noted above, 90
2 percent of people "choose" to enroll in CEC's program.

3 8. Not only do CEC and its partners violate the public policies behind California's pretrial
4 diversion laws, they violate a host of other laws as well. For instance, threatening accused shoplifters
5 with criminal prosecution unless they pay CEC hundreds of dollars violates California's extortion
6 laws. CEC and its partners also abuse California's merchant's privilege, which provides retailers with
7 limited authority to detain accused shoplifters only to conduct a reasonable investigation and, if
8 necessary, to wait for the police to arrive. Disregarding the limits of this privilege, CEC and its
9 partners including MONUMENT SECURITY falsely imprison suspected shoplifters and turn them
10 into a captive audience for CEC's high-pressure sales tactics.

11 9. THE PEOPLE bring this suit to enjoin CEC, MONUMENT SECURITY, and the
12 retailers and other security companies with which CEC partners from future illegal conduct that is
13 harmful to consumers and to recover funds for consumers who were victimized by DEFENDANTS'
14 unlawful, fraudulent, and/or unfair practices. THE PEOPLE also seek to impose civil penalties on
15 DEFENDANTS for their illegal conduct.

16 PARTIES

17 10. Plaintiff, the People of the State of California ("THE PEOPLE"), by and through San
18 Francisco City Attorney Dennis J. Herrera, prosecutes this action pursuant to California Business and
19 Professions Code section 17200 *et. seq.*

20 11. Defendant CORRECTIVE EDUCATION COMPANY is a Utah corporation registered
21 at 2825 Cottonwood Parkway, Suite 500, Salt Lake City, UT 84121.

22 12. Defendant MONUMENT SECURITY, INC. is a California corporation registered at
23 4926 43rd Street, McClellan, CA 95652.

24 13. The transactions and practices described herein involve additional entities whose
25 identities and involvement are unknown to THE PEOPLE. The true names and capacities, whether
26 corporate, associate, individual, partnership or otherwise, of DEFENDANTS DOES 1 through 50,
27 inclusive, are unknown to THE PEOPLE, which therefore sue said DEFENDANTS by such fictitious
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1 names. THE PEOPLE will seek leave of court to amend this Complaint to allege their true names and
2 capacities when the same are ascertained.

3 14. Whenever reference in this Complaint is made to any act or transaction of any
4 corporation, business, or other organization, that allegation shall be deemed to mean that the
5 corporation, business, or other organization did or authorized the acts alleged in this Complaint
6 through its principals, officers, directors, employees, members, agents and representatives while they
7 were acting within the actual or ostensible scope of their authority.

8 JURISDICTION AND VENUE

9 15. The Superior Court has jurisdiction over this action. DEFENDANTS are conducting
10 unlawful and deceptive business practices in San Francisco and the City Attorney has the right and
11 authority to prosecute these cases on behalf of THE PEOPLE. People in San Francisco have been
12 victimized by DEFENDANTS' unfair, unlawful, fraudulent, and deceptive business practices.

13 16. Venue is proper in this Court because DEFENDANTS transact business in the City and
14 County of San Francisco and some of the acts complained of occurred in this venue.

15 FACTUAL BACKGROUND

16 I. CEC'S SYSTEM FOR "PROCESSING" ACCUSED SHOPLIFTERS.

17 17. CEC promises retailers and private security companies a faster, more efficient, and
18 entirely "offender-funded" way to "process" shoplifters. The foundation of CEC's system is CEC
19 Connect, an iPad-based software application that enables private security guards to input a variety of
20 information about the accused shoplifter, perform background checks against a CEC-maintained
21 database, and enroll eligible first-time offenders in the company's behavioral modification program.

22 18. CEC's behavioral modification program, called CEC Restore, claims to provide alleged
23 shoplifters "with the tools and training they need to move beyond past mistakes." The courses consist
24 of online videos and worksheets that are to be completed within a 90-day period following the initial
25 agreement to enroll.

