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21 KRISTA FREITAG

22 UNITED STATES DISTRICT COURT  
23 SOUTHERN DISTRICT OF CALIFORNIA

24 SECURITIES AND EXCHANGE  
25 COMMISSION,

26 Plaintiff,

27 v.

28 GINA CHAMPION-CAIN and ANI  
DEVELOPMENT, LLC,

Defendants,

AMERICAN NATIONAL  
INVESTMENTS, INC.,

Relief Defendant.

Case No. 3:19-cv-01628-LAB-AHG

**RECEIVER'S RENEWED MOTION  
FOR AUTHORITY TO PURSUE  
CLAIMS AGAINST CHICAGO  
TITLE PER COURT ORDER DATED  
AUGUST 26, 2021 [DKT. NO. 700]**

Date: October 4, 2021  
Time: 11:30 a.m.  
Courtroom: 14A  
Judge: Hon. Larry Alan Burns

1 Pursuant to the Court's Order Re: Motion for Leave to Pursue Claims Against  
2 Chicago Title (Dkt. 700), Krista Freitag ("Receiver"), the Court-appointed permanent  
3 receiver for Defendant ANI Development, LLC, Relief Defendant American  
4 National Investments, Inc., and their subsidiaries and affiliates ("Receivership  
5 Entities"), submits this Renewed Motion for Authority to Pursue Claims Against  
6 Chicago Title Company and Chicago Title Insurance Company (together "CTC").  
7 The Receiver hereby requests that the Court grant the Receiver's Motion and  
8 authorize the Receiver to file her lawsuit against CTC.

9 To directly address the question posed in the Court's order – whether the  
10 Receiver still seeks leave to file the same form of Complaint submitted with her  
11 original Motion for Authority to Pursue Claims Against CTC ("Motion") (Dkt. 323)  
12 – the answer is no, the Receiver, if authorized by the Court, will file an updated form  
13 of Complaint against CTC in state court, a draft version of which is attached hereto  
14 as Exhibit A. Although the prior form of Complaint and updated form of Complaint  
15 are similar, the updated form includes revisions based on (a) additional facts that  
16 have been borne out through the Receiver's investigation and accounting, as well as  
17 through discovery in the investor actions in state court, and (b) rulings issued by the  
18 state court on various demurrers filed by CTC to the investor complaints.

## 19 I. INTRODUCTION

20 Following the April 12, 2021 hearing on the Receiver's Motion, in accordance  
21 with the Court's order (Dkt. 648), the Receiver, CTC and several other interested  
22 parties spent significant time with Judge Goddard and were able to resolve the  
23 disputed provisions in the investor settlement agreements. The Receiver, CTC and  
24 other investors/claimants continued to meet with Judge Goddard and otherwise  
25 responded to Judge Goddard's specific inquiries in an effort to address the Receiver's  
26 and individual investor's claims against CTC along with the Receiver's clawback  
27 claims. CTC has now had two years in which to settle individual claims with  
28 investors and many hours have been spent getting investor settlements done.

1 However, the unresolved investor claims for net losses alone (not including  
2 consequential or exemplary damages) still total over \$93 million. Therefore, the  
3 Receiver strongly believes it is time to focus on a global settlement of all claims  
4 against CTC with the assistance of Judge Goddard.

5 In order for meaningful global settlement discussions to occur, it is imperative  
6 that the receivership estate's Complaint be filed so CTC and all interested parties are  
7 aware of the nature and scope of the receivership estate's claims against CTC so there  
8 is no confusion or misunderstanding as to the nature of the receivership estate's  
9 claims. Furthermore, the filing of the Receiver's lawsuit is required in order to be  
10 certain that all applicable insurance policies are triggered and any global settlement  
11 and release of claims will fully and finally resolve all claims against CTC. The  
12 Receiver proposes that initially, the parties stipulate to (or the Court order that) the  
13 deadline for CTC's response is extended for 60 days from the date of Court approval  
14 hereof, to allow for preliminary global settlement discussions to proceed.  
15 Accordingly, the Receiver respectfully requests that her Motion be granted and she  
16 be authorized to file her Complaint against CTC in state court.

## 17 **II. BACKGROUND**

18 On June 5, 2020, the Receiver filed her Motion. The Motion is a relatively  
19 straight-forward request whereby the Court simply confirms that the receivership  
20 estate may pursue claims against CTC. Such claims will bring material funds into  
21 the estate for the benefit of investors and creditors. The Motion also seeks approval  
22 for the Receiver to proceed with an attorney fee structure for the case (as previously  
23 noted, given the status of the instance action and other related cases, the Receiver  
24 believes proceeding on an hourly fee structure would be most beneficial.) The  
25 Receiver hereby incorporates by reference her Motion, as well as her subsequent  
26 reports and pleadings addressing issues raised in connection with the Motion. Dkt.  
27 323, 377, 516, 603, 621, 630.

28

1 The Motion, as amended by the Receiver on March 1, 2021 (Dkt. 603), seeks  
2 authority to file an action against CTC in state court as a related case to the pending  
3 investor actions, all of which are now pending before the Honorable Kenneth Medel.  
4 Substantial motion practice and discovery has taken place in the investor actions, so  
5 the economy and efficiencies of the Receiver's proposed action being filed as a  
6 related action before Judge Medel are very clear. A case management statement filed  
7 by one of the investor groups, which provides an overview of the status of the  
8 investor actions, is attached hereto as Exhibit B.

9 The only remaining opposition to the Motion is from the *prospective*  
10 *defendant*, CTC. CTC's opposition has delayed the Receiver's filing for over a year,  
11 while CTC has attempted to convince the Court that the Receiver should forego her  
12 claims against CTC based upon the promise that CTC will independently resolve all  
13 investor claims against it. At this time, there are unresolved investor claims for net  
14 losses alone (setting aside consequential damage and punitive damage claims)  
15 amounting to approximately \$93 million, including claims by the four largest  
16 claimants: the Receiver, Ovation Finance, Banc of California, and CalPrivate Bank.  
17 Moreover, as discussed in Section IV, over the past year, it has become clear that the  
18 Receiver holds valuable claims against CTC which no other party holds.

19 The receivership was put in place to preserve and maximize the value of the  
20 assets of the entities in receivership (including claims against third parties) for the  
21 benefit of the victims of the Ponzi scheme, *i.e.*, the investors. Although certain  
22 investor groups initially had concerns about the Motion, the Receiver's understanding  
23 is that none of them oppose the Motion at this point, and in fact, at least some of  
24 them now agree that having the Receiver's proposed action filed in state court  
25 alongside their actions would be beneficial.

26 Three hearings have been held on the Motion – one in August 2020, one in  
27 December 2020, and one in April 2021. After the last hearing on April 12, 2021 – at  
28 which CTC's motion seeking a good faith determination for certain investor

1 settlements was also heard – the Court (Magistrate Judge Allison Goddard) issued an  
2 order setting a mandatory settlement conference ("MSC"). Dkt. 648. The Receiver  
3 has participated in good faith at each of the MSC meetings. As discussed below,  
4 based upon that status of settlement discussions, it is time to proceed with the next  
5 phase, which will require the Receiver to file her Complaint.

### 6 **III. MANDATORY SETTLEMENT CONFERENCE**

7 Since mid-April 2021, the Receiver and her counsel have participated in  
8 numerous telephone calls and virtual MSC meetings (via Zoom and on one occasion,  
9 in person) with Judge Goddard. As a result of these discussions, Judge Goddard's  
10 separate meetings with CTC, and investor groups, and the Receiver's independent  
11 discussions with counsel, the Receiver and CTC were able to resolve the disputed  
12 provisions of the pending settlements through the Joint Motion Regarding Approval  
13 of Pending Settlements ("Joint Motion"), which was filed on June 1, 2021, and  
14 approved on June 3, 2021. Dkt. 678, 682.

15 The Receiver and her counsel have continued to meet with Judge Goddard on  
16 a regular basis to discuss the claims against CTC, Kim Peterson and others, and  
17 mechanisms to resolve these claims, including but not limited to a potential global  
18 settlement of claims against CTC, and a settlement of the receivership estate's claims  
19 against Kim Peterson and his entities ("Peterson Parties"). The Receiver's counsel  
20 has also been in regular contact with counsel for certain investor groups and counsel  
21 for the Peterson Parties. The Receiver's understanding is that most all of the key  
22 participants – the Receiver, the investor groups, CTC, and the Peterson Parties – are  
23 willing to continue to discuss and perhaps participate in a global settlement process  
24 with Judge Goddard. However, meaningful discussions concerning the global  
25 resolution of all claims against CTC, as well as the significant and related claims  
26 against the Peterson Parties, necessarily require the filing of the Receiver's  
27 Complaint.

28

#### 1           **IV. THE RECEIVERSHIP ESTATE'S CLAIMS AGAINST CTC**

2           As previously discussed with the Court, the receivership estate has unique and  
 3 valuable claims against CTC. Certain investors and investor groups have filed their  
 4 complaints in state court, CTC has challenged their claims through demurrers, and  
 5 the state court has held hearings and issued several rulings. In these pleadings and  
 6 hearings, CTC has argued that only the Receiver can assert claims for breach of  
 7 contract and breach of fiduciary duty because CTC did not have a contract or owe  
 8 any duties to the investors – the only escrow agreements were between CTC and  
 9 ANI (*i.e.*, the receivership). Indeed, the state court has granted CTC's demurrers as  
 10 to the investor groups' breach of fiduciary duty claims, meaning only the Receiver  
 11 can pursue such claims. The receivership estate's direct claims for breach of  
 12 fiduciary duty and breach of contract give rise to significant damage claims and,  
 13 depending how the litigation unfolds, may ultimately be the strongest claims to  
 14 recover consequential damages and exemplary damages.

15           In addition, there are damage claims that only the Receiver can pursue on  
 16 behalf of the receivership estate, including for the approximately \$468,000 in  
 17 scheme-related escrow and transaction fees ANI paid to CTC. Attached is an  
 18 updated draft of the Receiver's proposed Complaint against CTC, which she requests  
 19 authority to file in San Diego Superior Court as a related case to the existing investor  
 20 actions against CTC, all of which are now pending before Judge Kenneth Medel.

21           In light of the uniqueness of the receivership estate's claims against CTC and  
 22 recoverable damages, it is critical that the Receiver be permitted to file her proposed  
 23 Complaint before a global mediation with Judge Goddard is held. It is clear that the  
 24 Receiver must have her lawsuit on file in order to engage in meaningful settlement  
 25 discussions with CTC as to a global settlement. Among other things, CTC must be  
 26 faced with the actual prospect of costly litigation with the Receiver and a judgment,  
 27 which includes consequential and exemplary damages. Without a Complaint on file  
 28 and the prospect of the Receiver being awarded consequential and exemplary

1 damages, CTC may continue to believe that the Receiver's claims are merely  
2 hypothetical or that the Court will never authorize the filing. In order to be on equal  
3 footing in settlement discussions with other litigants, it is imperative that the  
4 Receiver's Complaint be on file.

5 Moreover, CTC has consistently made reference to applicable insurance  
6 coverage for the receivership estate's claims and the investors' claims arising from  
7 the Ponzi scheme. Therefore, in order to fully trigger applicable insurance coverage,  
8 the Receiver claims against CTC must be laid out in her Complaint. While CTC may  
9 suggest otherwise, it is simply common sense that the insurance carriers will require  
10 the Complaint to be on file so that they know whether the precise claims are covered  
11 and the applicable claims are released as part of any settlement. The Receiver's  
12 Complaint should be on file and her claims should be active and live (not potential or  
13 theoretical.) A situation in which the receivership estate's claims are unclear,  
14 misunderstood and/or in limbo for an undetermined period of time would be  
15 detrimental to global settlement efforts.

16 To the extent CTC continues to oppose the filing of the Receiver's Complaint  
17 and continues to argue the receivership estate's claims against CTC are duplicative of  
18 the investors' claims, it is now beyond dispute that this is false. As explained above  
19 and especially in light of the state court's rulings thus far, no one can credibly dispute  
20 that the receivership estate has distinct claims from the investors, including claims  
21 the investors may not have, and seeks to recover distinct damage amounts.

22 CTC may also continue to argue that a stay of investor state court actions  
23 against CTC is necessary if the Receiver is allowed to file her complaint. For the  
24 reasons laid out in the investors' joint brief on this issue (Dkt. 602), as well as in the  
25 Receiver's brief on this issue (Dkt. 603), not only is there no basis for a stay, but the  
26 Court does not have jurisdiction to issue one. Moreover, it is simply absurd for CTC,  
27 having defrauded so many different people and entities resulting in well in excess of  
28



1 \$180 million in losses, to be complaining that it now faces multiple lawsuits from the  
2 different people and entities it defrauded.

3 The Receiver understands that CTC does not want to spend time and money  
4 challenging the receivership estate's claims against it during a global mediation  
5 process. Therefore, she is prepared to defer service of the Complaint and/or stipulate  
6 to extend CTC's deadline to respond to the Complaint for up to 60 days from Court  
7 approval hereof. If a global settlement is not reached, it is critical that CTC be  
8 required to face the receivership estate's claims in court. For these reasons, the  
9 Receiver respectfully requests that she be authorized to file her proposed Complaint  
10 in state court.

11  
12 Dated: September 3, 2021

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

13  
14 By: s/Edward G. Fates

15 EDWARD G. FATES  
16 Attorneys for Receiver  
17 KRISTA FREITAG  
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**EXHIBIT INDEX**

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Exhibit A	Draft Form Complaint	10
Exhibit B	Joint Plaintiffs' Case Management Conference Statement	35

# EXHIBIT A

# EXHIBIT A

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12 Attorneys for Plaintiff  
KRISTA FREITAG, Receiver

13  
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 FOR THE COUNTY OF SAN DIEGO

16 KRISTA FREITAG, Receiver,

17 Plaintiff,

18 v.

19 CHICAGO TITLE COMPANY, a  
20 California corporation; CHICAGO TITLE  
INSURANCE COMPANY; a Florida  
21 corporation,

22 Defendants.

Case No. \_\_\_\_\_

COMPLAINT FOR:

1. AIDING AND ABETTING FRAUD
2. NEGLIGENCE
3. BREACH OF FIDUCIARY DUTY
4. AIDING AND ABETTING
5. BREACH OF FIDUCIARY DUTY
5. BREACH OF CONTRACT

DEMAND FOR JURY TRIAL

23  
24  
25 Plaintiff Krista Freitag ("Freitag" or the "Receiver"), the Court-appointed  
26 permanent receiver for ANI Development, LLC ("ANI Development"), American National  
27 Investments, Inc. ("American National Investments"), and their subsidiaries and affiliates  
28 (collectively, the "Receivership Entities"), hereby brings the following Complaint against

1 the above-captioned defendants and, on behalf of the Receivership Entities, alleges as  
2 follows:

### 3 **JURISDICTION AND VENUE**

4 1. Jurisdiction and venue are appropriate in this Court because the parties to  
5 this action conduct business in San Diego County and the events that are the subject of  
6 this Complaint occurred in San Diego County.

