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Attorneys for Plaintiffs and the Class

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

**ADMIR KOVACEVIC** and **ALEXA**  
**PARASHOS**, individually, and on behalf of  
all others similarly situated,

Plaintiffs,

vs.

**INTELLITIX, INC., INTELLIPAY, INC.,**  
and **DOES 1-10**, inclusive,

Defendants.

) Case No.:

- ) **CLASS ACTION COMPLAINT**
- ) **(1) VIOLATION OF CALIFORNIA’S GIFT**
- ) **CERTIFICATE LAW [CAL. CIVIL**
- ) **CODE § 1749.5, et seq.]**
- ) **(2) VIOLATION OF CALIFORNIA**
- ) **UNFAIR COMPETITION LAW**
- ) **[CAL. BUSINESS & PROFESSIONS**
- ) **CODE § 17200, et seq.]**
- ) **(3) MONEY HAD AND RECEIVED**
- ) **(4) UNJUST ENRICHMENT; and**
- ) **(5) VIOLATION OF NEW YORK**
- ) **GENERAL BUSINESS LAW § 349,**
- ) **et seq.**

**JURY TRIAL DEMANDED**

1 Plaintiffs ADMIR KOVACEVIC and ALEXA PARASHOS (collectively, “Plaintiffs”),  
2 individually and on behalf of all others similarly situated, hereby bring this Class Action  
3 Complaint against Defendant INTELLITIX, INC. (“Intellitix”), INTELLIPAY, INC.  
4 (“Intellipay”), and DOES 1 through 10 (collectively, “Defendants”), and on information and  
5 belief allege as follows:

6 **NATURE OF THE ACTION**

7 1. Plaintiffs and similarly situated individuals attended music festivals and/or other  
8 events (collectively, “Festivals”) in California and New York. In order to purchase food,  
9 merchandise, and/or other goods or services at Festivals, consumers used Radiofrequency  
10 Identification (RFID) wristbands with a form of Festival-specific currency, such as “Bison  
11 Bucks” or “Birdie Bucks,” from Defendants that they loaded onto the RFID wristbands instead  
12 of cash, credit, debit, or other forms of payment.

13 2. Defendants advertise the RFID wristbands as a “digital wallet,” or a convenient  
14 cashless method to pay vendors for goods and/or services at events, including Festivals. They  
15 also promote their wristbands to Festival organizers and vendors as a way to reduce queues and  
16 increase “spend,” which is the amount of money that customers spend on goods and services at  
17 Festivals.

18 3. To purchase goods or services at Festivals, patrons load money onto the RFID  
19 wristband via credit card, debit card, cash, or other methods, and use the funds loaded onto the  
20 wristbands to purchase goods or services from vendors at Festivals generally by scanning their  
21 wristbands at the individual vendors’ scanners.

22 4. The named Plaintiffs herein loaded money onto their RFID wristbands and used  
23 the wristbands to purchase goods and/or services at Festivals. The money that they loaded onto  
24 their wristbands was converted to a Festival-specific currency. For example, at the Outside  
25 Lands festival attended by Plaintiff Parashos, money loaded onto her RFID wristband was  
26 converted to “Bison Bucks,” with each Bison Buck equal to approximately \$1.00. At the  
27 Mysteryland Festival attended by Plaintiff Kovacevic, money loaded onto his RFID wristband  
28 was converted to “Birdie Bucks,” with each Birdie Buck equal to approximately USD \$2.22.



1 **VENUE**

2 11. Venue is proper under 28 U.S.C. § 1391 because Defendants, at all material  
3 times, have had continuous and systematic contacts in this District by actively doing business  
4 and perpetuating the deceptive business practices that are the subject of this lawsuit in this  
5 District. In addition, a substantial part of the events or omissions giving rise to Plaintiff  
6 Parashos' claims occurred in this District.

7 **PARTIES**

8 12. Plaintiff Parashos is over the age of 18 and is a California resident. Within the  
9 statute of limitations periods applicable to each cause of action alleged herein, Plaintiff Parashos  
10 was, and is, a victim of Defendants' illegal business practices complained of herein, and has lost  
11 money and/or property as a result of those illegal practices.

12 13. Plaintiff Kovacevic is over the age of 18 and is a New York resident. Within the  
13 statute of limitations periods applicable to each cause of action alleged herein, Plaintiff  
14 Kovacevic was, and is, a victim of Defendants' illegal business practices complained of herein,  
15 and has lost money and/or property as a result of those illegal practices.