26 19. CEC enters into contracts with retailers and security companies, including
27 MONUMENT SECURITY. In MONUMENT SECURITY's contract with CEC, MONUMENT
28

1 SECURITY agrees to provide CEC with a list of "mutually agreed upon client locations in which they
2 will utilize the CEC program." In each of those locations, MONUMENT SECURITY promises to
3 use CEC's system for processing alleged shoplifters. In return, CEC provides MONUMENT
4 SECURITY and, on information and belief, other security companies with which CEC partners, free
5 of charge, with CEC's system for processing shoplifters, which includes an iPad equipped with CEC
6 Connect, an internet connection, a wireless printer, 24/7 technical support, personalized training for
7 each security guard, and on-site training during a pilot phase.

8 20. CEC creates an incentive system that invites retailers and security companies to extract
9 as much money as possible from accused shoplifters. Under this incentive system, CEC pays retailers
10 and security companies for each person who enrolls in CEC's behavioral modification program. CEC
11 agrees to pay the retailer or security company either a lump sum or a set amount for each person who
12 enrolls in a CEC course. As noted above, CEC agreed to pay MONUMENT SECURITY ten dollars
13 for each enrollee. There is no provision in the contract setting forth the amount of evidence
14 MONUMENT SECURITY employees must have before attempting to enroll that person in CEC's
15 program.

16 21. In one contract, these payments, which CEC characterizes as "restitution," exceeded
17 one hundred dollars per enrolled shoplifter. This financial incentive encourages CEC's partners such
18 as MONUMENT SECURITY to foist CEC's system on as many people as possible, regardless of the
19 evidence, if any, of their guilt. At particular risk of exploitation are those individuals who a security
20 guard perceives would be most likely to buckle under CEC's high-pressure tactics, perhaps out of fear
21 of being turned over to law enforcement.

22 **II. DEFENDANTS GIVE ACCUSED SHOPLIFTERS THE HOBSON'S CHOICE**
23 **BETWEEN FACING CRIMINAL PROSECUTION OR PAYING CEC HUNDREDS OF**
24 **DOLLARS.**

25 22. Once a security guard has detained a suspected shoplifter, the security guard typically
26 transports the individual to a secluded location in the store. Using CEC Connect, the security guard
27 collects the individual's personal information; takes his or her mug shot and fingerprints; and
28 determines whether the individual is a first-time offender, and as such, is eligible for CEC's program.

1 If the individual is eligible for CEC's program, the security guard shows the person a short video
2 created by CEC.

3 23. Upon information and belief, if an accused shoplifter refuses to watch the video, the
4 security guard may refer the shoplifting case to law enforcement for criminal prosecution. Thus, the
5 accused shoplifters becomes a captive audience for CEC's video.

6 24. The video begins by implying, regardless of its accuracy, that the person has been
7 caught shoplifting on videotape. It also states that videotape evidence is "irrefutable" in court. CEC
8 then presents the accused shoplifter with a stark choice. One option is to sign an admission of guilt
9 and agree to pay CEC for its behavioral modification course. The video informs accused shoplifters
10 that if they choose this option, they will be immediately released. The video further informs accused
11 shoplifters that if they complete the program and pay CEC's program costs, the police will never be
12 informed of the alleged shoplifting incident. The other option presented is to not participate in CEC's
13 program. If the accused shoplifter chooses this option, the video states that the security guard will
14 continue "processing this incident," which is a euphemism for calling the police. Even if an accused
15 shoplifter chooses the first option, the video states that "if you fail to complete the requirements of this
16 program, your information and the information about the incident will be given to law enforcement,
17 and you may be required to appear in court."

18 25. CEC's video is rife with false and misleading statements designed to distort the choice
19 facing accused shoplifters and boost the likelihood that they will agree to pay CEC money. Some of
20 these statements, in addition to those discussed above about videotape evidence, are:

- 21
- 22 • "If you feel strongly about your innocence, you should not take this program. But you should
23 consider hiring an attorney to defend you in court." This statement is misleading for at least
24 two reasons. First, it falsely implies that a person accused of a crime must *hire* a lawyer, when
25 in fact, the person may be entitled to have counsel appointed for him or her without charge.
26 The goal of this statement is to imply that choosing criminal prosecution instead of enrolling in
27 CEC includes the significant cost of hiring an attorney. Second, the statement falsely implies
28

1 that only people who believe themselves to be innocent should hire lawyers, when in fact, all
2 people accused of a crime have a right to (and would undoubtedly benefit from) counsel,
3 regardless of whether they believe themselves innocent.