### 7 **PARTIES**

8 2. Pursuant to an order (the "Receivership Order") entered on September 3,  
9 2019 in the matter *Securities and Exchange Commission v. Gina Champion-Cain, et al.*,  
10 Case No. 3:19-cv-01628-LAB-AHG (the "SEC Action"), which is now pending in the  
11 United States District Court, Southern District of California, Freitag is the duly appointed  
12 permanent equity receiver for the Receivership Entities.

13 3. Among other things, the Receivership Order authorizes the Receiver to  
14 pursue all claims and causes of action of the Receivership Entities against third parties for  
15 the benefit of the investors and creditors of the Receivership Entities. The claims alleged  
16 in this action are assets of the Receivership Entities, are brought on their behalf, and fall  
17 within that provision of the Receivership Order.

18 4. Defendant Chicago Title Company ("Chicago Title") is a California  
19 corporation with its principal place of business in Los Angeles, California.

20 5. Defendant Chicago Title Insurance Company ("CTIC") is a Florida  
21 corporation doing business in California, with its principal place of business in  
22 Jacksonville, Florida.

23 6. Chicago Title and CTIC are collectively referred to herein as "CTC". CTC  
24 is one of the largest escrow firms in the country and is a subsidiary of Fidelity National  
25 Financial, Inc., a publicly traded Fortune 500 corporation. The acts and omissions of  
26 CTC and its employees described below occurred in this County.

27 7. Chicago Title and CTIC were and now are the agents, servants, employees,  
28 representatives, members, parent corporations, subsidiaries, owners, instrumentalities

1 and/or alter egos of each other and, in doing the things alleged herein, were and are acting  
 2 within the scope of their respective authority as agents, servants, employees,  
 3 representatives, members, parent corporations, subsidiaries, owners, instrumentalities  
 4 and/or alter egos with each other's permission, consent and/or ratification. Any allegation  
 5 referring to Chicago Title or CTIC refers to each of them, jointly and severally. CTC and  
 6 CTIC operate as one combined indistinguishable entity. CTC and CTIC share multiple  
 7 officers and employees, and are consistently held out to the public as being simply  
 8 "Chicago Title". They are under common ownership and use the same website on the  
 9 Internet. In connection with the acts stated herein, they operated in a consolidated manner  
 10 whereby a member of the general public dealing with Chicago Title would be unable to  
 11 ascertain which specific entity he, she, or it was doing business. Recognizing the  
 12 corporate separateness between Chicago Title and CTC would sanction fraud and render  
 13 injustice on the Receivership Entities.

## 14 **FACTUAL ALLEGATIONS**

### 15 **The Fraudulent Scheme**

16 8. Through the pendency of the scheme, Gina Champion-Cain ("Cain") was  
 17 the managing member of ANI Development and the founder and former CEO of  
 18 American National Investments. In these capacities, Cain exercised control over the  
 19 Receivership Entities.

20 9. Beginning in 2011, Cain, with the full knowledge and substantial assistance  
 21 of Chicago Title, caused the Receivership Entities to raise money from investors by  
 22 claiming to offer an investment opportunity relating to the financing of purchases of  
 23 California liquor licenses.

24 10. While the scheme evolved over time, Cain initially told investors that in  
 25 order to buy a California liquor license, all money to purchase the license must be  
 26 deposited into an escrow account. Cain thus offered investors a short-term opportunity to  
 27 fund these escrows (through ANI Development) while the California Department of  
 28

1 Alcoholic Beverage Control ("ABC") reviewed/approved the liquor license buyer's  
2 application in exchange for a return on and of those funds.

3 11. One of the ways the investment program was structured provided that Cain  
4 would submit to investors a purported list of pending liquor license applications, from  
5 which investors selected the license applications they wished to fund. The investor would  
6 then deposit funds into an account at CTC controlled by ANI Development. Cain  
7 provided investors with a form escrow agreement executed by ANI Development and  
8 CTC ("Form Escrow") which provided that: (i) the investor's money was funding a  
9 specific liquor license applicant's underlying liquor license transfer; (ii) the money would  
10 be held in an escrow account for this purpose at CTC; (iii) CTC would submit the  
11 required Form 226 for the liquor license application to the ABC, and (iv) at the  
12 conclusion of the license transfer, CTC would return the investor's funds to the investor  
13 along with the investor's agreed upon return (e.g., interest). As described below, it was  
14 the national reputation and financial strength of CTC and the promised security of the  
15 investors' funds being safely held in escrow by CTC that lured investors into the program.  
16 The U.S. Department of Justice has made clear that it understands that CTC personnel  
17 participated in the fraudulent scheme. In announcing Cain's guilty plea, the Department  
18 of Justice announced that she had "conspired with employees of her own company and the  
19 local branch of a national title company [i.e., CTC] to both commit the fraud and cover it  
20 up."

21 12. Cain caused ANI Development to enter into contracts with certain investors  
22 in an effort to procure their investments. For example, Cain distributed promissory notes  
23 to a group of investors on behalf of herself and ANI Development (the "Promissory  
24 Notes"). The Promissory Notes identified the investors, listed the liquor licenses the  
25 investors were supposedly funding through an escrow account at CTC, and specified the  
26 interest to be paid to the investors for each license, with interest being paid no later than  
27 364 days from the receipt of the investors' funds. Under the terms of the Promissory  
28 Notes, ANI Development and Cain personally guaranteed the principal and interest due to

1 the investors. Cain also caused ANI Development to represent in contracts that the  
 2 investors would be lending funds into specific escrow accounts tied to liquor license  
 3 transfer applications.

4 13. Pursuant to the Receivership Order, the Receiver conducted a forensic  
 5 accounting of the sources and uses of funds for the Receivership Entities. Pursuant to her  
 6 forensic accounting, the Receiver believes Cain raised, through the liquor license  
 7 investment program, approximately \$390 million from approximately 435 unique  
 8 investors.<sup>1</sup>

9 14. As a result of the Cain and CTC actions, the liquor license investment  
 10 program was essentially an illusory enterprise. First, the lists of liquor license applicants  
 11 were fabricated and the purported license applicants had not taken loans from ANI  
 12 Development. Second, a substantial number of the Form Escrows were fabricated and  
 13 others contained CTC officer signatures affixed with knowledge of Cain's dishonesty.  
 14 Third, the real contracts governing the escrow account – which Cain concealed from the  
 15 investors (the "ANI Escrow Agreements"), were entered into between Chicago Title and  
 16 Cain in her capacity as an officer of ANI Development. The ANI Escrow Agreements  
 17 gave Cain discretion and control over the deposited investor funds. With that control,  
 18 Cain, and others at ANI Development, worked with Chicago Title employees to direct the  
 19 transfer of significant amounts of investor funds to the Receivership Entities and at times,  
 20 back to investors. Cain used investor funds to support the business operations of the  
 21 Receivership Entities and to make payments to investors, including but not limited to  
 22 commissions/referral fees, principal and interest payments. While ANI Development  
 23 presently owes its investors, at a minimum, approximately \$119 million, just \$11 million  
 24 remained in ANI Development's escrow account at Chicago Title when it was frozen.

25  
 26  
 27  
 28 <sup>1</sup> The total investor funds raised reflected herein and number of unique investors will likely  
 differ from the final amounts ultimately determined through the receivership claims process.



### **Cain's Materially Misleading Statements and Omissions**

15. Cain, personally and/or through ANI Development, made several materially misleading statements and representations to investors, or otherwise failed to disclose material information to them.

16. The Form Escrows Cain provided to investors, which Cain caused ANI Development to execute, were phony and contained false and misleading statements and representations about how investors' funds would be governed and used.

17. Cain falsely told investors that their money would be used to fund the transfer of liquor licenses, and represented that each investor's proceeds would be kept safe in an escrow account until they were transferred back to the investor.

18. For example, the Form Escrows stated that ANI Development and CTC "understand that this is a limited escrow only and is being opened for the benefit of" a specified liquor license applicant, "who is applying for approval of a transfer to Applicant of a license issued by the California Department of Alcoholic Beverage Control." The escrow agreement then identified the license to be transferred by license number.

19. The Form Escrow further stated that the escrowed funds would be placed "into an interest-bearing account," and would only be released upon written instructions by ANI Development, and in that event, could only be transferred to a financial account maintained by investors.

20. Cain made related representations in a funding agreement she executed with investors. In that funding agreement, Cain represented, among other things, that:

- Cain had entered into an agreement with a law firm which anticipated that Cain would provide funding for the firm's liquor license applicants;
- Investor funds would be placed in escrow at CTC for the benefit of the firm's liquor license applicants; and
- Pursuant to her agreement with the law firm, Cain would be paid a fee for escrowing funds in connection with the firm's clients' liquor license applications.

21. In other agreements with investors, Cain represented that investor funds would only be released to the investor who contributed said funds and that investors would be lending funds into specific CTC escrow accounts tied to liquor license transfer applications.

22. Based on the foregoing, investors reasonably believed the liquor license funding program was legitimate and funded their investments.

23. But in reality, Cain, with the direct assistance of CTC, had unfettered access to the escrowed funds, and used that access to fund the Receivership Entities' unrelated business operations, pay back earlier investors principal and interest, and to transfer money to its parent company, American National Investments and other Receivership Entities.

24. Cain's investment strategy was wholly fictitious: the real governing agreements, the ANI Escrow Agreements, allowed Cain and others at ANI Development, with the assistance of CTC, to transfer investor funds to accounts Cain controlled at any time, and no investor funds were loaned to liquor-license applicants. These facts were not disclosed to investors.

25. Cain, ANI Development's controlling principal, acted knowingly, recklessly, and negligently in making material misstatements and omissions concerning ANI Development's supposed investment strategy and use of investor funds, and she failed to exercise reasonable care to ensure that investors were not deceived as to this information.

#### **CTC's National Reputation Enabled the Fraudulent Scheme to Operate.**

26. According to its website, CTC represents that it: (i) acts as the impartial "stakeholder" or depository, in a fiduciary capacity, for all documents and monies required to complete the transaction per written instructions of the principals; and (ii) its more than 150 years of experience coupled with the highest insurance reserves in the industry assure you of the greatest level of protection available. As an escrow company, CTC acts as a fiduciary with regard to the parties to the escrow including but not limited

1 to the principal contracting parties, in this instance ANI Development, as well as to  
2 persons who make deposits into a CTC escrow. ANI Development and its investors relied  
3 on and trusted CTC to safeguard the money deposited into CTC accounts.

4 27. CTC's involvement imbued the entire liquor license scheme with  
5 legitimacy. Without CTC's name and active involvement, the scheme simply wouldn't  
6 have worked. Every solicitation for funding highlighted the fact that the investor's money  
7 would stay safe and secure in a CTC escrow account, releasable solely to the investor,  
8 rendering the risk to the investor essentially nil. Therefore, investors' funds were to be  
9 deposited in safe, secure escrow accounts with a fiduciary that had an established business  
10 reputation and a solid financial foundation.

11 28. Over the course of the liquor license loan funding program, CTC and its  
12 officers and employees were aware of Cain's representations to investors regarding how  
13 investor funds would be used exclusively to fund the program. CTC knew that prospectus  
14 and offering memoranda used by Cain and ANI Development represented to investors  
15 that CTC was the escrow holder of investor funds for the liquor license loan funding  
16 program.

17 29. CTC knew that no such program existed, knew that it was not opening  
18 separate escrows for investors for the purpose of funding the liquor license loan program,  
19 and knew that it was not submitting the required Form 226 for any liquor license  
20 applications to the ABC. Rather, Cain had total control over all investors funds held by  
21 CTC. Despite this knowledge, as well as knowledge that investors relied on CTC's  
22 involvement to bring legitimacy and safety to the program, CTC represented to numerous  
23 investors that it was holding investor funds in escrows to fund the liquor license loan  
24 program.

25 30. The ANI escrow account at CTC was formed through an annual agreement  
26 between ANI and CTC, with nearly similar terms each year. The ANI Escrow  
27 Agreements gave no indication that anyone other than ANI would be depositing funds  
28 into the account, yet millions of dollars of investor funds were deposited into this account.

1 Investors wired their money into what they believed was a secure CTC escrow account,  
2 but instead was an account controlled by Cain.

3 31. CTC management regularly reviewed the ANI escrow account records and  
4 ledgers. CTC knew that deposits to the account came from third-party investors, not ANI  
5 Development as required by the ANI Escrow Agreement. CTC also knew that it made  
6 frequent wire transfers out of the account to ANI Development and other entities as  
7 directed by Cain.

8 32. CTC did not disclose the true facts to investors that (a) CTC was not  
9 establishing separate escrows to hold investor funds, (b) their funds were not being used  
10 for liquor license applications, or (c) that Cain had unfettered access to and use of investor  
11 funds.

12 33. At a minimum, CTC employees and officers Della DuCharme  
13 ("DuCharme"), Betty Elixman ("Elixman"), Joanne Reynolds ("Reynolds"), and Thomas  
14 Schwiebert ("Schwiebert") were in on Cain's fraudulent scheme. While acting in their  
15 capacities as escrow agents and/or officers at CTC, they were accepting bribes and  
16 otherwise facilitating Cain's scheme.

17 34. DuCharme an Elixman, and thus CTC, knew all along that, although Cain  
18 was soliciting loans for liquor license escrow accounts under the Form Escrow, those  
19 funds were, in fact, being deposited into accounts governed by the ANI Escrow  
20 Agreements, under which Cain had full discretionary control. DuCharme, Elixman,  
21 Reynolds and others at CTC knew and were reckless in failing to recognize that Cain was  
22 engaged in a massive fraud.

23 35. DuCharme, Elixman, and Reynolds, and thus CTC, also knew and were  
24 reckless in failing to recognize that Cain was imitating them by using  
25 @chicagotitleescrows.com e-mail addresses in order to raise money from investors.  
26 Despite this knowledge, neither Elixman, DuCharme, Reynolds nor anyone else at CTC  
27 did anything to stop this deceitful conduct. Rather, they actively participated in the  
28 scheme by, among other things, signing phony Form Escrows, making misrepresentations

1 to investors, signing false letters to auditors, and allowing Cain unfettered control over  
2 and use of investor funds that CTC was supposed to be safeguarding. They also  
3 benefitted substantially from assisting the scheme, by accepting personal gifts, bribes, and  
4 bonus compensation, and through CTC's collection of significant fees from the escrow  
5 transactions.

6 36. In early 2017, a potential bank lender for an investor noticed the Form  
7 Escrows identified a "Wendy Reynolds" as the CTC escrow officer. But the signature had  
8 been forged by Cain. When the bank called CTC to verify Wendy Reynolds' signatures,  
9 the bank was told that nobody named Wendy Reynolds worked at CTC. Cain attempted  
10 to explain this fact by claiming that Wendy Reynolds was an outside independent  
11 contractor hired by DuCharme, and that to aid things along, she could obtain substitute  
12 Form Escrows signed by a current CTC escrow officer. The investor's bank considered  
13 proceeding with the loan based on newly signed documentation, but it required that an  
14 officer of CTC sign an incumbency certificate certifying that the escrow officer had full  
15 authority to sign the Form Escrows on behalf of CTC.