16 14. Defendant Intellitix is a Nevada corporation with its principal place of business  
17 in Denver, Colorado. On information and belief, Intellitix is a subsidiary of Intellitix Holdings  
18 Ltd., a business entity organized under the laws of Cyprus, with its headquarters in Montreal,  
19 Quebec, Canada. According to the Intellitix website ([www.intellitix.com](http://www.intellitix.com)), Intellitix "is the  
20 leading global provider of technology-driven solutions for festivals and live events" and  
21 provides RFID technology that delivers "world-class access control, cashless payment and  
22 brand amplification event solutions." Intellitix website boasts that its "technology platform has  
23 enhanced over 15 million guest experiences at live events around the world" and that the  
24 company is "growing rapidly" worldwide, including in the United States.

25 15. Defendant Intellipay is a Delaware corporation with its principal place of  
26 business located in Salt Lake City, Utah. Intellipay is Intellitix's proprietary cashless payment  
27 system. The Intellitix website boasts that Intellitix developed Intellipay, describing it as the  
28 "world's most secure cashless payment system for live events."



1 spent approximately \$50.00 at the Mysteryland USA Festival, leaving approximately \$50.00 in  
2 unused funds. However, when he subsequently received a refund for his unused funds on or  
3 about May 29, 2015, Mr. Kovacevic was charged a \$5.00 (or 2.25 Birdie Bucks) “online refund  
4 fee” in connection with the processing of his refund. Mr. Kovacevic received an email from “no-  
5 reply-mysteryland@pay.intellifest.com” confirming his refund transaction. On information and  
6 belief, pay.intellifest.com is a web domain owned and operated by Defendants. When one tries to  
7 access www.intellifest.com on the web, one is directed to the Intellitix website (intellitix.com).

8 20. On information and belief, the RFID wristbands cannot be used to make  
9 purchases in any other manner than described above at Festivals, and the money on the  
10 wristbands cannot be accessed outside of the Festival in connection with which the wristband  
11 was issued.

12 21. Upon information and belief, Defendants continue to engage in the unlawful and  
13 unfair practices alleged above.

14 22. Plaintiffs and the members of the Classes are likely to be injured by Defendants’  
15 conduct in the future, as they are likely to attend Festivals in the future, and avoiding the use of  
16 Defendants’ RFID wristbands to purchase food, beverages, merchandise, and other goods and  
17 services at Festivals that utilize Defendants’ RFID wristband services will be impossible or  
18 impractical.

19 **CLASS ALLEGATIONS**

20 23. Plaintiffs bring this action individually and as representatives of all those  
21 similarly situated, on behalf of the below-defined Classes:

22 **California Class:** All persons in the State of California who loaded money  
23 onto a RFID wristband provided, distributed, created, and/or operated by  
24 Defendants in connection with a Festival or Festivals, and did not spend all  
25 of the money that was loaded onto the wristband at the Festival(s), leaving  
26 unused funds, and: (a) did not receive a refund of their unused funds and/or  
27 (b) were charged a fee in connection with processing their refund, at any  
28 time in the four years preceding the filing of this lawsuit.

1           **New York Class:** All persons in the State of New York who loaded money  
2           onto a RFID wristband provided, distributed, created, and/or operated by  
3           Defendants in connection with a Festival or Festivals and did not spend all  
4           of the money that was loaded onto the wristband at the Festival(s), leaving  
5           unused funds, and: (a) did not receive a refund of their unused funds and/or  
6           (b) were charged a fee in connection with processing their refund, at any  
7           time in the three years preceding the filing of this lawsuit.

8           Excluded from the Classes are Defendants and their affiliates, parents, subsidiaries, employees,  
9           officers, agents, and directors. Also excluded are any judicial officers presiding over this matter  
10          and the members of their immediate families and judicial staffs.

11          24.       This case is appropriate for class treatment because Plaintiffs can prove the  
12          elements of their claims on a classwide basis using the same evidence as would be used to prove  
13          those elements in individual actions alleging the same claims.