- 4 • “If you successfully complete the program, this case will be dropped, and your information
5 will not be forwarded to law enforcement, ultimately avoiding a criminal record and saving
6 you time and money.” This statement is false and/or misleading because it implies that the
7 person will be prosecuted and convicted if his or her information is forwarded to law
8 enforcement, and also that a penalty will be imposed that exceeds the hundreds of dollars he or
9 she is required to pay CEC for its program. It is entirely possible that if CEC referred a matter
10 to the police, they would take no action whatsoever, particularly if the value of the items
11 allegedly shoplifted was low. And even if the police opted to arrest the accused shoplifter, the
12 criminal case may be dropped before the shoplifter incurs any expense. CEC frames the legal
13 system as harsh, costly, and arduous in order to pressure accused shoplifters to enroll in CEC’s
14 program. The statement is also false and/or misleading because the person may be prosecuted
15 even if he or she successfully completes CEC’s program.
- 16 • “This program is similar to programs that the court often requires defendants to participate in
17 as part of their sentencing when they are found guilty.” This statement is misleading because it
18 confers unwarranted legitimacy on CEC’s business model when in fact CEC operates outside
19 the criminal justice system, its program is contrary to California public policy and has not been
20 approved by any California court or prosecutor, and CEC violates California law.
- 21 • The Spanish language version of the video states: “For almost 18 years, judges throughout the
22 country have used CEC programs to resolve misdemeanors.” This statement is misleading not
23 only because CEC has only been existence since 2010, but, just as with the phrase in the
24 previous bullet point, CEC is seeking to wrap itself in a cloak of legitimacy and lawfulness
25 when in reality, CEC’s business model violates the letter and spirit of a host of laws, as
26 described throughout this Complaint.

26. Accused shoplifters wishing to avoid criminal prosecution must sign a "Detainee Agreement" committing to pay CEC up to five hundred dollars for the course, regardless of the cost of the items they are accused of stealing and even if the cost of CEC's program is grossly disproportionate to the value of the items allegedly stolen.

27. Appearing at the top of the agreement are the words, "Criminal Compromise Agreement." This statement is false, deceptive, and misleading because it gives the document the veneer of a lawful agreement to compromise a criminal offense, when in fact, as discussed below, the agreement violates California laws and public policy governing such compromises.

28. This agreement also includes an admission of guilt, which states that accused shoplifters “understand they have committed an Act of Shoplifting/Petty Theft, in this Establishment, that amounts to a criminal offense” and that they “voluntarily admit that [they] committed the Act and assume all civil liability for the Act.” Though CEC has emphasized that a person may choose to cancel his enrollment in CEC and face criminal prosecution, anyone who chooses that option has already signed a written statement of guilt. CEC therefore retains power over the individual’s fate even if he or she chooses to pursue the issue through law enforcement, undermining the right to due process and fatally undercutting any argument by CEC that accused shoplifters are always free to terminate their agreement with CEC.

III. CEC LEVERAGES THE COERCED ADMISSION OF GUILT TO PRESSURE ACCUSED SHOPLIFTERS INTO PAYING CEC HUNDREDS OF DOLLARS

29. CEC's efforts to enrich itself at the expense of accused shoplifters do not end once the contract is signed. If an accused shoplifter is unable to pay or does not pay and complete the program within the 90-day time frame, CEC makes threatening phone calls and sends threatening letters promising to refer the shoplifting charge to law enforcement for criminal prosecution. In at least one case, CEC sent a letter to an accused shoplifter stating, "CEC is preparing to forward your case to local law enforcement. Contact us immediately to prevent the filing of a criminal complaint." Thus, CEC uses the threat of criminal prosecution in the underlying shoplifting case to secure payment for its own contractual claim.