16 37. On or around February 1, 2017, Cain went to the San Diego Office of CTC.  
17 There, DuCharme and Schwiebert, the Vice President of Commercial and Industrial Sales  
18 at Chicago Title, executed an Incumbency Certificate and Authorization from Chicago  
19 Title ("Incumbency Certificate") certifying that DuCharme was "authorized to execute  
20 Escrow Agreements for the purpose of requesting draws from [the bank] pursuant to" a  
21 credit agreement between the investor and the bank, and that DuCharme was "duly  
22 elected, qualified, and acting as members, managers and(or) officers, as indicated, of  
23 [Chicago Title] and hold on the date hereof the offices or titles set forth opposite their  
24 respective names, and [that] the signatures set opposite each of their respective names are  
25 their genuine signatures[.]"

26 38. The Incumbency Certificate was signed by DuCharme and witnessed by  
27 Schwiebert.  
28

1           39. The Receiver alleges on information and belief that simultaneous with  
2       executing the Incumbency Certificate, and in the presence of Schwiebert, DuCharme re-  
3       signed dozens of phony Form Escrow agreements.

4           40. On several occasions, investors had direct contact with CTC, through  
5       DuCharme and Elixman. For example, an investor, Ovation Finance Holdings 2 LLC  
6       ("Ovation"), spoke with DuCharme prior to ever funding any loans, and DuCharme  
7       confirmed (falsely) that the investor was wiring into a specific escrow account that was  
8       governed by an escrow agreement for which the investor was the beneficiary. And  
9       DuCharme signed correspondence and verbally confirmed to the investor's independent  
10      auditors that money tied to specific license escrows sat in CTC escrow accounts.

11          41. A separate investor, Banc of California, spoke with DuCharme via  
12      telephone and DuCharme confirmed (falsely) the structure and process of the escrows. In  
13      addition, the investor's relationship managers visited DuCharme and Elixman at CTC's  
14      office and received confirmation that CTC was holding the investor's funds and discussed  
15      the liquor license escrows.

16          42. Other investors had direct contact and/or correspondence with DuCharme,  
17      Elixman, and/or Reynolds and were given assurances by them that the investors' monies  
18      were being used to fund specific liquor license escrows and would never leave CTC  
19      unless they were being returned directly to them.

20          43. The Receiver alleges on information and belief that DuCharme and Elixman  
21      had additional contact with investors and signed letters sent by investors' auditors  
22      confirming (falsely) that investor funds were being held in escrow for purposes of the  
23      liquor license loan funding program.

24          44. DuCharme and Elixman's misconduct was integral to their roles as escrow  
25      officers for CTC—setting up escrows and ensuring that the parties who deposited money  
26      into them could have confidence that it was handled according to their Form Escrow  
27      instructions. Their misconduct involved misuse of CTC's core product and undermined  
28

1 the essential purpose of placing funds in escrow—to ensure the safety of the escrowed  
2 funds.

3 45. CTC's misconduct was integral to the scheme both operationally and in  
4 lending support to Cain's misrepresentations. CTC's employees' misconduct was  
5 reasonably related to the kinds of tasks that they were employed to perform, and was  
6 reasonably foreseeable in light of CTC's business and DuCharme and Elixman's job  
7 responsibilities. That a CTC escrow officer might participate in fraud using fraudulent  
8 escrow agreements and related documentation was a generally foreseeable risk inherent  
9 and incidental to CTC's escrow business.

10 46. There is direct evidence in the form of the Incumbency Certificate that  
11 DuCharme and Elixman's superior Schwiebert—an officer of CTC—was aware of what  
12 was transpiring. Given the circumstances, breadth and length of the fraud, there is  
13 substantial circumstantial evidence that higher management at CTC would have been  
14 aware of the misconduct, had CTC employed appropriate and/or legally required internal  
15 controls.

16 47. Through DuCharme and Elixman, as well as through Schwiebert, CTC was  
17 aware that ANI Development's investors believed that the money they funded through  
18 escrows held at CTC would be used only for specific liquor license escrows under the  
19 Form Escrows, which did not permit Cain to unilaterally withdraw the funds.

20 48. Through DuCharme, Elixman and Reynolds, and likely others, CTC was  
21 aware that ANI Development's investors' money was not, in fact, being used for those  
22 purposes. CTC's actions were not passive: CTC initiated transfers to ANI Development  
23 and other Receivership Entities at Cain's request.

24 49. Chicago Title did not tell the investors these material facts, and it failed to  
25 timely stop the fraud and/or take action to prevent Cain from using ANI Development  
26 accounts to perpetrate Cain's fraudulent scheme.

27 50. CTC never informed California liquor licensing authorities that funds had  
28 been placed in escrow for the transfer of a liquor license, as required under state



1 regulations. CTC also never submitted the required Form 226 to the ABC for any liquor  
2 license applications, despite have signed Form Escrows stating it would do so. In fact, the  
3 CTC escrow accounts were not suitable for the transfer of liquor licenses, and the CTC  
4 escrow officers involved did not handle these types of transactions.

5 51. As an institution, CTC was reckless in preventing its employees from using  
6 the instrumentalities of its business to facilitate and engage in brazen acts of fraud.  
7 DuCharme, Elixman, Reynolds and Schweibert conducted their fraudulent activities out  
8 of CTC's offices, using CTC's bank accounts, telephones, computers, form escrow  
9 agreements and other documents, and its e-mail system. CTC should be held to account  
10 for DuCharme, Elixman, Reynolds, and Schweibert's acts and omissions.

11 52. As a "licensed sender of money or any other person who engages as a  
12 business in the transmission of funds," Chicago Title is a "financial institution," subject to  
13 the Bank Secrecy Act. 31 U.S.C. § 5312(a)(2)(R). The PATRIOT Act requires every  
14 financial institution covered by the Bank Secrecy Act to establish an anti-money  
15 laundering program. 31 U.S.C. § 5318(h). In particular, under the PATRIOT Act, "each  
16 financial institution shall establish anti-money laundering programs, including, at a  
17 minimum—(A) the development of internal policies, procedures, and controls; (B) the  
18 designation of a compliance officer; (C) an ongoing employee training program; and (D)  
19 an independent audit function to test programs." Treasury regulations enacted under the  
20 PATRIOT Act further require non-bank financial institutions to employ "know your  
21 customer" practices and to keep accurate records of financial transactions, including  
22 records regarding the verification of the identity of those transmitting funds. 31 C.F.R. §§  
23 1010.220; 1010.410(e).

24 53. The California Escrow Law, Cal. Fin. Code § 17000, *et seq.*, further  
25 regulates the conduct of escrow agents and imposes detailed recordkeeping and auditing  
26 requirements. Cal. Fin. Code §§ 17404, 17406, 17406.1. The California Escrow Law  
27 makes it illegal for any escrow company or its officers or employees to: (1) "knowingly or  
28 recklessly [] direct, participate in, or aid or abet in a material way, any activity which

1 constitutes theft or fraud in connection with any escrow transaction;" or (2) "[k]nowingly  
2 or recklessly make or cause to be made any misstatement or omission to state a material  
3 fact, orally or in writing, in escrow books, accounts, files, reports, exhibits, statements, or  
4 any other document pertaining to an escrow or escrow affairs." Cal. Fin. Code  
5 § 17414(a).

6 54. Despite all of this regulatory scrutiny—which was enacted to give  
7 confidence to the public, including Receivership Entity investors—CTC permitted the  
8 scheme to go on for years, using internal systems that should have been subject to review  
9 and audit by CTC employees and consultants. The ongoing fraud created a permanent  
10 record of escrow agreements, wire transfers, and electronic communications that could  
11 have been easily detected and stopped if CTC followed the basic anti-money-laundering  
12 and "know your customer" procedures that any reasonable financial institution would  
13 follow. Even if the higher-ups in the San Diego Office of CTC were unaware of the Form  
14 Escrows—and Schwiebert's signature on the Incumbency Certificate demonstrates  
15 otherwise—over the life of the scheme third parties wired hundreds of millions of dollars  
16 into and out of the escrow account governed by the ANI Escrow Agreements. The most  
17 rudimentary internal audit should have caught that as suspicious.

18 **CTC, DuCharme, Elixman, and Schweibert All Profited from Cain's Scheme.**

19 55. CTC made money from Cain's fraudulent scheme. Over the life of the  
20 scheme, hundreds of millions of dollars were wired into and out of the ANI Development  
21 escrow accounts maintained at CTC. There were thousands of such transactions and CTC  
22 received approximately \$468,000 in escrow and transaction fees for its participation in  
23 Cain's fraudulent scheme. CTC also benefitted by selling Cain and the Receivership  
24 Entities escrow, title insurance, and other services in connection with her unauthorized  
25 business ventures, earning ample fees and commissions at each step. All of this activity  
26 increased profitability and likely led to compensation and bonus increases for the escrow  
27 officers and various Chicago Title executives.

28

1           56. DuCharme and Elixman personally profited directly from Cain's fraudulent  
2 scheme. In addition to numerous gifts and perks, Cain paid DuCharme and Elixman  
3 thousands of dollars in cash bribes over the course of the scheme.

4           57. For example, on January 20, 2018, Cain wrote DuCharme and Elixman  
5 checks for \$13,000 and \$5,000, respectively. The checks were from Cain's personal  
6 checking account and stated "Gift" in the memos. DuCharme and Elixman cashed the  
7 checks that same week.

8           58. On December 16, 2018, Cain wrote DuCharme and Elixman checks for  
9 \$10,000 and \$1,000, respectively. The checks were again from Cain's personal checking  
10 account and stated "Gift" in the memos. DuCharme and Elixman cashed the checks in the  
11 following weeks. And while Cain paid DuCharme and Elixman with checks, Schwiebert  
12 told Cain "no checks." Instead, she paid him thousands of dollars in cash.

13           59. Cain also wined and dined DuCharme and Elixman through gifting of  
14 various tickets and at restaurants owned by Cain, providing them, along with their family  
15 and friends, with free food, drinks and other perks.

16           60. In August 2019, American National Investments purchased a high-end  
17 home in the Point Loma neighborhood of San Diego that had been specifically identified  
18 by a broker friend of DuCharme and which Cain intended to make available to DuCharme  
19 and her family at a discounted rental rate. Cain further intended that the rental payments  
20 would be applied to a future purchase of the property by DuCharme from American  
21 National Investments on terms favorable to DuCharme.

22           61. By reason of Chicago Title's unlawful actions, including its knowledge of  
23 and involvement in Cain's fraudulent scheme, the Receivership Entities suffered financial  
24 losses and consequential damages including, but not limited to, receivership and exposure  
25 to liability to investors who have not settled their claims against CTC, in an amount to be  
26 proven at trial.

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**FIRST CAUSE OF ACTION**

**Aiding and Abetting Fraud**

(Against All Defendants)

62. The Receiver hereby incorporates the above allegations by reference as if fully set forth herein.

63. Cain committed a massive fraud upon Receivership Entity investors.

64. Among other things, Cain, personally and/or through her control of the Receivership Entities, made factual representations to investors that were not true at the time they were made, for the clear purpose of enticing investors to invest in her fraudulent scheme.

65. For example, the Promissory Notes identified the investors, listed the liquor licenses the investors were supposedly funding, and specified the interest to be paid to the investors for each license, with interest being paid no later than 364 days from the receipt of the investors' funds. Cain caused ANI Development to enter into side agreements and funding agreements, whereby ANI Development agreed to only release investor funds to the investor who contributed said funds, in accordance with the Form Escrows. Cain caused ANI Development to enter into a security agreement whereby ANI Development purportedly granted an investor a security interest in certain escrow accounts maintained at Chicago Title. Cain also caused ANI Development to represent that the investors would be lending funds into specific escrow accounts tied to liquor license transfer applications.

66. All of these statements and representations were knowingly false when made by Cain. Cain had unfettered access to investor funds, and, at least in part, used that access and those funds to fund the Receivership Entities' unrelated business operations. No money was ever properly escrowed to actually facilitate, as represented to investors, the transfer of the liquor licenses identified in the false Form Escrows.

67. Cain made the statements and representations with the intent of inducing the reliance of ANI Development's investors.

1           68. The investors did, in fact, reasonably rely on Cain's false representations in  
2 deciding to invest in the liquor license loan funding program, and the investors' reliance  
3 on the misrepresentations were a substantial factor in proximately causing damage to the  
4 Receivership Entities and their investors.

5           69. Chicago Title had actual knowledge of Cain's fraudulent scheme. Among  
6 other things, DuCharme and Elixman knew that Cain was forging Form Escrows, using a  
7 false e-mail address to impersonate them, and operating the ANI Development escrow  
8 accounts under the ANI Escrow Agreements in such a way that, while investors were  
9 depositing millions of dollars into accounts believed to be controlled under the Form  
10 Escrows, Chicago Title was transferring money to Cain at her request and within her sole  
11 discretion.

12           70. DuCharme and Elixman's receipt of bribes from Cain to continue the fraud  
13 raises a strong inference that DuCharme and Elixman, and therefore Chicago Title, had  
14 actual knowledge of Cain's fraudulent scheme.

15           71. Chicago Title also actively participated in and provided substantial  
16 assistance to Cain's fraud. Among other things: (1) while acting in the scope of her  
17 authority and employment, DuCharme made various fraudulent statements and  
18 representations to facilitate the scheme; (2) Chicago Title failed to disclose facts while  
19 under an obligation to do so, under circumstances that permitted the scheme to continue,  
20 including failing to notify California authorities that the funds had been placed in escrow  
21 ostensibly to facilitate the transfer of liquor licenses; (3) DuCharme assisted Cain in  
22 signing numerous Form Escrows after a bank's diligence revealed them to be likely  
23 forgeries, perpetuating the scheme; (4) Chicago Title, DuCharme, and Elixman all  
24 personally profited from the scheme; (5) DuCharme and Elixman, while acting in the  
25 scope of their authority and employment with Chicago Title, processed hundreds of wire  
26 transfers into and out of ANI Development's escrow accounts under the ANI Escrow  
27 Agreements, knowingly permitting Cain to defraud ANI Development investors.  
28

1           72. The Receivership Entities were injured by Chicago Title aiding and abetting  
2 Cain's fraudulent scheme. Because of Chicago Title's full knowledge of and substantial  
3 assistance in Cain's fraudulent scheme, the Receivership Entities suffered financial losses  
4 and consequential damages including, but not limited to, receivership, and exposure to  
5 liability to investors who have not settled their claims against CTC, in an amount to be  
6 proven at trial.

7           73. Chicago Title is liable for DuCharme and Elixman's active participation in  
8 Cain's fraudulent scheme under the doctrine of *respondeat superior* because, as alleged in  
9 Paragraphs 45-52 above, DuCharme and Elixman's fraud was committed within the scope  
10 of their employment with Chicago Title.

11           74. Chicago Title is also liable for DuCharme and Elixman's misconduct as the  
12 principal of agents who acted with actual or apparent authority for Chicago Title, and  
13 which agents were employed in managerial capacities and acted within the scope of their  
14 employment. Investors interacted with DuCharme and Elixman, believing they were duly  
15 authorized escrow agents acting within the scope of their authority when they, among  
16 other things, confirmed (falsely) to investors and their representatives that investor funds  
17 would be held in escrow accounts for use in funding liquor license transfers.