14          25.       **Numerosity:** The members of the Classes are so numerous that joinder of all  
15          members would be unfeasible and not practicable. The membership of the Classes are unknown  
16          to Plaintiffs at this time; however, it is estimated that the Classes number greater than one  
17          thousand (1,000) individuals as to each Class. The identity of such membership is readily  
18          ascertainable via inspection of Defendants' books and records or other approved methods.  
19          Similarly, Class members may be notified of the pendency of this action my mail, email, internet  
20          postings, and/or publication.

21          26.       **Common Questions of Law or Fact:** There are common questions of law and  
22          fact as to Plaintiffs and all other similarly situated persons, which predominate over questions  
23          affecting only individual Class members, including, without limitation:

- 24                  a.       Whether Defendants provided, distributed, created, and/or operated the RFID  
25                  wristbands at Festivals;
- 26                  b.       Whether Defendants were required to refund Class members the unused funds  
27                  that they loaded onto the RFID wristbands provided, distributed, created,  
28                  and/or operated by Defendants;

- c. Whether Defendants failed to refund Class members the unused funds that were loaded on to Class members' RFID wristbands;
- d. Whether Defendants charged unlawful refund processing fees to Class members in order to access their own money that had been loaded onto RFID wristbands provided, distributed, created, and/or operated by Defendants;
- e. Whether Defendants' RFID wristbands constitute gift certificates under California and/or New York law;
- f. Whether Defendants' RFID wristbands effectively contained an expiration date because they could not be used outside of the specific Festival for which they were designated; and
- g. Whether Defendants' actions, or inactions, violated the state consumer protection statutes invoked below.

27. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' practices applicable to each individual Class member. As such, these common questions predominate over individual questions concerning each individual Class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

28. **Typicality:** Plaintiffs' claims are typical of the claims of the other members of the Classes because, among other things, Plaintiffs and all Class members were comparably injured through Defendants' misconduct described above. As alleged herein, Plaintiffs, like the members of the Classes, were deprived of monies that rightfully belonged to them, and/or were charged illegal fees by Defendants. Further, there are no defenses available to Defendants that are unique to Plaintiffs or to either Plaintiff.

29. **Adequacy of Representation:** Plaintiffs are adequate class representatives because they are fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes, and because their interests do not conflict with the interests of other Class members they seek to represent. Moreover, Plaintiffs' attorneys are





1 34. Defendants' RFID wrist bands are gift certificates under Cal. Civ. Code §§  
2 1749.45, *et seq.*, as they are: (i) redeemable only at Festivals; (ii) contain a specified amount of  
3 funds; (iii) purchased on a prepaid basis in exchange for payment; (iv) honored upon  
4 presentation to purchase food, merchandise, and/or other goods or services at Festivals; and (v)  
5 transferrable for the purposes of purchasing food, merchandise, and/or other goods or services  
6 at Festivals.

7 35. By failing to refund Plaintiff Parashos and members of the California Class their  
8 unused funds, Defendants violated Cal. Civ. Code § 1749(b)(1).

9 36. By charging a refund processing fee to members of the California Class,  
10 Defendants violated Cal. Civ. Code § 1749(a)(2).

11 37. By implementing an effective expiration date in Defendants' RFID wristbands  
12 by permitting the RFID wristbands to be used only at the Festival at which they are acquired,  
13 Defendants violated Cal. Civ. Code § 1749(a)(1) to the detriment of the Plaintiff Parashos and  
14 the California Class.

15 38. As a direct and proximate result of Defendants' unlawful acts and conduct,  
16 Plaintiff Parashos and members of the California Class were deprived of the use of their money  
17 that was charged and collected by Defendants through the sale and/or use of RFID wristbands.

18 39. Plaintiff Parashos, on behalf of herself and the California Class, seeks  
19 compensatory damages, including actual and statutory damages, injunctive and declaratory  
20 relief, as well as reasonable attorneys' fees and the cost of this action, as a result of Defendants'  
21 violation of Cal. Civ. Code § 1749.45, *et seq.*

22 **SECOND CAUSE OF ACTION**

23 **VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW**

24 **[Cal. Bus. & Prof. Code § 17200, *et seq.*]**

25 40. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set  
26 forth herein.

27 41. Plaintiff Parashos brings this cause of action on behalf of herself and the  
28 California Class against Defendants.

1           42. Plaintiff Parashos and the members of the California Class have standing to  
2 pursue a cause of action against Defendants for unfair and/or unlawful business acts or practices,  
3 because Plaintiff Parashos and members of the California Class have suffered an injury-in-fact  
4 and lost money as a result of Defendants' actions and/or omissions as set forth herein.