1 30. In these letters, CEC continues to wield the fear of criminal prosecution to secure
2 financial gain. CEC chooses not to advise accused shoplifters of the fact that they may withdraw from
3 the contract. And in any event, even if the letters did say as much, a withdrawal would not be without
4 consequence for the accused shoplifter, given CEC's promise to refer such matters to law enforcement
5 along with a signed confession.

6 **CAUSE OF ACTION AGAINST ALL DEFENDANTS FOR**
7 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

8 31. THE PEOPLE incorporate by reference the allegations contained in each paragraph
9 above, as if those allegations were fully set forth herein.

10 32. California Business and Professions Code § 17200 prohibits any "unlawful, unfair, or
11 fraudulent business act or practices." DEFENDANTS have engaged in unlawful, unfair, and
12 deceptive business acts or practices in violation of section 17200. DEFENDANTS' acts and practices
13 as set forth in this Complaint are unfair business practices because they offend established public
14 policy, and cause harm that greatly outweighs any benefits associated with those practices. In
15 addition, these business practices are unscrupulous, immoral, and so unfair as to shock the conscience.

16 33. Such acts or practices include but are not limited to those described below. With regard
17 to each of these acts and practices, except where otherwise specifically noted, each DEFENDANT has
18 aided and abetted all other DEFENDANTS in violating the letter of and the public policy embodied in
19 the laws set forth in this Complaint. In the alternative, MONUMENT SECURITY was acting as
20 CEC's agent, as were all other DEFENDANTS.

21 **DEFENDANTS Violate California's Extortion Laws.**

22 34. DEFENDANTS have violated and continue to violate the letter of and the public policy
23 embodied in California's laws criminalizing extortion.

24 35. The law defines extortion as "the obtaining of property from another, with his consent. .
25 . induced by the wrongful use of force or fear" Penal Code § 518. The law provides specific
26 categories of threats inducing fear that may be classified as extortion, including threats "to accuse the
27 individual threatened . . . of a crime" or "to expose, or to impute to him . . . a deformity, disgrace, or
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1 crime.” Penal Code § 519. Extortion can occur even before the property at issue has actually changed
2 hands, and acquiring one’s signature through the use of the threats articulated in section 519
3 constitutes extortion if that signature creates “any debt, demand, charge, or right of action.” Penal
4 Code § 522. Finally, attempted extortion is a crime under Penal Code section 524.

5 36. CEC has created a video that offers accused shoplifters the “choice” between criminal
6 prosecution and paying CEC hundreds of dollars. CEC then pays retailers and private security
7 companies such as MONUMENT SECURITY and DOES 1 through 50 to show accused shoplifters
8 this video and obtain their enrollment in CEC’s program.

9 37. DEFENDANTS have used threats of criminal prosecution to cause accused shoplifters
10 to sign an agreement to pay CEC. DEFENDANTS had the specific intent to use the fear of criminal
11 prosecution to cause accused shoplifters to give CEC money, and to commit to giving CEC money.
12 DEFENDANTS’ threats are the controlling reason that accused shoplifters have consented to give and
13 have actually given CEC money. Indeed, apart from the fear of criminal prosecution, there is no other
14 realistic reason why an accused shoplifter would agree to pay CEC money, particularly when that sum
15 of money vastly exceeds the value of the goods allegedly stolen.

16 38. DEFENDANTS’ specific intent can be inferred from several circumstances, including
17 but not limited to the following: the threat to refer accused shoplifters for prosecution if they do not
18 enroll in CEC’s program; the fact the CEC has created a financial incentive for retailers and security
19 companies, including MONUMENT SECURITY, to enroll as many “students” as possible, regardless
20 of the evidence of their guilt; the secluded and isolated location where the interaction with security
21 guards occurs; the fact that the interaction occurs while the suspect is detained; the fact that the
22 detention is illegal; the false and misleading statements in CEC’s video; the fact that the accused
23 shoplifter has a limited time to make his or her choice; and the fact that there is no relationship
24 between the value of any stolen items and how much an accused shoplifter must pay CEC.