18           75. To the extent DuCharme and Elixman's actions exceeded the scope of their  
19 authority, Chicago Title allowed investors to believe DuCharme and Elixman possessed  
20 the requisite authority, by: (i) holding DuCharme and Elixman out on Chicago Title's  
21 website as authorized escrow agents; (2) permitting DuCharme and Elixman to process  
22 millions of dollars of inbound wire transfers without apparent supervision; (3) permitting  
23 its escrow officers to facilitate a massive fraud using the means and instrumentalities of  
24 the company, without employing basic internal controls to detect and prevent the fraud.

25           76. DuCharme and Elixman, and through them, Chicago Title, acted with  
26 oppression, fraud, or malice in aiding and abetting Cain's fraud.

27           77. Chicago Title had knowledge of the unfitness of DuCharme and Elixman  
28 and acted with reckless disregard of the rights of the Receivership Entities in continuing



1 to employ DuCharme and Elixman for years while they participated in Cain's fraudulent  
2 scheme. Moreover, Chicago Title expressly or implicitly authorized or ratified their  
3 actions when Schwiebert signed the Incumbency Certificate and witnessed DuCharme's  
4 execution of dozens of phony Forms Escrow agreements.

## 5 **SECOND CAUSE OF ACTION**

### 6 **Negligence**

7 (Against All Defendants)

8 78. The Receiver hereby incorporates the above allegations by reference as if  
9 fully set forth herein.

10 79. Chicago Title owed the Receivership Entities a duty of care because,  
11 pursuant to the ANI Escrow Agreements, which Chicago Title signed, Chicago Title  
12 served as ANI Development's escrow holder.

13 80. Chicago Title's duty of care included, among other things, a duty to exercise  
14 reasonable skill and ordinary diligence as ANI Development's escrow holder, and a duty  
15 to monitor its business to ensure that its employees were not using the instrumentalities of  
16 Chicago Title to carry out and aid and abet a fraudulent scheme.

17 81. Chicago Title breached its duty of care by, among other things, failing to  
18 exercise reasonable skill and ordinary diligence to detect or prevent DuCharme and  
19 Elixman from using Chicago Title's instrumentalities to carry out Cain's fraudulent  
20 scheme. Specifically, Chicago Title allowed Receiver Entity investors to deposit  
21 hundreds of millions of dollars into the escrow account governed by the ANI Escrow  
22 Agreements, despite the ANI Escrow Agreements not providing for deposits by investors.  
23 Chicago Title then allowed Cain to transfer the investors' deposited funds at her  
24 discretion.

25 82. The Receivership Entities have been harmed as a result of Chicago Title's  
26 failures to abide by its duty of care. The Receivership Entities suffered financial losses  
27 and consequential damages including, but not limited to, receivership and exposure to  
28



1 liability to investors who have not settled their claims against CTC, in an amount to be  
2 proven at trial.

3 **THIRD CAUSE OF ACTION**

4 **Breach of Fiduciary Duty**

5 (Against All Defendants)

6 83. The Receiver hereby incorporates the above allegations by reference as if  
7 fully set forth herein.

8 84. Chicago Title owed the Receivership Entities a fiduciary duty because,  
9 pursuant to the ANI Escrow Agreements, which Chicago Title signed, Chicago Title  
10 served as ANI Development's escrow holder.

11 85. Chicago Title's fiduciary duties included, among other things, a duty to  
12 exercise reasonable skill and ordinary diligence, and a duty to refrain from acting against  
13 the Receivership Entities' interests in administering the escrow accounts.

14 86. Chicago Title, through its agents acting within the scope of their  
15 employment, breached its fiduciary duty to the Receivership Entities by failing to exercise  
16 reasonable skill and ordinary diligence, and by knowing of and substantially assisting in  
17 Cain's fraudulent scheme, to Cain and Chicago Title's benefit, and to the Receivership  
18 Entities' detriment. Chicago Title breached its fiduciary duty by allowing Receiver Entity  
19 investors to deposit hundreds of millions of dollars into the escrow account governed by  
20 the ANI Escrow Agreements, despite the ANI Escrow Agreements not providing for  
21 deposits by investors, and then allowing Cain to transfer the investors' deposited funds at  
22 her discretion. Chicago Title further breached its fiduciary duty by following the  
23 instructions of Cain, thereby causing ANI Development to breach its contracts, including  
24 the Promissory Notes, Form Escrow, side agreements and funding agreements with  
25 investors. Chicago Title is liable for DuCharme and Elixman's misconduct under the  
26 doctrine of *respondeat superior* and as the principal of agents acting with actual or  
27 apparent authority of Chicago Title.  
28

1           87. The Receivership Entities have been harmed as a result of Chicago Title's  
2 breaches of its fiduciary duties. The Receivership Entities suffered financial losses and  
3 consequential damages including, but not limited to, receivership and exposure to liability  
4 to investors who have not settled their claims against CTC, in an amount to be proven at  
5 trial.

6                                   **FOURTH CAUSE OF ACTION**  
7                                   **Aiding and Abetting Breach of Fiduciary Duty**  
8                                   (Against All Defendants)

9           88. The Receiver hereby incorporates the above allegations by reference as if  
10 fully set forth herein.

11           89. At all relevant times, Cain was the managing member of ANI Development  
12 and the founder and CEO of American National Investments, and controlled all of the  
13 Receivership Entities. As such, Cain owed the Receivership Entities a fiduciary duty of  
14 care to act in the best interests of the Receivership Entities, and a fiduciary duty of loyalty  
15 to act in good faith and to refrain from putting her personal interests ahead of the interests  
16 of the Receivership Entities.

17           90. Cain's liquor license loan funding program was a fraud, satisfying all the  
18 elements of fraud, including that the known misrepresentations were false, the investors  
19 reasonably relied upon the misrepresentations as intended by Cain, and the investors'  
20 reliance on the misrepresentations were a substantial factor in proximately causing  
21 damage to the Receivership Entities and their investors.

22           91. Cain breached her fiduciary duties by engaging in the actions described  
23 above.

24           92. CTC had actual knowledge of Cain's fiduciary duties described above, and  
25 had actual knowledge that Cain was breaching said fiduciary duties as a result of the  
26 conduct described above.

27           93. CTC aided and abetted and provided substantial assistance to Cain in  
28 breaching her fiduciary duties to the Receivership Entities. Among other things: (1) while

1 acting in the scope of her authority and employment, DuCharme made various fraudulent  
2 statements of her own to facilitate the scheme; (2) Chicago Title failed to disclose facts  
3 while under an obligation to do so, under circumstances that permitted the scheme to  
4 continue; (3) DuCharme assisted Cain in signing numerous Form Escrows after a bank's  
5 diligence revealed them to be likely forgeries, perpetuating the scheme; (4) Chicago Title,  
6 DuCharme, and Elixman all personally profited from the scheme; (5) DuCharme, Elixman  
7 and Reynolds, while acting in the scope of their authority and employment with CTC,  
8 processed hundreds of wire transfers into and out of ANI Development's escrow accounts  
9 under the ANI Escrow Agreements, knowingly permitting Cain to defraud ANI  
10 Development investors. CTC is liable for DuCharme, Elixman, and Reynold's  
11 misconduct under the doctrine of *respondeat superior* and as the principal of agents acting  
12 with actual or apparent authority of CTC.

13 94. As a direct, substantial and proximate result of Chicago Title aiding and  
14 abetting and substantially assisting in Cain's breaches of fiduciary duty, the Receivership  
15 Entities suffered financial losses and consequential damages including, but not limited to,  
16 receivership and exposure to liability to investors who have not settled their claims  
17 against CTC, in an amount to be proven at trial. In committing the acts and omissions  
18 described above, Chicago Title acted fraudulently, oppressively and maliciously, and/or  
19 authorized, adopted or approved DuCharme and Elixman's conduct.

## 20 **FIFTH CAUSE OF ACTION**

### 21 **Breach of Contract**

22 (Against CTC)

23 95. The Receiver hereby incorporates the above allegations by reference as if  
24 fully set forth herein.

25 96. ANI Development and CTC are parties to the ANI Escrow Agreements,  
26 which are binding written agreements.

1           97. At all times herein mentioned, ANI Development fully performed its  
2 obligations and duties under the ANI Escrow Agreements, except for those obligations  
3 and duties that may have been excused as a result of CTC's conduct.

4           98. The ANI Escrow Agreements only allowed for ANI Development to make  
5 deposits into the escrow account governed by the agreements and for ANI Development  
6 to instruct CTC as to the transfers of such funds. CTC breached the ANI Escrow  
7 Agreements by, among other things, allowing third party investors to deposit hundreds of  
8 millions of dollars into the escrow accounts governed by the ANI Escrow Agreements,  
9 then allowing Cain to transfer the investors' deposited funds out of the escrow accounts at  
10 her complete discretion.

11           99. As a direct and proximate result of CTC's breaches of the ANI Escrow  
12 Agreements, the Receivership Entities have suffered financial losses and consequential  
13 damages including, but not limited to, liability to investors who have not settled their  
14 claims against CTC, in an amount to be proven at trial.

15                                   **PRAYER FOR RELIEF**

16           WHEREFORE, the Receiver prays for judgment against Defendants, and each of  
17 them, as follows:

- 18           1. For damages in an amount according to proof at trial;
- 19           2. For punitive damages;
- 20           3. For prejudgment interest as allowed by law;
- 21           4. For costs of suit herein incurred;
- 22           5. For disgorgement of escrow fees and similar compensation paid; and
- 23           6. For such other and further relief as the Court may deem just and proper.

24                                   **DEMAND FOR JURY TRIAL**

25           Plaintiff hereby demands a trial by jury.  
26  
27  
28

1 Dated: \_\_\_\_\_, 2021

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP  
DAVID R. ZARO  
EDWARD G. FATES  
PETER A. GRIFFIN

By: \_\_\_\_\_

DAVID R. ZARO  
Attorneys for Plaintiff  
KRISTA FREITAG, Receiver

DRAFT

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# EXHIBIT B

# EXHIBIT B

KIRKLAND & ELLIS LLP  
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[Additional counsel on signature page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF SAN DIEGO**

OVATION FINANCE HOLDINGS 2 LLC;  
OVATION FUND MANAGEMENT II, LLC;  
BANC OF CALIFORNIA N.A.,

Plaintiffs,

v.

CHICAGO TITLE INSURANCE COMPANY;  
CHICAGO TITLE COMPANY,

Defendants.

Also filed in connection with

*Kim Funding, LLC., et al. v. Chicago Title  
Company, et al., No. 37-2019-00066633-CU-  
FR-CTL and Related Cases*

Case No. 37-2020-00034947-CU-FR-CTL

**JOINT PLAINTIFFS' CASE  
MANAGEMENT CONFERENCE  
STATEMENT**

Date: September 17, 2021

Time: 8:30 a.m.

Dept.: D-66

Judge: Hon. Kenneth Medel

Complaint Filed: Oct. 10, 2020

FAC: Feb. 9, 2021



1 **1. Parties.**

2 Plaintiffs in the following cases are submitting this joint CMC statement:

- 3 1. *Kim Funding, LLC et al. v. Chicago Title Co. et al.*, No. 37-2019-00066633-CU-FR-CTL  
4 (“*Kim Funding*”) [7 plaintiffs]
- 5 2. *Wakefield v. Chicago Title Co. et al.*, No. 37-2020-00012568-CU-FR-CTL,  
6 (“*Wakefield*”) [5 plaintiffs]
- 7 3. *Yu v. Chicago Title Co. et al.*, No. 37-2020-00022467-CU-FR-CTL, (“*Yu*”) [2 plaintiffs]
- 8 4. *Fenley v. Chicago Title Co. et al.*, No. 37-2020-00022394-CU-FR-CTL, (“*Fenley*”) [4  
9 plaintiffs]
- 10 5. *Banc of California v. Peterson*, No. 37-2019-00060809-CU-BC-CTL, (“*Laurie*  
11 *Peterson*”) [1 plaintiff]
- 12 6. *CalPrivate Bank v. Peterson*, No. 37-2019-00058664-CU-BC-CTL, (“*Peterson Trust*”) [1  
13 plaintiff]
- 14 7. *Ovation Finance Holdings 2, LLC et al. v. Chicago Title Co. et al.*, No. 37-2020-  
15 00034947-CU-FR-CTL (“*Ovation*”) [3 plaintiffs]
- 16 8. *CalPrivate Bank v. Chicago Title Co. et al.*, No. 37-2020-00039790-CU-FR-CTL,  
17 (“*CalPrivate*”) [1 plaintiff]
- 18 9. *Allred v. Chicago Title Co. et al.*, No. 37-2021-00007823-CU-BT-CTL, (“*Allred*”)  
19 [putative class action with 2 named plaintiffs/ proposed class representatives].

20 For purposes of this CMC statement, Plaintiffs have grouped and defined the cases as follows:

21 “*Investor Cases*” - the *Kim Funding*, *Wakefield*, *Yu*, *Fenley*, *Ovation*, and *CalPrivate* cases.

22 “*Guaranty Cases*” - the *Laurie Peterson* and *Peterson Trust* cases.

23 “*Putative Class Action*” - the *Allred* case.

24 Counsel for Plaintiffs and Defendants in all cases met and conferred twice about the issues  
25 discussed in this statement.

26 **2. Pleadings.**

27 The first complaint in these Related Cases (*Peterson Trust*, Case No. 37-2019-00058664-CU-  
28 FR-CTL) was filed on November 5, 2019. On February 9, 2021, at the urging of Judge Ronald Styn,

plaintiffs filed a “Model Complaint” in the *Ovation* case (No. 37-2020-00034947-CU-FR-CTL) to which plaintiffs in the related matters could join in whole or part. On April 12, 2021, Judge Styn overruled the vast majority of Chicago Title’s demurrers to the Model Complaint and other amended complaints.

Defendants have answered all of the complaints and some defendants have filed cross-complaints for equitable indemnity and contribution in certain of the actions, as noted below. A hearing on demurrers to certain of Defendants’ cross-complaints is set for November 17, 2021; the outcome of the demurrer will have no impact on the discovery the parties are pursuing.