5           43. Defendants' actions as described herein constitute unfair competition within the  
6 meaning of Cal. Business & Professions Code § 17200, *et seq.*, in that Defendants have engaged  
7 in unlawful business practices by violating the California Gift Card Law, as alleged herein.

8           44. Defendants' actions described herein are also unlawful in that they impose an  
9 unconscionable forfeiture provision in the contract between Defendants and the members of the  
10 California Class in violation of Cal. Civil Code §§ 1670.5 and 1442.

11           45. Defendants' actions as described herein constitute unfair competition within the  
12 meaning of Cal. Business & Professions Code § 17200, *et seq.*, on the additional grounds that  
13 Defendants have unfairly failed to refund unused funds to Plaintiff Parashos and other consumers  
14 who had unused funds left over on their RFID wristbands, and/or have charged a fee for the  
15 refund of such funds.

16           46. Defendants' business practices, as detailed above, are unethical, oppressive, and  
17 unscrupulous, and they violate fundamental policies of California. Further, the adverse effects of  
18 such conduct outweigh any justifications for Defendants' wrongful conduct.

19           47. Defendants' actions have caused economic injury to Plaintiff Parashos and  
20 members of the California Class, in that they have either incurred a fee in order to access their  
21 own money that was loaded onto a RFID wristband, and/or they have not been provided any  
22 refund for unused fees left on their RFID wristband. Plaintiff Parashos and members of the  
23 California Class either would not have loaded money onto the RFID wristbands at all, would  
24 have loaded less money onto their RFID wristbands (to ensure that no funds would be left over),  
25 or would have otherwise ensured that no funds were left unused on their RFID wristbands, had  
26 they known that Defendants would charge a refund processing fee or would fail to provide any  
27 refund of unused funds at all.

28 ///

1 48. Plaintiff Parashos and the members of the California Class could not have  
2 reasonably avoided the injury each of them suffered, as reasonable consumers had no way of  
3 knowing that their unused funds would be retained by Defendants, or that Defendants would  
4 charge a fee to refund their money.

5 49. Pursuant to Cal. Business & Professions Code § 17203, Plaintiff Parashos, on  
6 behalf of herself and members of the California Class, seeks an injunction enjoining Defendants  
7 from failing to refund unused funds and charging a refund processing fee, and to prevent  
8 Defendants from continuing to engage in unfair competition or any other act prohibited by law.

9 50. Plaintiff Parashos, on behalf of herself and members of the California Class, also  
10 seeks rescission and an order requiring Defendants to make full restitution and disgorgement of  
11 their ill-gotten gains of all money wrongfully obtained from members of the California Class as  
12 permitted by Cal. Business & Professions Code § 17203.

13 51. Plaintiff Parashos, on behalf of herself and members of the California Class, also  
14 seeks attorneys' fees pursuant to Cal. Code of Civil Procedure § 1021.5.

15 **THIRD CAUSE OF ACTION**

16 **MONEY HAD AND RECEIVED**

17 52. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set  
18 forth herein.

19 53. Plaintiff Parashos brings this cause of action on behalf of herself and the  
20 California Class against Defendants.

21 54. Defendants received money from Plaintiff Parashos and the California Class that  
22 was intended to be used for the benefit of Plaintiff Parashos and the California Class.

23 55. Plaintiff Parashos and the California Class did not use all of the funds that they  
24 loaded onto their RFID wristbands, and therefore the money was not used for their benefit.

25 56. Defendants wrongly retained Plaintiff Parashos and the California Class' unused  
26 funds instead of refunding the full amount of their unused funds to them.

27 57. Plaintiff Parashos, on behalf of herself and members of the California Class, seeks  
28 restitution on all of the inequitable payments and profits Defendant retained from Plaintiffs and

1 the members of the Class in an amount subject to proof.

2 **FOURTH CAUSE OF ACTION**

3 **UNJUST ENRICHMENT**

4 58. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set  
5 forth herein.

6 59. Plaintiffs bring this cause of action on behalf of themselves and both the  
7 California Class and New York Class against Defendants.

8 60. Plaintiffs and the members of the Classes conferred an economic benefit upon  
9 Defendants by loading funds onto RFID wristbands provided by Defendants, which were  
10 intended to be used for the benefit of Plaintiffs and members of the Classes.