25 39. CEC has claimed that its business model does not constitute extortion because
26 participation is “voluntary” and “consensual.” But the fact that an accused shoplifter has consented to
27 give CEC money is not a defense to an extortion charge. To the contrary, an element of extortion is
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1 "consent . . . to give the defendant money [or property]." The key point is that CEC and the other
2 DEFENDANTS have obtained that consent using the fear created by the threat of criminal
3 prosecution.

4 40. Further, CEC and DOES 1 through 50 have violated and continue to violate the letter of
5 and the public policy embodied in Penal Code Section 523, which makes it a crime to deliver a threat
6 in writing with intent to extort money. The sender is guilty of extortion whether or not the money is
7 actually obtained.

8 41. CEC has violated the letter and the public policy embodying Section 523 by sending
9 threatening letters to accused shoplifters threatening them with criminal prosecution unless they pay
10 money to CEC. CEC sends these letters with the specific intent to use the accused shoplifter's fear of
11 criminal prosecution as the principal and controlling means to obtain the accused shoplifter's money.
12 CEC's specific intent can be inferred from the following facts, in addition to those discussed
13 throughout this Complaint: When CEC writes these letters, it does so with the awareness that it
14 possesses a signed admission of guilt by the accused shoplifter. Further, CEC does so with the
15 awareness that it has already informed the accused shoplifter in the Detainee Agreement that if the
16 individual does not pay CEC or complete CEC's behavioral modification program, the signed
17 admission of guilt will be provided to law enforcement.

18 42. Upon information and belief, these threats are sometimes successful, and accused
19 shoplifters consent to give CEC money. This consent is the result of CEC's wrongful use of the fear
20 engendered by CEC's threat of criminal prosecution.

21 43. CEC has violated the letter and spirit of California's extortion laws by making phone
22 calls to accused shoplifters threatening to turn them over to law enforcement and cause criminal
23 prosecution unless they pay CEC. CEC makes these threats with the specific intent to create fear in
24 the accused shoplifter, and use the fear engendered by those threats to cause the shoplifter to pay CEC.
25 Upon information and belief, these threats are sometimes successful, and accused shoplifters consent
26 to give CEC money. This consent is as the result of CEC's wrongful use of the fear engendered by
27 CEC's threat of criminal prosecution.

1 44. The threatening letters and the video described above also violate the letter of and the
2 public policy embodied in Penal Code Section 524. Such letters and the video constitute attempts, by
3 means of threat of criminal prosecution, to extort money from accused shoplifters.

4 **DEFENDANTS Falsely Imprison Accused Shoplifters.**

5 45. DEFENDANTS have falsely imprisoned and continue to falsely imprison accused
6 shoplifters by detaining them without their consent, whether physically or through threats of arrest and
7 prosecution, for purposes other than conducting an investigation or waiting for police to arrive.

8 46. DEFENDANTS may not rely on the merchant's privilege as a basis for detaining
9 accused shoplifters. That privilege, embodied in California Penal Code § 490.5(f)(1), authorizes
10 merchants to detain accused shopkeeper's "for a reasonable time for the purpose of conducting an
11 investigation in a reasonable manner." Yet DEFENDANTS detain accused shoplifters for an entirely
12 different purpose that is far beyond anything that could reasonably be considered an investigation
13 under Penal Code § 490.5(f)(1) – to force them to watch a video, then to try to extract payments and
14 promises to make payments to CEC, as well as admissions of guilt.

15 **DEFENDANTS Engage in Fraudulent and Deceptive Business Acts and**
16 **Practices By Showing Accused Shoplifters CEC's Video.**

17 47. DEFENDANTS' business practices, as alleged herein, constitute fraudulent and
18 deceptive acts and practices within the meaning of Business & Professions Code Section 17200.
19 DEFENDANTS have made and continue to make representations that are false, misleading, untrue,
20 deceptive and likely to deceive the public. These representations include but are not limited to the
21 following: likening CEC's business model to court-approved and supervised programs to imply that
22 CEC's business model is lawful and legitimate when in fact it is not; suggesting that only people who
23 have committed crimes are entitled to an attorney when in fact all people accused of crimes are so
24 entitled; mischaracterizing the costs associated with criminal prosecution; and claiming that courts use
25 CEC when, on information and belief, no court in California does.