Case Name	Defendants	Initial Complaint	Amended Complaint/ Model Complaint	Answer Date	Cross-Complaint	Cross-Defendants
<i>Kim Funding</i>	CTC, CTIC, Schwiebert, DuCharme, Elixman	12/2/2019	2/09/2021	5/12/2021	4/27/2021	K. Peterson, Kim Funding, J. Cohen
<i>Wakefield</i>	CTC, CTIC	03/06/2020	2/09/2021	5/17/2021	N/A	
<i>Yu</i>	CTC, CTIC, Schwiebert, DuCharme, Elixman	06/29/2020	2/09/2021	5/12/2021	5/12/2021	K. Peterson, ANI License Fund, Champion-Cain
<i>Fenley</i>	CTC, CTIC, Schwiebert, DuCharme, Elixman	06/29/2020	2/09/2021	5/12/2021	5/12/2021	K. Peterson, ANI License Fund, Champion-Cain
<i>Laurie Peterson</i>	Laurie Peterson	11/15/2019	N/A	07/07/2020	5/3/2021 (3rd Am. XC)	CTC, CTIC, Schwiebert, Elixman
<i>Peterson Trust</i>	Peterson Trust	11/5/2019	N/A	1/15/2020	5/3/2021 (2nd Am. XC)	CTC, CTIC, Schwiebert, Elixman
<i>Ovation</i>	CTC, CTIC	10/1/2020	2/9/2021	5/12/2021	4/27/2021	K. Peterson, Kim Funding, Champion-Cain, Ovation

						Fund Management
<i>Cal Private</i>	CTC, CTIC	11/2/2020	2/19/2021	5/12/2021	4/27/2021	K. Peterson, ANI License Fund, Champion-Cain
<i>Allred</i>	CTC, CTIC	N/A	02/24/21	06/04/2021	N/A	N/A

### 3. Service.

All parties have been served and have appeared.

### 4. Brief Description of the Case.

Each of the *Investor Cases* and the *Putative Class Action* seek recovery on account of Chicago Title's fraud, conspiracy to defraud and aiding and abetting (among other claims) the criminal Ponzi scheme operated by Gina Champion-Cain and Chicago Title. Judge Styn rejected the vast majority of Chicago Title's pleading challenges, and for good reason. The Model Complaint and related amended complaints detail the Ponzi scheme and Chicago Title's central and knowing role in it and is supported by ample, detailed and documented facts, including Champion-Cain's criminal guilty plea; copies of the checks she wrote to two Chicago Title escrow officers as pay-offs for their participation in the fraud; detailed descriptions of communications between Champion-Cain and Chicago Title, including (i) Champion-Cain *twice* told a senior Chicago Title escrow officer, Della DuCharme, that she was impersonating that escrow officer and another in both e-mail communications and falsified documents provided to victims of the fraud; (ii) Champion-Cain asked DuCharme to tell third parties that she had signed documents she had not signed and DuCharme complied; (iii) DuCharme described to Champion-Cain how she could alter Chicago Title records to better hide the fraud from third-parties.

The evidence of Chicago Title's *own* fraudulent conduct is overwhelming. As is the evidence of Chicago Title's complicity in Champion-Cain's criminal conduct. The *Investor Cases* and the *Putative Class Action* seek to hold Chicago Title liable for all the damage it has caused to these Plaintiffs, in addition to seeking punitive damages on account of Chicago Title's fraudulent conduct.

The *Guaranty Cases* only indirectly relate to Chicago Title's misconduct. Believing that Chicago Title was holding lenders' funds safely in escrow as repeatedly represented, Plaintiff Kim Peterson, his wife, or his trust personally guaranteed more than \$100 million in loans to the program. After Chicago

Title's fraud was revealed, two different banks (CalPrivate Bank and Banc of California) sued to enforce certain of those guarantees. The *Guaranty Cases* did not adopt the Model Complaint. The only reason they involve Chicago Title at all is that the defendants in those cases filed cross-complaints for equitable indemnity and contribution against Chicago Title. To the extent CalPrivate Bank and Banc of California (both of whom are Plaintiffs in the *Investor Cases*) prevail in their suits against Chicago Title, they will conceivably be made whole and they will have much less need to pursue recovery in the *Guaranty Cases*.

**5. Jury Trial.**

All parties have requested a jury trial.

**6. Trial Date.**

No trial date has been set. As described below, the *Investor Cases* should be set for trial in April 2022. The *Putative Class Action* anticipates trial readiness to follow shortly (i.e., three to four weeks) after the *Investor Cases* trial concludes.

**7. Estimated Length of Trial.**

Plaintiffs estimate that trial will take 15 to 20 days.

**8. Trial representation.**

The parties will be represented at trial by the counsel identified in the signature blocks to this CMC statement.

**9. Preference.**

Certain Plaintiffs in the *Kim Funding* and *Yu* cases are entitled to a preference under California Code of Civil Procedure § 36.

**10. Alternative Dispute Resolution.**

Certain of the parties have participated in settlement conferences with Magistrate Judge Allison Goddard of the United States District Court, Southern District of California. Plaintiffs are amenable to continuing those discussions and are also amenable to pursuing private mediation.

**11. Insurance.**

After initially refusing to provide any information regarding its insurance coverage (despite the statutory compulsion to do so), Chicago Title has provided discovery responses indicating that it has

substantial insurance coverage relating to this litigation. Plaintiffs will defer to Chicago Title to provide the details regarding its carriers and to the extent there are any coverage issues.

**12. Jurisdiction.**

Not applicable.

**13. Related cases, consolidation, and coordination.**

These cases have been related for pre-trial and discovery purposes. Plaintiffs believe the *Investor Cases* should be consolidated for trial.

Under California Code of Civil Procedure §1048, there are multiple common questions of law and fact that overlap between the *Investor Cases* warranting consolidation for trial. For each of these cases, the Plaintiffs have adopted to a significant degree the allegations set forth in the “Model Complaint” filed in the *Ovation* action. Each case alleges that the Plaintiffs therein suffered substantial losses as a result of Chicago Title’s active participation and assistance in the fraudulent ANI liquor license scheme. The testimony and evidence Plaintiffs will present to demonstrate Chicago Title’s liability will predominantly be the same in each of the *Investor Cases*. While each Plaintiff will prove its own damages, this will take relatively little trial time in comparison to the common liability issues. In addition, the evidence demonstrating Chicago Title’s liability for punitive damages in each of the *Investor Cases* will be the same. Because of the substantial overlap in the evidentiary presentation in the *Investor Cases*, judicial economy and efficiency would be best served by consolidating the *Investor Cases* for trial. In contrast, conducting six separate trials for the *Investor Cases* would result in significant duplication of efforts and strain on the Court’s resources.

Plaintiffs propose that the *Putative Class Action* case not be included in the consolidated trial as that case involves additional issues relating to class certification which may unnecessarily complicate and confuse a consolidated trial in the *Investor Cases*. Moreover, plaintiffs in the *Putative Class Action* submit that significant efficiencies may be gained by scheduling trial in the *Putative Class Action* to follow closely after conclusion of trial in the *Investor Cases*, including rulings on common issues of liability, causation, and Chicago Title’s affirmative defenses. Similarly, the *Guaranty Cases* should not be consolidated for trial with the *Investor Cases* because the *Guaranty Cases* primarily involve claims

1 by two banks against an individual and a trust for breach of a guaranty. Further, the result of the investor  
2 claims against Defendants has a strong potential for aiding in a swifter resolution of these cases.

3 **14. Bifurcation.**

4 Some of the related cases include cross-claims for equitable indemnity, some of which are the  
5 subject of pending demurrers. If the court overrules the demurrers, in part or whole, given the contingent  
6 nature of liability for equitable indemnity, it may be conducive to expedition and economy to bifurcate  
7 and delay trial on any equitable indemnity cross-complaints until after issues of primary liability have  
8 been resolved by a jury. If the pending demurrers are overruled, Plaintiffs may seek bifurcation through a  
9 motion under Code of Civil Procedure §§ 598 and 1048(b).

10 **15. Other Motions.**

11 Plaintiffs intend to bring a motion pursuant to California Civil Code § 3295(c) to allow for  
12 discovery relevant to punitive damages against Defendants.

13 Plaintiffs also intend to bring various *in limine* motions.

14 **16. Discovery.**

15 The parties have engaged in extensive discovery.

16 Attached as Appendix A is a non-exhaustive list of the written discovery exchanged in the  
17 Related Cases. As an example of just how extensive this discovery has been, Chicago Title has  
18 propounded 575 requests for admission to plaintiff Ovation Finance and 481 requests for admission to  
19 plaintiff Banc of California.

20 In addition to what is described in Appendix A, the parties have exchanged hundreds of  
21 thousands of documents and other electronic data. On top of that, the parties have had access for more  
22 than a year to a substantial repository of documents maintained by the federal court receiver. This  
23 substantial document production has led to the parties already marking more than 490 deposition  
24 exhibits.

To date, the parties have taken or noticed the following depositions<sup>1</sup>:

	Witness	Affiliation	Noticing Party	Date
1.	Adams, William	Third-party	Defendants	10/22/2020
2.	Brewer, Michael	Third-party	Defendants	11/24/2020
3.	Bullock, Josh	Ovation	Defendants	4/9/2021
4.	Casey, Robert	Third-party	Defendants	5/14/2020
5.	Costales, Marco	Kim Funding	Defendants	1/22/2021
6.	Cusato, Steve	Banc of California	Defendants	3/12/2021
7.	Cusato, Steve	Banc of California	Defendants	7/20/2021
8.	Dalton, Laura	Ovation	Defendants	6/30/2021
9.	Drew, Karen	Banc of California	Defendants	7/15/2021
10.	Gagnon, Kris	Banc of California	Defendants	9/1/2021
11.	Helvie, Adrienne	Banc of California	Defendants	3/19/2021
12.	Levin, Randolph	Third-party	Plaintiffs	8/5/2021
13.	Marshall, Renee	Chicago Title	Plaintiffs	2/2/2021
14.	Moldoff, Seth	Banc of California	Defendants	6/29/2021
15.	Reynolds, Joanne	Chicago Title	Plaintiffs	2/5/2021
16.	Schwiebert, Thomas	Chicago Title	Plaintiffs	12/16/2020
17.	Sullivan, Cindy	Banc of California	Defendants	8/19/2021
18.	Yu, Yuan	Yu	Defendants	8/9/2021
19.	Yu, Polly	Yu	Defendants	8/9/2021

Scheduled but not yet taken

	Wakefield, Wade	Wakefield	Defendants	9/8/2021
	Heidrich, Doug	Wakefield	Defendants	9/9/2021
	Glassberg, Greg	Wakefield	Defendants	9/10/2021
	Valerias, Horacio	Third-party	Defendants	9/10/2021
	Elling, Todd	Banc of California	Defendants	9/17/2021
	Ritter, Troy	Ovation	Defendants	9/21/2021
	Costales, Marco	Kim Funding	Defendants	9/24/2021
	Madden, John	Banc of California	Defendants	9/29/2021
	Heidrich, Kristine	Wakefield	Defendants	9/30/2021
	Orr, Jeff	Wakefield	Defendants	10/1/2021
	Orr, Heidi	Wakefield	Defendants	10/1/2021
	Katz, Joel	Ovation	Defendants	10/7/2021
	Fenley, Susan	Fenley	Defendants	10/11/2021
	Peterson, Kim	Kim Funding	Defendants	10/13/2021
	Nirken, Howard	Ovation	Defendants	10/18/2021
	Chicago Title PMQ (Topic 27 only)	Chicago Title	Plaintiffs	10/18/2021
	Chicago Title PMQ (Topic # 5 only)	Chicago Title	Plaintiffs	10/25/2021
	Goodman, Joe	Chicago Title	Plaintiffs	11/10/2021
	Kezar, Ed	Chicago Title	Plaintiffs	11/19/2021
	Ghio, Chris	Chicago Title	Plaintiffs	11/30/2021
	Chicago Title PMQ (23 separate topics)	Chicago Title	Plaintiffs	1/10/2022

<sup>1</sup> The dates for the scheduled but not yet taken depositions is fluid as the parties continue to discuss dates for the depositions.

1  
2 The Court should also impose reasonable limitations on depositions. Plaintiffs proposed that  
3 each side (*i.e.*, all Plaintiffs on one side and all Defendants on the other side) be limited by an equal  
4 number of hours on the record. Plaintiffs proposed that each side have 150 hours to conduct deposition  
5 questioning, amounting to more than 21 seven-hour depositions. Defendants rejected this proposal and  
6 have asserted that there should be *no* limitations on depositions. Indeed, in the course of the parties'  
7 meet and confer discussions, Chicago Title announced that its "conservative estimate" was that it would  
8 need "more than 100" additional depositions.

9 Chicago Title has repeatedly demonstrated that it will use its vastly superior financial resources  
10 (along with that of its insurance carriers) to delay this litigation and bludgeon its defrauded victims with  
11 excessive and unreasonable discovery demands. While this case is "complex" under the Local Rules,  
12 that designation hardly entitles Chicago Title to 100 depositions on top of the 24 plaintiffs and third-  
13 party depositions it has already taken. Reasonable limits must be imposed to allow for the efficient  
14 administration of justice in these cases.

15 See discussion in Section 18 below re scheduling discovery cut-off, expert witness exchanges,  
16 and a trial date.

17 **17. Economic Litigation.**

18 Not applicable.

19 **18. Other Issues.**

20 Plaintiffs' Position re Trial Setting and Discovery Cut-Off

21 Litigation arising from the revelations of the fraudulent ANI/ Chicago Title liquor license  
22 scheme began in August 2019, the SEC sued Gina Champion-Cain and the federal court appointed a  
23 permanent receiver to take over ANI.<sup>2</sup> One of the earliest hearings in the SEC case took place on  
24 September 26, 2019, when Magistrate Judge Allison Goddard found Chicago Title in contempt for  
25 refusing to follow a prior federal court order to deliver approximately \$11.2 million to the receiver.  
26

27 <sup>2</sup> Chicago Title was aware of the SEC's involvement earlier as it received a subpoena about the liquor license lending  
28 program from the SEC in May 2019.



(While Judge Larry A. Burns ultimately did not hold Chicago Title in contempt for refusing to follow the court order, he did order Chicago Title to turn over the funds).

On October 22, 2019, Ovation filed the first civil action against Chicago Title on account of Chicago Title's participation in the ANI liquor license scheme. That case was filed in Federal Court, but Ovation eventually dismissed the case without prejudice and re-filed the instant case here. On November 5, 2019, the Allred plaintiffs filed a putative class action also in Federal Court on behalf of all injured victims of the fraud. The Allred putative federal class action was subsequently dismissed without prejudice and refiled immediately in this Court. In December 2019, Kim Funding filed the first state court civil action against Chicago Title. As previously described, during these past nearly two years, Plaintiffs and Chicago Title have engaged in substantial discovery.

In light of the advanced state of discovery, and in the interest of seeking as swift a resolution of these matters as can reasonably be obtained, the *Investor Cases* should be set for trial with the *Putative Class Action* trial to follow shortly thereafter. Plaintiffs estimate that a consolidated trial of the *Investor Cases* can be completed in 15-20 trial days.

Plaintiffs propose the following trial and pre-trial schedule:

Jury Trial	April 11, 2022
Final Pretrial Conference (including hearing on motions in limine to be briefed per CCP § 1005)	March 28, 2022
Completion of Expert Depositions per CCP § 2034.410, et seq.	March 21, 2022
Final Date to Have Summary Judgment/Adjudication Motions Heard	March 21, 2022
Supplemental Expert Disclosures (if any) per CCP § 2034.280	February 21, 2022
Initial Expert Disclosures per CCP § 2034.260	February 14, 2022
Completion of Fact Discovery	February 14, 2022

1 Chicago Title has proposed either that no trial date be set or that one be set in 2023. There are no  
2 compelling reasons to delay resolution of this case. *First*, while discovery is not complete, substantial  
3 progress has been made. Indeed, in light of the literally thousands of interrogatories and requests for  
4 admission Chicago Title has propounded, the hundreds of thousands of pages of documents and  
5 electronic data exchanged, and the dozens of depositions taken or scheduled, there is relatively little  
6 discovery left to be conducted; whatever non-expert discovery remains can easily be completed in five  
7 months.