11 61. Defendants had an appreciation or knowledge of the benefit conferred by  
12 Plaintiffs and the members of the Classes.

13 62. Defendants accepted and retained the economic benefit conferred by Plaintiffs  
14 and members of the Classes under circumstances as to make it inequitable for Defendants to  
15 retain the benefit without payment of its value, which includes, but is not limited to, the money  
16 Defendants failed to refund to Plaintiff Parashos and the members of the Classes and/or the  
17 refund processing fees charged to Plaintiff Kovacevic and the members of the Classes.

18 63. Plaintiffs and the members of the Classes request restitution, attorneys' fees, and  
19 the relief described below.

20 **FIFTH CAUSE OF ACTION**

21 **VIOLATION OF NEW YORK GENERAL BUSINESS LAW § 349**

22 64. Plaintiffs re-allege and incorporate the foregoing paragraphs as if fully set forth  
23 herein.

24 65. Plaintiff Kovacevic brings this cause of action on behalf of himself and the New  
25 York Class against Defendants.

26 66. Plaintiff Kovacevic and the New York Class have standing to pursue a cause of  
27 action for unfair and deceptive trade practices in violation of N.Y. General Business Law § 349,  
28 *et seq.*, because Plaintiff Kovacevic and members of the New York Class have suffered an

1 injury-in-fact and lost money as a result of Defendants' actions as set forth herein.

2 67. This cause of action is brought to on behalf of Plaintiff Kovacevic and the New  
3 York Class to secure redress for the unlawful, deceptive, and/or unfair trade practices  
4 perpetrated by Defendants and described herein.

5 68. Plaintiff Kovacevic and members of the New York Class are consumers of the  
6 products and services provided by Defendants.

7 69. Because Defendants' products and services are intended for use by the general  
8 public, and because Defendants' conduct affects similarly situated consumers and has a broad  
9 impact on consumers at large, Defendants are engaged in consumer-oriented conduct within the  
10 intended ambit of N.Y. General Business Law § 349.

11 70. The State of New York enacted N.Y. General Business Law § 349 to protect  
12 consumers from deceptive, fraudulent, and/or unconscionable trade and business practices such  
13 as those alleged herein.

14 71. Defendants' actions and/or omissions as described herein violated N.Y. General  
15 Business Law § 349, which declares as unlawful "deceptive acts or practices in the conduct of  
16 any business, trade, or commerce or in the furnishing of any service in this state."

17 72. Specifically, Defendants charged Plaintiff Kovacevic and members of the New  
18 York Class a refund processing fee if they wished to recoup any funds left over on their  
19 wristbands at the end of a Festival, and/or failed to provide any refund to Festival attendees for  
20 their unused funds.

21 73. Additionally, Defendants' conduct alleged herein is misleading and deceptive  
22 because it violates N.Y. General Business Law § 396-i(3). Specifically, the RFID wristbands  
23 provided by Defendants constitute "gift certificates" under the N.Y. General Business Law §  
24 396-i(1), and the terms and conditions thereof, including policies related to refunds, were not  
25 conspicuously printed on the RFID wristband, its packaging, or an accompanying printed  
26 document.

27 74. Furthermore, Defendants engaged in materially misleading and deceptive acts  
28 and practices by providing and continuing to provide its wristband service to the consuming

1 public while engaging in the deceptive, unconscionable, unfair, fraudulent and misleading  
2 commercial practices described above. Defendants' objectively deceptive conduct had the  
3 capacity to deceive reasonable consumers under the circumstances. Defendants' deceptive and  
4 misleading actions and omissions as set forth herein have caused and continue to cause injury to  
5 Plaintiff Kovacevic and the members of the New York Class.

6 75. Defendants' practices and course of conduct in providing the RFID wristband  
7 service to consumers are likely to mislead a reasonable consumer acting reasonably under the  
8 circumstances to his or her detriment. Like Plaintiff Kovacevic, members of the New York  
9 Class either would not have loaded money onto the RFID wristbands at all, would have loaded  
10 less money onto their RFID wristbands (to ensure that no funds would be left over), or would  
11 have otherwise ensured that no funds were left unused on their RFID wristbands at the end of  
12 the Festival, had they known that Defendants would charge a refund processing fee or would  
13 not refund their money.