48. DEFENDANTS knew, recklessly disregarded, or should have known that statements in the video shown to accused shoplifters, as described above, were false, misleading, untrue, deceptive and likely to deceive the public.

DEFENDANTS Have Imposed Unconscionable Contract Terms on Accused Shoplifters.

49. DEFENDANTS have violated and continue to violate the letter of and the public policy embodied in California Civil Code § 1770(a)(19) by imposing unconscionable contract terms upon accused shoplifters in CEC's Detainee Agreement. The Detainee Agreement includes a Utah choice-of-law provision, but even if it applies, the Agreement is unconscionable under the law of either California or Utah.

50. The Detainee Agreement is procedurally unconscionable because, among other reasons, it is signed under the threat of prosecution and removes from the accused shoplifter all power to negotiate and all meaningful choice. Moreover, it is substantively unconscionable to force accused shoplifters to pay CEC hundreds of dollars regardless of the cost of the items they have allegedly stolen; to condition participation on an admission of guilt, which is then turned over to the police in the event of default; to foist "costs and expenses, including attorney fees" of enforcement on accused shoplifters in the event of default; to require a waiver of "any claim for wrongful detention, coercion, or extortion, or any similar claim or defense that may exist under the laws of this jurisdiction against the Company or the Establishment"; and to require participants to "release and discharge the Company and the Establishment from any and all liability in connection with any claim I may hold, or in the future may hold, in any and all matters relating to or derived from the Act, or acceptance and administration of the Program." Moreover, in the event of a default by CEC, the Agreement provides that the enrollee's sole remedy is a refund of fees paid to CEC, whereas a default by the enrollee entitles CEC not only to contact law enforcement but also to pursue "any remedy allowed by law." These terms violate public policy and are so severe and one-sided as to be unconscionable.

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**DEFENDANTS Violate Public Policy Embodied in Penal Code Provisions
Regarding Diversion Programs.**

51. DEFENDANTS have violated and continue to violate the public policy embodied in many of the California Penal Code provisions that set forth the rules for pretrial diversion programs. Examples of these provisions include but are not limited to those discussed below.

52. Penal Code Section 1001.3 states that, "At no time shall a defendant be required to make an admission of guilt as a prerequisite for placement in a pretrial diversion program." DEFENDANTS violate the public policy embodied in this provision by forcing accused shoplifters to make such an admission as a prerequisite for enrollment in CEC's program. CEC further violates the public policy underlying that law by using the admission as leverage to extract payment.

53. Penal Code Section 1001.2(b) states: "The district attorney of each county shall review annually any diversion program established pursuant to this chapter, and no program shall continue without the approval of the district attorney. No person shall be diverted under a program unless it has been approved by the district attorney." Yet neither the San Francisco District Attorney, nor, on information and belief, any other district attorney in California has approved any aspect of CEC's program. The absence of such review violates the public policy embodied in Penal Code Section 1001.2(b).

54. Penal Code Section 1001.4 entitles a person enrolled in pretrial diversion program to a hearing in a court of law before termination of enrollment. CEC violates the spirit of this law by empowering itself, in its Detainee Agreement, to "terminate this Agreement for any reason at any time." Likewise, CEC makes itself "the sole judge as to the efficiency with which [an enrollee] carr[ies] out [his/her] duties and responsibilities."