8 *Second*, Chicago Title has argued that trial should be substantially delayed in the event Chicago  
9 Title gets sued by the federal court appointed receiver. But there is no reason to condition the setting of a  
10 trial date on whether and when the federal court-appointed receiver sues Chicago Title. (Indeed,  
11 Magistrate Judge Goddard has issued several minute orders describing on-going discussions she has had  
12 with the Receiver and Chicago Title, among others, in an effort to resolve such a case). Moreover, a  
13 lawsuit from the Receiver would have no impact on the trial of the *Investor Cases*. Any lawsuit by the  
14 Receiver would necessarily involve the Receiver's assertion of claims only the Receiver owns in an  
15 effort to recover money owed to the Receivership Estate.

16 *Finally*, the Plaintiffs are entitled to a resolution of their claims sooner, not later. The April 2022  
17 trial date would come more than two and a half years after Chicago Title first hired its litigation counsel  
18 in this case, and nearly three years after it was subpoenaed by the SEC in or before May 2019. Given the  
19 extensive litigation activity during this two and a half years, Chicago Title will have more than adequate  
20 opportunity to prepare its case for trial. In addition, certain of the Plaintiffs are over the age of 70 (some  
21 are older than 80) and they would be entitled a trial preference.

1 Dated: September 02, 2021

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# APPENDIX A

**Discovery Propounded or Served in *Ovation Finance Holdings 2, LLC, et. al, v. Chicago Title Insurance Co., et al.*, 37-2020-34947-CU-FR-CTL**

**RFAs Propounded by Plaintiffs**

2020.10.20 Plaintiffs' 1st Set RFAs to CTC
2020.10.20 Plaintiffs' 1st Set RFAs to CTIC
2020.11.19 CTC's Responses to Plaintiffs' 1st Set RFAs
2020.11.19 CTIC's Responses to Plaintiffs' 1st Set RFAs
2020.12.30 Plaintiffs' 2nd Set RFAs to CTC
2021.1.13 CTC's Amended Responses to Ovation's 1st Set RFAs
2021.1.13 CTC's POS re Amended 1st Set RFA Responses
2021.1.27 CTC's 2nd Amended Responses to 1st Set RFAs
2021.2.5 CTC's Responses to Plaintiffs' 2nd Set RFAs
2021.03.10 CTC's Corrected Amended Responses to OFH2's 1st Set RFAs
2021.03.10 CTC's Corrected Second Amended Responses to OFH2's 1st Set RFAs
2021.03.19 CTC's Third Amended Responses to OFH2's 1st Set RFAs
2021.06.28 Plaintiffs' 3rd Set RFAs to CTC
2021.06.28 Plaintiffs' 2nd Set RFAs to CTIC
2021.07.19 CTC's Fifth Amended Responses to OFH2's 1st Set RFAs
2021.07.30 CTIC's Response to Plaintiffs' 2nd Set of RFAs
2021.07.30 CTC's Response to Plaintiffs' 3rd Set of RFAs

**RFAs Propounded by Defendants**

2020.10.30 CTC's 1st Set RFAs to OFH2
2020.10.30 CTC's 1st Set RFAs to OFMII
2020.10.30 CTC's 1st Set RFAs to BoC
2020.10.20 POS re RFAs to OFH2, OFMII & BoC
2020.12.15 OFH2's Responses to CTC's 1st Set RFAs
2020.12.15 OFMII's Responses to CTC's 1st Set RFAs
2020.12.15 BoC's Responses to CTC's 1st Set RFAs
2020.12.15 POS re Plaintiffs RFA Responses
2021.03.19 CTC's 2nd Set RFAs to BoC
2021.03.19 CTC's 2nd Set RFAs to OFH2
2021.03.19 CTC's 2nd Set RFAs to OFMII
2021.03.19 POS re CTC's RFAs to OFH2, OFMII & BoC
2021.03.23 CTC's 2nd Set RFAs to BoC
2021.03.23 CTC's 2nd Set RFAs to OFH2
2021.03.23 CTC's 2nd Set RFAs to OFMII
2021.03.25 BoC's Amended Responses to CTC's 1st Set RFAs
2021.04.26 BOC's Responses to CTC's 2nd Set of RFAs
2021.04.26 OFH2's Objections to CTC's 2nd Set of RFAs
2021.04.26 OFMII's Objections to CTC's 2nd Set of RFAs
2021.06.04 BOC's First Amended Responses to CTC's 2nd Set of RFAs

2021.06.04 OFH2's First Amended Responses to CTC's 2nd Set of RFAs
2021.06.04 OFMII's First Amended Responses to CTC's 2nd Set of RFAs
2021.07.30 CTIC's Response to Plaintiffs' 2nd Set of RFAs
2021.08.17 BOC's Second Amended Responses to CTC's 2nd Set of RFAs
2021.08.20 CTC's 3rd Set RFAs to BoC
2021.08.20 CTC's 3rd Set RFAs to OFH2

#### **RFPs Propounded by Plaintiffs**

2020.10.20 Plaintiffs' 1st Set RFPs to CTC
2020.10.20 Plaintiffs' 1st Set RFPs to CTIC
2020.10.22 Plaintiffs' 2nd Set RFPs to CTC
2020.10.22 Plaintiffs' 2nd Set RFPs to CTIC
2020.11.10 Plaintiffs' 3rd Set RFPs to CTC
2020.11.10 Plaintiffs' 3rd Set RFPs to CTIC
2021.1.20 Plaintiffs' 4th Set RFPs to CTC
2021.1.20 Plaintiffs' 4th Set RFPs to CTIC
2020.11.19 CTC's Responses to Plaintiffs' 1st Set RFPs
2020.11.19 CTIC's Responses to Plaintiffs' 1st Set RFPs
2020.12.7 CTC's Responses to Plaintiffs' 2nd Set RFPs
2020.12.7 CTIC's Responses to Plaintiffs' 2nd Set RFPs
2020.12.14 CTC's Responses to Plaintiffs' 3rd Set RFPs
2020.12.14 CTIC's Responses to Plaintiffs' 3rd Set RFPs
2021.05.21 CTC's Amended Responses to Plaintiffs' 4th Set RFPs
2021.06.28 Plaintiffs 5th Set RFPs to CTC
2021.06.28 Plaintiffs 5th Set RFPs to CTIC
2021.07.30 CTC's Response to Plaintiffs' 5th Set of RFPs
2021.07.30 CTIC's Response to Plaintiffs' 5th Set of RFPs
2021.07.30 POS re CTC's and CTIC's Response to Plaintiffs' 5th Set RFPs

#### **RFPs Propounded by Defendants**

2020.10.30 CTC's 1st RFPs to OFH2
2020.10.30 CTC's 1st RFPs to OFMII
2020.10.30 CTC's 1st RFPs to BoC
2020.12.15 OFH2's Responses to CTC's 1st Set RFPs
2020.12.15 OFMII's Responses to CTC's 1st Set RFPs
2020.12.15 BoC's Responses to CTC's 1st Set RFPs
2020.12.15 POS re Responses to 1st Set RFPs
2021.03.19 CTC's 2nd Set RFPs to BoC
2021.03.19 CTC's 2nd Set RFPs to OFH2
2021.03.19 CTC's 2nd Set RFPs to OFMII
2021.04.20 BoC's Responses to CTC's 2nd Set RFPs
2021.04.20 OFH2's Responses to CTC's 2nd Set RFPs
2021.04.20 OFMII's Responses to CTC's 2nd Set RFPs
2021.06.04 BOC's First Amended Responses to CTC's 2nd Set of RFPs



2021.06.04 OFH2's First Amended Responses to CTC's 2nd Set of RFPs
2021.06.04 OFMII's First Amended Responses to CTC's 2nd Set of RFPs

### **ROGs Propounded by Plaintiffs**

2020.10.20 Plaintiffs' 1st Set Form ROGs to CTC
2020.10.20 Plaintiffs' 1st Set Form ROGs to CTIC
2020.10.21 Plaintiffs' 1st Set Special ROGs to CTC
2020.10.21 Plaintiffs' 1st Set Special ROGs to CTIC
2020.11.19 CTC's Responses to Plaintiffs' 1st Set Form ROGS
2020.11.19 CTIC's Responses to Plaintiffs' 1st Set Form ROGS
2020.11.19 CTC's Responses to Plaintiffs' 1st Set Special ROGS
2020.11.19 CTIC's Responses to Plaintiffs' 1st Set Special ROGS
2020.12.30 Plaintiffs 2nd Set Special ROGs to CTC
2021.01.13 CTC's Amended Responses to Plaintiffs' 1st Set Special ROGs
2021.01.13 CTC's Amended Responses to Plaintiffs' 1st Set Form ROGs
2021.02.05 CTC's Responses to Plaintiffs' 2nd Set Special ROGs
2021.05.20 OFH2's 2nd Set Form ROGs to CTC
2021.05.20 OFH2's 2nd Set Form ROGs to CTIC
2021.05.21 CTC's Responses to Plaintiffs' 2nd Set of Special ROGs
2021.05.21 CTC's Second Amended Responses to Plaintiffs' 1st Set of Form ROGs
2021.05.21 CTC's Second Amended Responses to Plaintiffs' 1st Set of Special ROGs
2021.06.22 CTC's Responses to Plaintiffs' 2nd Set of Form ROGs
2021.06.22 CTIC's Responses to Plaintiffs' 2nd Set of Form ROGs
2021.06.28 OFH2's 3rd Set Form ROGs to CTC
2021.06.28 OFH2's 3rd Set Form ROGs to CTIC
2021.07.19 CTC's Third Amended Responses to OFH2's 1st Set of Form ROGs
2021.07.30 CTC's Response to Plaintiffs' 3rd Set of Form ROGs
2021.07.30 CTC's Response to Plaintiffs' 3rd Set of Special ROGs
2021.07.30 CTIC's Response to Plaintiffs' 3rd Set of Form ROGs
2021.07.30 CTIC's Response to Plaintiffs' 2nd Set of Special ROGs

### **ROGs Propounded by Defendants**

2020.10.30 CTC's 1st Special ROGs to OFH2
2020.10.30 CTC's 1st Special ROGs to OFMII
2020.10.30 CTC's 1st Special ROGs to BoC
2020.10.30 CTC's 1st Form ROGs to OFH2
2020.10.30 CTC's 1st Form ROGs to OFMII
2020.10.30 CTC's 1st Form ROGs to BoC
2020.12.15 OFH2's Responses to CTC's 1st Set Special Rogs
2020.12.15 OFMII's Responses to CTC's 1st Set Special Rogs
2020.12.15 BoC's Responses to CTC's 1st Set Special Rogs
2020.12.15 OFH2's Responses to CTC's 1st Set Form Rogs
2020.12.15 OFMII's Responses to CTC's 1st Set Form Rogs

2020.12.15 BoC's Responses to CTC's 1st Set Form ROGs
2021.03.05 OFH2's First Amended Responses to CTC's 1st Set of Form ROGs
2021.03.05 OFH2's First Amended Responses to CTC's 1st Set of Special ROGs
2021.03.05 OFHII's First Amended Responses to CTC's 1st Set of Form ROGs
2021.03.05 OFHII's First Amended Responses to CTC's 1st Set of Special ROGs
2021.03.10 CTC's Corrected 1st Special ROGs to BoC
2021.03.10 CTC's Corrected 1st Special ROGs to OFH2
2021.03.10 CTC's Corrected 1st Special ROGs to OFMII
2021.03.19 CTC's 2nd Special ROGs to BoC
2021.03.19 CTC's 2nd Special ROGs to OFH2
2021.03.19 CTC's 2nd Special ROGs to OFMII
2021.03.23 CTC's 2nd Form ROGs to BoC
2021.03.23 CTC's 2nd Form ROGs to OFH2
2021.03.23 CTC's 2nd Form ROGs to OFMII
2021.04.26 BOC's Responses to CTC's 2nd Set of Form ROGs
2021.04.26 OFH2's Objections to CTC's 2nd Set of Form ROGs
2021.04.26 OFMII's Objections to CTC's 2nd Set of Form ROGs
2021.06.04 BOC's First Amended Responses to CTC's 2nd Set of Form ROGs
2021.06.04 BOC's First Amended Responses to CTC's 2nd Set of Special ROGs
2021.06.04 OFH2's First Amended Responses to CTC's 2nd Set of Special ROGs
2021.06.04 OFH2's First Amended Responses to CTC's 2nd Set of Form ROGs
2021.06.04 OFMII's First Amended Responses to CTC's 2nd Set of Special ROGs
2021.06.04 OFMII's Amended Responses to CTC's 2nd Set of Form ROGs
2021.07.30 CTC's Response to Plaintiffs' 3rd Set of Form ROGs
2021.07.30 CTC's Response to Plaintiffs' 3rd Set of Special ROGs
2021.07.30 CTIC's Response to Plaintiffs' 3rd Set of Form ROGs
2021.07.30 CTIC's Response to Plaintiffs' 2nd Set of Special ROGs
2021.08.17 BOC's Second Amended Responses to CTC's 2nd Set of Form ROGs
2021.08.20 CTC's 3rd Set Form ROGs to BoC
2021.08.20 CTC's 3rd Set Form ROGs to OFH2

**Discovery Propounded or Served in *Kim Funding, v. Chicago Title Insurance Co., et al.*, 37-2019-00066633-CU-FR-CTL**

**SUBPOENAS**

2020.01.07 CT Notice of Subpoena to third party Banc of Cal
2020.01.07 CT Notice of Subpoena to third party Torrey Pines Bank
2020.01.10 Ltr CT to Ovation re subpoena duces tecum
2020.02.10 Banc of Cal objection to subpoena
2020.02.10 Ovation objection to subpoena
2020.03.10 Ltr CalPrivate Bank re bus rec subpoena
2020.04.01 CT Notice of Subpoena to third party Bond
2020.04.01 CT Notice of Subpoena to third party City National Bank
2020.04.01 CT Notice of Subpoena to third party HoyleCohen et al
2020.04.01 CT Notice of Subpoena to third party Pastore