14 76. As a direct and proximate result of Defendants' violations of N.Y. General  
15 Business Law § 349, Plaintiff Kovacevic and members of the New York Class have suffered  
16 and continue to suffer damages.

17 77. Plaintiff Kovacevic and members of the New York Class were deceived by  
18 Defendants' actions described above.

19 78. As a result of the foregoing wrongful conduct of Defendants, Plaintiff Kovacevic  
20 and members of the New York Class have been damaged in an amount to be proven at trial, and  
21 seek all just and proper remedies, including but not limited to: actual damages or \$50.00,  
22 whichever is greater; treble damages up to \$1,000.00; reasonable attorneys' fees and costs; an  
23 order enjoining Defendants' deceptive and unfair conduct; and all other just and appropriate  
24 relief available under N.Y. General Business Law § 349.

25 **PRAYER**

26 WHEREFORE, Plaintiffs pray for judgment for themselves and for all others on whose  
27 behalf this suit is brought against Defendants, jointly and severally, as follows:

- 28 1. For an order certifying the proposed Classes;

- 1 2. For an order appointing Plaintiffs as representatives of the Classes;
- 2 3. For an order appointing Counsel for Plaintiffs as Counsel for the Classes;
- 3 4. Upon the First Cause of Action, for compensatory damages, including actual and
- 4 statutory damages, injunctive and declaratory relief, as well as reasonable attorneys'
- 5 fees and the cost of this action;
- 6 5. Upon the Second Cause of Action, for injunctive relief, rescission, restitution,
- 7 disgorgement of Intellitix's ill-gotten gains of all money wrongfully obtained from
- 8 Plaintiff and members of the California Class, as well as attorneys' fees pursuant to
- 9 Cal. Code of Civil Procedure § 1021.5;
- 10 6. Upon the Third and Fourth Causes of action, for restitution;
- 11 7. Upon the First, Second, Third, and Fourth, Causes of Action, for prejudgment interest
- 12 on all damages pursuant to Cal. Civil Code §§3287 and 3289;
- 13 8. Upon the Fifth Cause of Action, for actual damages or \$50.00, whichever is greater,
- 14 treble damages up to \$1,000.00, reasonable attorneys' fees and costs, an order
- 15 enjoining Defendants' deceptive and unfair conduct, and all other just and appropriate
- 16 relief available under N.Y. General Business Law § 349 on behalf of Plaintiff
- 17 Kovacevic and the members of the New York Class; and
- 18 9. Upon all causes of action, such other and further relief the Court may deem just and
- 19 proper.

20  
21 Dated: July 7, 2017

**MARLIN & SALTZMAN, LLP**

22  
23 By: s/ Adam M. Tamburelli  
24 Stanley D. Saltzman, Esq.  
25 Adam M. Tamburelli, Esq.  
26 Cody R. Kennedy, Esq.  
27 Attorneys for Plaintiffs  
28



**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury with respect to all issues triable by jury.

Dated: July 7, 2017

**MARLIN & SALTZMAN, LLP**

By: s/ Adam M. Tamburelli  
Stanley D. Saltzman, Esq.  
Adam M. Tamburelli, Esq.  
Cody R. Kennedy, Esq.  
Attorneys for Plaintiffs

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Admir Kovacevic and Alexa Parashos, et al.

(b) County of Residence of First Listed Plaintiff Richmond County (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Stanley Saltzman, Adam Tamburelli/MARLIN & SALTZMAN 29800 Agoura Rd #210, Agoura Hills, CA 91301/Ph:818-991-8080

DEFENDANTS

Intellitix, Inc., Intellipay, Inc., et al.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship options: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS (PERSONAL INJURY, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER), FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation-Transfer 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Cal Civil Code Secs 1749, et seq.; Cal. Bus. & Professions Code Secs 17200, et seq.; NY Gen. Business Law Secs 349, et seq. Brief description of cause: Violations of CA Gift Certificate Law & NY Gen Bus. Law; Unfair Competition; Money Had/Received; Unjust Enrichment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) X SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 07/07/2017

SIGNATURE OF ATTORNEY OF RECORD

s/ Adam M. Tamburelli

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

**Authority For Civil Cover Sheet.** The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
  - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
  - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
  - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
  - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
  - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
  - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
  - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
  - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
  - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.