55. CEC's program also violates the public policy underlying provisions of the Penal Code regarding the successful completion of a pretrial diversion program. Penal Code Section 1001.7 states that, "If the divertee has performed satisfactorily during the period of diversion, the criminal charges shall be dismissed at the end of the period of diversion." In other words, successful completion of a pretrial diversion results in the dismissal of all criminal charges once and for all. Yet this is not so for someone who successfully completes CEC's program. CEC's "Detainee Agreement" states that "I

1 UNDERSTAND THERE IS NO GUARANTEE LAW ENFORCEMENT WILL NOT PROSECUTE
2 ME EVEN IF I PARTICIPATE IN OR COMPLETE THE PROGRAM.” CEC’s video also notes:
3 “And if you commit any offense in this or any other participating establishment within 12 months, this
4 incident may be reopened and you may have to answer to multiple charges by law enforcement, where
5 fines, penalties and charges may be higher, longer and more severe. Additionally, you may be
6 responsible to pay damages, restitution, and civil demands relating to this case.” The fact that
7 successful completion of CEC’s program does not preclude the possibility of criminal charges violates
8 the public policy embodied in Penal Code Section 1001.7.

9 56. The fact that CEC operates entirely outside the criminal justice system strips district
10 attorneys’ offices of any and all oversight functions, which are described in detail in the Penal Code.
11 This lack of oversight violates the public policy established by the California legislature when it
12 encouraged the establishment of pretrial diversion programs.

13 **CEC and DOES 1-50 Violate the Public Policies Underlying**
14 **California Laws Regarding Civil Compromise.**

15 57. DEFENDANTS have violated and continue to violate the public policy embodied in the
16 California Penal Code regarding civil compromise. With certain exceptions, the law allows a person
17 who has been injured by an act constituting a misdemeanor and for which there is a remedy by a civil
18 action to enter into a civil compromise with the person who committed the act. *See* Penal Code §
19 1377. However, civil compromises cannot legally occur outside the context of the criminal justice
20 system. Penal Code Section 1378 requires the injured person to appear “before the court in which the
21 action is pending at any time before trial, and acknowledge[] that he has received satisfaction for the
22 injury.” Upon this acknowledgment, the court has discretion to “on payment of the costs incurred,
23 order all proceedings to be stayed upon the prosecution, and the defendant to be discharged
24 therefrom.”

25 58. DEFENDANTS violate the public policy embodied in these laws by attempting to enter
26 into and actually entering into their own form of civil compromise that exists entirely outside the
27 context of the criminal justice system and without the approval of the court or the prosecutor. Further,
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1 as noted above, California's civil compromise laws only allow the injured party to enter into a civil
2 compromise. In other words, only the person who has been the victim of the crime can obtain
3 compensation from the person who committed it. CEC, MONUMENT SECURITY, and other
4 security firms with which CEC has partnered, are not injured parties, yet under the guise of civil
5 compromise, they seek to enrich themselves at the expense of accused shoplifters.

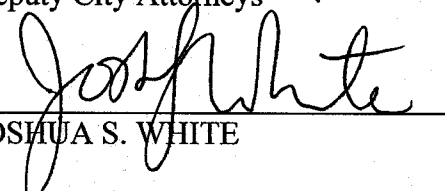
6 **PRAYER FOR RELIEF**

7 THE PEOPLE pray for relief as follows:

- 8 1. Preliminary and permanent injunctive relief by which the Court prohibits the
9 DEFENDANTS from performing or proposing to perform or aiding and abetting any acts of unfair
10 competition or deceptive advertising in California, and by which the Court requires DEFENDANTS to
11 conform their business practices to California law and policy;
- 12 2. An order that DEFENDANTS pay \$2,500.00 in civil penalties for each violation of
13 Business and Professions Code section 17200;
- 14 3. Provisional final remedies against DEFENDANTS including, without limitation,
15 restitution, and injunctive relief;
- 16 4. Costs of suit; and
- 17 5. For such further and additional relief as the Court deems proper.

18 Dated: November 23, 2015

19 DENNIS J. HERRERA
20 City Attorney
21 JEREMY M. GOLDMAN
22 JOSHUA S. WHITE
23 Deputy City Attorneys

24 By: 

25 JOSHUA S. WHITE

26 Attorneys for Plaintiff
27 PEOPLE OF THE STATE OF CALIFORNIA,
28 acting by and through San Francisco City Attorney
DENNIS J. HERRERA