2020.04.01 CT Notice of Subpoena to third party Patterson
2020.04.01 CT Notice of Subpoena to third party to Adams
2020.04.01 CT Notice of Subpoena to third party to Hanson
2020.04.01 CT Notice of Subpoena to third party to Mamer
2020.04.01 CT Notice of Subpoena to third party Torres
2020.04.03 Ltr HoyleCohen re bus rec subpoena
2020.04.09 Adams resps to CT subpoena
2020.04.13 Pltfs objection to Hoylecohen et al subpeonas
2020.04.16 Patterson reps to subpoena
2020.04.17 Notice of Subpoenas to Third Party - Rachael Bond and Joelle Hanson
2020.04.21 CT Notice of Subpoena to third party Mamer
2020.04.27 CT Notice of Subpoena to third party CalPrivate Bank
2020.04.29 Elixman's Subpoena to Google for Business Records
2020.05.01 CT Notice of Subpoena to non-party R. Casey
2020.05.06 CT Notice of Subpoena to third party Sigmund Luther
2020.05.06 Plaintiffs' Objections to Subpoenas to Non-Parties
2020.05.07 Ltr from Bauer re Casey Deposition
2020.05.08 Ltr McClure to S. Bauer Letter re Deposition of Robert Casey
2020.05.08 Pastore resps to Subpoena
2020.05.11 CT Notice to Cain of Subpoena of Records of Costales
2020.05.11 CT Notice to Peterson of Subpoena of Records of Costales
2020.05.11 CT Notice to Peterson of Subpoena of Records of Luther
2020.05.13 Letter from Cooley to Latham re Bob Casey Depo
2020.05.15 CT notice of Subpoena to third party Awerbuch
2020.05.15 CT Notice of Subpoena to third party Merit Financial
2020.05.21 CT Notice to Peterson of Subpoena of Records of City National
2020.05.26 Notice of Subpoena to third party McDevitt and Pribyl
2020.05.27 Pltfs Objection to Merit Fin et al subpoenas
2020.06.01 CT Notice to Peterson of Subpoena of Records of City National
2020.06.01 CT Notice to Peterson of Subpoena of Records of Costales
2020.06.01 CT Notice to Peterson of Subpoena of Records of Nossaman
2020.06.08 CT Notice fo Subpoena to third party Nossaman
2020.06.08 CT Notice of Subpoena to third party City Ntl Bank
2020.06.08 CT Notice of Subpoena to third party Costales
2020.06.09 McDevitt and Pribyl resps to subpeona
2020.06.15 Adams resps to CT's SDT
2020.06.16 Pltfs' Notice of Subpoena to Receiver Freitag
2020.06.19 CTC Peterson -Notice of Subpoena re Dawn Reilly (002)
2020.06.24 City Ntl Bank bus rec decl
2020.07.02 Awerbuch Resp to Subpoena
2020.07.02 CT Notice of Subpoena to third party Brewer Consulting
2020.07.02 CT Notice of Subpoena to third party Brewer
2020.07.02 CT Notice of Subpoena to third party Cain
2020.07.02 CT Notice of Subpoena to third party License Locators
2020.07.02 CT Notice of Subpoena to third party Young

2020.07.02 CT Notice to Peterson of Subpoena of Records of Leaf Cole
2020.07.02 CT Notice to Peterson of Subpoena of Records of Northern Trust
2020.07.02 CT Notice to Peterson of Subpoena of Records of Sunwest Bank
2020.07.02 Merit Fin resps to subpoena
2020.07.06 CT Notice to Peterson of Subpoena of Records of Dill
2020.07.06 Sigmund Luther resps to subpoena
2020.07.07 Commission to Take Depo Outside CA to Texas Capital Bank
2020.07.07 Commission to Take Depo Outside of CA to Cadence Bank
2020.07.09 Affidavit Subpoena to Texas Capital
2020.07.09 CT Notice of Subpoena to third party Reilly
2020.07.10 CT Notice of Subpoena to third party Northern Trust Co
2020.07.10 CT Notice of Subpoena to third party Leaf and Cole
2020.07.10 CT Notice of Subpoena to third party Sunwest Bank
2020.07.10 Notice of Subpoena to third party Olin
2020.07.13 CT Notice of Subpoena to third party Dill
2020.07.14 CT Notice of Subpoena to third party Morton Capital
2020.07.14 CT Notice to Peterson of Subpoena of Records of Gisbert
2020.07.14 CT Notice to Peterson of Subpoena of Records of KPMG
2020.07.14 Notice of Subpoena to third party Morton Capital
2020.07.15 CT Notice of Subpoena to third party Arcus
2020.07.15 CT Notice of Subpoena to third party Berman Capital
2020.07.15 CT Notice of Subpoena to third party Homrich and Berg
2020.07.15 Plaintiffs' Objections to Civil Subpoenas
2020.07.16 CT Notice of Subpoena to third party TMD and Assoc
2020.07.20 Objections to Third Party Subpoenas
2020.07.22 CT Notice of Subpoena to third party Gisbert
2020.07.22 CT Notice of Subpoena to third party KPMG
2020.07.22 CT Subpoena Duces Tecum to Champion
2020.07.24 CT Notice of Subpoena to third party Berner
2020.07.24 CT Notice of Subpoena to third party Eggert
2020.07.24 CT Notice of Subpoena to third party Gabay
2020.07.24 CT Notice of Subpoena to third party Lantzman
2020.07.24 CT Notice of Subpoena to third party Lyle
2020.07.24 CT Notice of Subpoena to third party Nicholas Binkley
2020.07.24 CT Notice of Subpoena to third party Sammantha Binkley
2020.07.24 CT Notice of Subpoena to third party Wittert
2020.07.24 Leaf and Cole objection to subpoena
2020.07.24 Notice of Subpoena to third party Mitchell
2020.07.27 CT Notice of Subpoena to third party West
2020.07.27 Notice of Subpoena to third party MWEST bookkeeping
2020.07.29 CT Notice of Subpoena to third party Cadence Bank
2020.07.29 CT Notice of Subpoena to third party KPMG LLP
2020.07.29 CT Notice of Subpoena to third party Texas Capital
2020.07.30 CT Notice of Subpoena to third party HAV Capital
2020.07.30 CT Notice of Subpoena to third party La Jolla Bridge

2020.07.30 CT Notice of Subpoena to third party Valeiras
2020.07.30 Texas Capital resps to subpoena
2020.07.30 Texas Subpoean Duces Tecum KPMG
2020.07.31 Pltfs objection to West et al subpoenas
2020.07.31 Pltfs' Objections to Third Party Subpoenas
2020.08.03 3rd Party Costales and Nossaman resps to subpoenas
2020.08.03 Costales and Nossaman resps to bus rec subpoena
2020.08.03 Ltr Arcus Bus Partners re bus rec subpoena
2020.08.03 Ltr Morton Capital re bus rec subpoena
2020.08.06 Ltr KPMG re bus rec subpoena
2020.08.18 CT Notice of Subpoena to third party Bond
2020.08.18 CT Notice of Subpoena to third party Hanson
2020.08.20 Records Custodian Bond resps and decl
2020.08.31 HAV Capital resps to subpoena
2020.08.31 La Jolla Bridge resps to subpoena
2020.08.31 Subpoena for out of state case - Champion
2020.08.31 Valeiras resps to subpoena
2020.09.01 Redline Third-Party Sig Luther's resps to Subpoena
2020.09.01 Third-Party Sig Luther's resps to Subpoena
2020.09.18 CT Notice of Adams Oral Depo
2020.09.30 CT Subpoena to third parties to produce docs
2020.10.20 Adams resps to CT subpoena
2020.10.26 CT Notice of Subpoena to third party Dean Libs
2020.10.26 CT Notice of Subpoena to third party Jay Libs
2020.10.26 CT Notice of Subpoena to third party Lori Libs
2020.11.03 CT Notice of Brewer Depo
2020.11.18 CT Notice of Subpoena to third party Pacifica Companies LLC
2020.11.20 CT Depo Subpoena of Marco Costales
2020.11.20 T Notice to Cohen of Subpoena of Records of Latham and Watkins
2020.11.20 T Notice to Peterson of Subpoena of Records of Latham and Watkins
2020.11.25 CT Notice of Subpoena to third party Pacifica Co
2020.12.01 CT Notice of Subpoena to third party Latham Walkins
2020.12.01 CT Notice of Subpoena to third party Milito
2020.12.03 CT Notice of Costales Depo
2020.12.16 Costales Objections to Depo Subpoena
2020.12.16 Latham Letter to M. Donohue
2021.01.15 CT Notice of Subpoena to third party Randolph Houts
2021.05.12 Notice of Subpoena re Kevin Jasper
2021.05.20 Regents Consumer Notice - Cohen
2021.05.20 Regents Consumer Notice - Peterson
2021.05.20 Wells Fargo Consumer Notice - Peterson
2021.06.03 CTC Notice of Subpoena re Regents Bank
2021.06.03 CTC Notice of Subpoena re Wells Fargo
2021.06.23 Wells Fargo Consumer Notice - Peterson

**RFAs Propounded by Plaintiffs**

2019.12.31 Kim Funding RFAs to CT rev
2019.12.31 POS re Discovery
2020.02.03 CT Resps to RFA (Set 1)
2020.06.15 Kim Peterson Resps to RFA (Set 2)

**RFAs Propounded by Defendants**

2019.12.27 CT RFA to ABC Funding (Set 1)
2019.12.27 CT RFA to Joseph Cohen (Set 1)
2019.12.27 CT RFA to Kim Funding (Set 1)
2019.12.27 CT RFA to Kim Peterson (Set 1)
2020.01.27 ABC Funding Resp to RFA (Set 1)
2020.01.27 Cohen's Resp to RFA (Set 1)
2020.01.27 Joseph Cohen Resp to RFA (Set 1)
2020.01.27 Kim Funding Resp to RFA (Set 1)
2020.01.27 Kim Peterson Resp to RFA (Set 1)
2020.03.17 Schwiebert RFAs to ABC (Set 1)
2020.03.17 Schwiebert RFAs to JOSEPH COHEN (Set 1)
2020.03.17 Schwiebert RFAs to KIM FUNDING (Set 1)
2020.03.17 Schwiebert RFAs to KIM PETERSON (Set 1)
2020.05.01 ABC Resps to Schwiebert's RFAs (Set 1)
2020.05.01 Joseph Cohen's Resps to Schwiebert's RFAs (Set 1)
2020.05.01 Kim Funding's Resps to Schwiebert's RFAs (Set 1)
2020.05.01 Kim Peterson's Resps to Schwiebert's RFAs (Set 1)
2020.05.12 CT RFA to Kim Funding (Set 2)
2020.05.12 CT RFA to Kim Peterson (Set 2)
2020.06.15 Peterson's Resps to RFAs (Set 2)
2021.01.23 Schweibert's RFA to Cohen (Set 1)
2021.01.23 Schweibert's RFA to Peterson (Set 1)
2021.01.25 Schwiebert RFA to Joseph Cohen (Set 1)
2021.01.25 Schwiebert RFA to Kim Peterson (Set 1)
2021.02.26 Cohen's Rsps to Schwiebert RFAs (Set 2)
2021.02.26 Peterson's Rsps to Schwiebert RFAs (Set 2)
2021.03.01 Cohen's Supp Rsps to CT RFAs (Set 1)
2021.03.01 Peterson's Supp Rsps to CT RFAs (Set 1)
2021.06.17 CTC RFAs to Kim Peterson (Set 3)
2021.07.19 - Kim Peterson Resps to Chicago RFA (Set 3)
2021.08.11 Peterson's Supp Resps to CTC RFA No. 28

**RFPs Propounded by Plaintiffs**

2019.12.31 Kim Funding RFPs to CTC
2019.12.31 Kim Funding RFPs to CTIC
2020.02.03 Chicago Title Company's Response to Requests for Production (Set One)
2021.01.25 CTC's Objections Responses to Kim Peterson's 2nd RFPs



### **RFPs Propounded by Defendants**

2019.12.27 CT RFP to ABC Funding (Set 1)
2019.12.27 CT RFP to Joseph Cohen (Set 1)
2019.12.27 CT RFP to Kim Funding (Set 1)
2019.12.27 CT RFP to Kim Peterson (Set 1)
2020.01.27 ABC Funding Resps to RFP (Set 1)
2020.01.27 Cohen's Responses to Resps to RFP (Set 1)
2020.01.27 Kim Funding, LLC's Resps to RFP (Set 1)
2020.01.27 Peterson's Resps to RFP (Set 1)
2020.03.17 Schwiebert RFPs to ABC (Set 1)
2020.03.17 Schwiebert RFPs to JOSEPH COHEN (Set 1)
2020.03.17 Schwiebert RFPs to KIM FUNDING (Set 1)
2020.03.17 Schwiebert RFPs to KIM PETERSON (Set 1)
2020.05.01 ABC Responses to Schwiebert's RFPs (Set 1)
2020.05.01 Joseph Cohen's Responses to Schwiebert's RFPs (Set 1)
2020.05.01 Kim Funding's Responses to Schwiebert's RFAs (Set 1)
2020.05.01 Kim Peterson's Responses to Schwiebert's RFAs (Set 1)
2020.05.01 Letter to Dyson re Discovery Responses and Production
2020.05.12 CT RFP to Kim Peterson (Set 2)
2020.05.12 CT RFPs to Kim Funding (Set 2)
2020.06.15 Kim Funding's Resps to RFPs (Set Two)
2020.06.15 Peterson's Resps to RFPs (Set Two)
2020.10.19 CT RFP to Kim Peterson (Set 2)
2020.12.22 Amended RFPs to Kim Peterson (Set 3)
2021.01.21 Kim Peterson's Resps to CT's RFP
2021.06.17 CTC RFPs to Kim Funding (Set 3)
2021.06.17 CTC RFPs to Kim Peterson (Set 4)
2021.07.19 - Kim Funding Resps to Chicago RFP (Set 3)
2021.07.19 - Kim Peterson Resps to Chicago RFP (Set 4)
2021.07.23 CTC RFPs to ABC Funding (Set 2)
2021.07.23 CTC RFPs to Kim Funding (Set 4)
2021.08.23 ABC Funding Responses to CT's RFP (Set 2)
2021.08.23 Kim Funding Responses to CT's RFP (Set 4)

### **ROGs Propounded by Plaintiffs**

2019.12.31 Kim Peterson Form ROGs to CT (Set 1)
2019.12.31 Kim Peterson Form ROGs to CTIC (Set 1)
2019.12.31 Kim Peterson Special ROGs to CTC (Set 1)
2019.12.31 Kim Peterson Special ROGs to CTIC (Set 1)
2020.01.27 ABC Funding Resp to Form ROGs (Set 1)
2020.01.27 ABC Funding Resp to Special ROGs (Set 1)

2020.01.27 Joseph Cohen Resp to Form ROGs (Set 1)
2020.01.27 Joseph Cohen Resp to Special ROGs (Set 1)
2020.01.27 Kim Funding Resp to Form ROGs (Set 1)
2020.01.27 Kim Funding Resp to Special ROGs (Set 1)
2020.01.27 Kim Peterson Resp to Form ROGs (Set 1)
2020.01.27 Kim Peterson Resp to Special ROGs (Set 1)
2020.02.03 Chicago Title Company's Response to Form Rogs (Set 1)
2020.02.03 Chicago Title Company's Response to Special Rogs (Set 1)
2020.02.03 Chicago Title Insurance Company's Response to Form Rogs (Set 1)
2020.02.03 Chicago Title Insurance Company's Response to Special Rogs (Set 1)
2021.03.04 CT First Amended Responses to Form Interrogatories (Set 1)

### **ROGs Propounded by Defendants**

2019.12.27 CT Form ROGs to ABC Funding (Set 1)
2019.12.27 CT Form ROGs to Joseph Cohen (Set 1)
2019.12.27 CT Form ROGs to Kim Funding LLC (Set 1)
2019.12.27 CT Form ROGs to Kim Peterson (Set 1)
2019.12.27 CT Special ROGs to ABC Funding (Set 1)
2019.12.27 CT Special ROGs to Joseph Cohen (Set 1)
2019.12.27 CT Special ROGs to Kim Funding (Set 1)
2019.12.27 CT Special ROGs to Kim Peterson (Set 1)
2020.01.27 ABC Funding Strategies, LLC's Response to Form Rogs (Set One) (Confidential)
2020.01.27 ABC Funding Strategies, LLC's Response to Special Rogs (Set One) (Confidential)
2020.01.27 Cohen's Responses to Form Rogs (Set One) (Confidential)
2020.01.27 Cohen's Responses to Special Rogs (Set One) (Confidential)
2020.01.27 Kim Funding, LLC's Responses to Form Rogs (Set One) (Confidential)
2020.01.27 Kim Funding, LLC's Responses to Special Rogs (Set One) (Confidential)
2020.01.27 Peterson's Responses to Form Rogs (Set One) (Confidential)
2020.01.27 Peterson's Responses to Special Rogs (Set One) (Confidential)
2020.03.17 Schwiebert Form Rogs to ABC (Set 1)
2020.03.17 Schwiebert Form Rogs to JOSEPH COHEN (Set 1)
2020.03.17 Schwiebert Form Rogs to KIM FUNDING (Set 1)
2020.03.17 Schwiebert Form Rogs to KIM PETERSON (Set 1)
2020.03.17 Schwiebert Special Rogs to ABC (Set 1)
2020.03.17 Schwiebert Special Rogs to JOSEPH COHEN (Set 1)
2020.03.17 Schwiebert Special Rogs to KIM FUNDING (Set 1)
2020.03.17 Schwiebert Special Rogs to KIM PETERSON (Set 1)
2020.05.01 ABC Responses to Schwiebert's Form Rogs (Set 1)
2020.05.01 ABC Responses to Schwiebert's Special Rogs (Set 1)
2020.05.01 Joseph Cohen's Responses to Schwiebert's Form Rogs (Set 1)
2020.05.01 Joseph Cohen's Responses to Schwiebert's Special Rogs (Set 1)
2020.05.01 Kim Funding's Responses to Schwiebert's Form Rogs (Set 1)
2020.05.01 Kim Funding's Responses to Schwiebert's Special Rogs (Set 1)



2020.05.01 Kim Peterson's Responses to Schwiebert's Form Rogs (Set 1)
2020.05.01 Kim Peterson's Responses to Schwiebert's Special Rogs (Set 1)
2020.12.16 ABC's Supp Rsps to CT's (Set 1)
2021.01.23 Schweibert's Form Rogs to Cohen (Set 1)
2021.01.23 Schweibert's Form Rogs to Peterson (Set 1)
2021.01.25 Schweibert Form ROGs to Joseph Cohen (Set 1)
2021.01.25 Schwiebert Form ROGs to Kim Peterson (Set 1)
2021.02.17 Kim Peterson's Supplemental Response to Rog 17
2021.02.26 Cohen's Rsps to Schwiebert Form ROGs (Set 2)
2021.02.26 Peterson's Rsps to Schwiebert Form ROGs (Set 2)
2021.03.01 Cohen's Supp Rsps to CT Form ROGs (Set 1)
2021.03.01 Cohen's Supp Rsps to CT Special ROGs (Set 1)
2021.03.01 Peterson's Supp Rsps to CT Form ROGs (Set 1)
2021.03.01 Peterson's Supp Rsps to CT Special ROGs (Set 1)
2021.06.17 CTC Form ROGs to Kim Peterson (Set 3)
2021.06.17 CTC SPROGs to Kim Peterson (Set 2)
2021.06.18 Kim Peterson's 2nd Sup Rsps to Rog 17
2021.06.18 Kim Peterson's Second Supplemental Response to Rog 17
2021.07.19 - Kim Peterson Responses to Chicago Special Rogs (Set 2)
2021.07.19 - Kim Peterson Rsps to Chicago Form ROGs (Set 3)
2021.07.23 CTC Crovella Decl. for Additional Discovery
2021.07.23 CTC SPROGs to ABC Funding (Set 2)
2021.07.23 CTC SPROGs to Joe Cohen (Set 2)
2021.07.23 CTC SPROGs to Kim Funding (Set 2)
2021.07.23 CTC SPROGs to Kim Peterson (Set 3)
2021.08.11 Peterson's Supp Rsps to CTC Form ROGs Re RFA No. 28

**Discovery Propounded or Served in *Wakefield, v. Chicago Title Insurance Co., et al.*, 37-2020-12568-CU-FR-CTL**

**DEPO NOTICES**

*no initial Notice of Deposition was served for Mr. Wakefield
2021.06.02 Defendants' 1 <sup>st</sup> Amended Notice of Deposition of Wade Wakefield for 6/18/21
2021.06.09 Defendants' 2 <sup>nd</sup> Amended Notice of Deposition of Wade Wakefield for 6/22/21
2021.06.25 Defendants' 3 <sup>rd</sup> Amended Notice of Deposition of Wade Wakefield for 7/28/21
2021.06.25 Defendants' Notice of Deposition of Kristine Heidrich for 7/29/21
2021.06.25 Defendants' Notice of Deposition of Greg Glassberg for 7/30/21
2021.07.28 Defendants' 4 <sup>th</sup> Amended Notice of Deposition of Wade Wakefield for 9/8/21
2021.07.28 Defendants' Notice of Deposition of Doug Heidrich for 9/9/21
2021.07.28 Defendants' 1 <sup>st</sup> Amended Notice of Deposition of Greg Glassberg for 9/10/21
2021.08.03 Defendants' 5 <sup>th</sup> Amended Notice of Deposition of Wade Wakefield for 9/8/21
2021.08.03 Defendants' 2 <sup>nd</sup> Amended Notice of Deposition of Greg Glassberg for 9/10/21
2021.08.03 Defendants' 1 <sup>st</sup> Amended Notice of Deposition of Doug Heidrich for 9/9/21

2021.08.03 Defendants' Notice of Deposition of Kristine Heidrich for 9/30/21
2021.08.03 Defendants' Notice of Deposition of Jeff Orr for 10/1/21
2021.08.03 Defendants' Notice of Deposition of Heidi Orr for 10/1/21

#### **SUBPOENAS**

None
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#### **RFAs Propounded by Plaintiffs**

None
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#### **RFAs Propounded by Defendants**

2020.03.20 RFA to D. Heidrich
2020.03.20 RFA to K. Heidrich
2020.03.20 RFA to H. Orr
2020.03.20 RFA to J. Orr
2020.03.20 RFA to Wakefield Capital
2020.03.20 RFA to Wakefield Investments
2020.03.20 RFA to 2Budz

#### **RFPs Propounded by Plaintiffs**

None
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#### **RFPs Propounded by Defendants**

2020.03.20 RFP to D. Heidrich
2020.03.20 RFP to K. Heidrich
2020.03.20 RFP to H. Orr
2020.03.20 RFP to J. Orr
2020.03.20 RFP to Wakefield Capital
2020.03.20 RFP to Wakefield Investments
2020.03.20 RFP to 2Budz
2021.08.03 Defendants' 5 <sup>th</sup> Amended Notice of Deposition of Wade Wakefield for 9/8/21 with document demand
2021.08.03 Defendants' 2 <sup>nd</sup> Amended Notice of Deposition of Greg Glassberg for 9/10/21 with document demand
2021.08.03 Defendants' 1 <sup>st</sup> Amended Notice of Deposition of Doug Heidrich for 9/9/21 with document demand
2021.08.03 Defendants' Notice of Deposition of Kristine Heidrich for 9/30/21 with document demand
2021.08.03 Defendants' Notice of Deposition of Jeff Orr for 10/1/21 with document demand
2021.08.03 Defendants' Notice of Deposition of Heidi Orr for 10/1/21 with document demand

#### **ROGs Propounded by Plaintiffs**

None
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### ROGs Propounded by Defendants

2020.03.20 Form Interrogatories to D. Heidrich
2020.03.20 Form Interrogatories to K. Heidrich
2020.03.20 Form Interrogatories to H. Orr
2020.03.20 Form Interrogatories to J. Orr
2020.03.20 Form Interrogatories to Wakefield Capital
2020.03.20 Form Interrogatories to Wakefield Investments
2020.03.20 Form Interrogatories to 2Budz
2020.03.20 Special Interrogatories to D. Heidrich
2020.03.20 Special Interrogatories to K. Heidrich
2020.03.20 Special Interrogatories to H. Orr
2020.03.20 Special Interrogatories to J. Orr
2020.03.20 Special Interrogatories to Wakefield Capital
2020.03.20 Special Interrogatories to Wakefield Investments
2020.03.20 Special Interrogatories to 2Budz
2020.04.01 Special Interrogatories 2 to D. Heidrich
2020.04.01 Special Interrogatories 2 to K. Heidrich
2020.04.01 Special Interrogatories 2 to H. Orr
2020.04.01 Special Interrogatories 2 to J. Orr
2020.04.01 Special Interrogatories 2 to Wakefield Capital
2020.04.01 Special Interrogatories 2 to Wakefield Investments
2020.04.01 Special Interrogatories 2 to 2Budz
2020.04.09 Special Interrogatories 3 to D. Heidrich
2020.04.09 Special Interrogatories 3 to K. Heidrich
2020.04.09 Special Interrogatories 3 to H. Orr
2020.04.09 Special Interrogatories 3 to J. Orr
2020.04.09 Special Interrogatories 3 to Wakefield Capital
2020.04.09 Special Interrogatories 3 to Wakefield Investments
2020.04.09 Special Interrogatories 3 to 2Budz

### Discovery Propounded or Served in *CalPrivate Bank v. Chicago Title Insurance Co., et al.*, 37-2020-93790-CU-FR-CTL

### SUBPOENAS

2021.02.05 CPB Document Subpoena to City National Bank
2021.02.05 CPB Document Subpoena to MUFG

### RFAs Propounded by Defendants

2021.02.01 CTC RFAs to CPB (Set 1)
2021.02.23 CTC RFAs to CPB (Set 1) (Re-served)

2021.04.27 CPB Responses and Objections to CTC RFAs (Set 1)
2021.06.10 CPB Amended Responses and Objections to CTC RFAs (Set 1)

#### **RFPs Propounded by Plaintiffs**

2021.02.04 CPB's RFPs to CTC (Set 1)
2021.03.09 CTC's Objections to CPB's RFPs (Set 1)
2021.03.17 CTIC's Objections to CPB's RFPs (Set 1)
2021.06.04 CTC and CTIC Verification to RFPs (Set 1)
2021.06.10 CTC's Amended Objections to CPB's RFPs (Set 1)
2021.06.10 CTIC's Amended Objections to CPB's RFPs (Set 1)

#### **RFPs Propounded by Defendants**

2021.02.01 CTC's RFPs to CPB (Set 1)
2021.02.23 CTC's RFPs to CPB (Set 1) (re-served)
2021.04.27 CPB's Responses and Objections to CTC's RFPs (Set one)
2021.06.01 CPB's Amended Responses and Objections to CTC's RFPs (Set one)

#### **ROGs Propounded by Plaintiffs**

2021.02.19 CPB SROGS to CTC (Set 1)
2021.02.19 CPB SROGS to CTIC (Set 1)

#### **ROGs Propounded by Defendants**

2021.02.01 CTC Form ROGS to CPB (Set 1)
2021.02.01 CTC SROGS to CPB (Set 1)
2021.02.24 CTC Form ROGS to CPB (Set 1) (Re-served)
2021.02.24 CTC SROGS to CPB (Set 1) (Re-served)
2021.04.27 CPB Responses and Objections to CTC Form ROGS (Set 1)
2021.04.27 CPB Responses and Objections to CTC SROGS (Set 1)
2021.06.10 CPB Amended Responses to CTC Form ROGS (Set 1)
2021.06.10 CPB Amended Responses to CTC Form ROGS (Set 1)
2021.07.30 CTC SROGS to CPB (Set 1) (Re-served)

#### **Discovery Propounded or Served in *Fenley v. Chicago Title Insurance Co., et al.*, 37-2020-22394-CU-FR-CTL and *Yu v. Chicago Title Insurance Co., et al.*, 37-2020-22467-CU-FR-CTL**

2020.7.17 CTC's RFA to Plaintiff Susan Heller Fenley Separate Property Trust, DTD 03/04/2010 (Set One)  
 2020.7.17 CTC's RFP to Plaintiff Susan Heller Fenley Separate Property Trust, DTD 03/04/2010 (Set One)  
 2020.7.17 CTC's SROGs to Plaintiff Susan Heller Fenley Separate Property Trust, DTD 03/04/2010 (Set One)  
 2020.7.17 CTC's Form Rogs to Plaintiff Susan Heller Fenley Separate Property Trust (Set One)

2020.7.17 Chicago Title Company's Special Interrogatories to Plaintiff ROJ, LLC (Set One)  
2020.7.17 Chicago Title Company's Requests for Production of Documents to Plaintiff ROJ, LLC (Set One)  
2020.7.17 Chicago Title Company's Requests for Admission to Plaintiff ROJ, LLC (Set One)

2020.7.17 CTC's Requests for Admission to Plaintiff Shelley Lynn Tarditi Trust (Set One)  
2020.7.17 CTC's Requests for Production to Plaintiff Shelley Lynn Tarditi Trust (Set One)  
2020.7.17 CTC's Special Interrogatories to Plaintiff Shelley Lynn Tarditi Trust (Set One)  
2020.7.17 CTC's Form Interrogatories-General to Plaintiff Shelley Lynn Tarditi Trust (Set One)

2020.7.17 CTC's Requests for Admission to Plaintiff Polly Yu (Set One)  
2020.7.17 CTC's Requests for Production to Plaintiff Polly Yu (Set One)  
2020.7.17 CTC's Special Interrogatories to Plaintiff Polly Yu (Set One)  
2020.7.17 CTC's Form Interrogatories-General to Plaintiff Polly Yu (Set One)

2020.7.17 CTC's Requests for Admission to Plaintiff Yuan Yu (Set One)  
2020.7.17 CTC's Requests for Production to Plaintiff Yuan Yu (Set One)  
2020.7.17 CTC's Special Interrogatories to Plaintiff Yuan Yu (Set One)  
2020.7.17 CTC's Form Interrogatories-General to Plaintiff Yuan Yu (Set One)

**PROOF OF SERVICE**

I, Laura Bay, am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 555 South Flower Street, Los Angeles, California 90071.

On September 2, 2021, I served a copy of the foregoing attached hereto on the interested parties on the following Service List in this action as follows:

☒ **By Electronic Mail -- CCP § 1010.6(a)(4)(A)**

The parties have agreed to accept service by e-mail or electronic transmission. I caused the foregoing document to be served to the persons at the e-mail addresses listed on the attached Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☒ **[STATE]** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 2, 2021 in Los Angeles, California.



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