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9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

11 ENID G. RICKLEY,

CASE NO. C 09-00296 MEJ

12 Plaintiff,

**CASE MANAGEMENT
 STATEMENT**

13 v.

AND ORDER THEREON

14 NCA FINANCIAL SERVICES, INC.,
 15 NATIONAL CREDIT ACCEPTANCE, and
 DOES 1 through 10, inclusive,

Date: July 16, 2009
Time: 10:00 a.m.
Courtroom: B, 15th Floor

16 Defendants.
 17 _____/

Honorable Maria-Elena James

18 Defendants have not participated in preparing this Case Management Statement; it
 19 was prepared by Plaintiff ENID G. RICKLEY alone. Both named Defendants, NCA
 20 FINANCIAL SERVICES, INC. (“NCA”) and NATIONAL CREDIT ACCEPTANCE
 21 (“NATIONAL”) have filed for bankruptcy protection in the United States Bankruptcy Court,
 22 Eastern District of California, Sacramento Division. True and correct copies of these two
 23 Defendants' “Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, and Deadlines” is
 24 attached hereto as Exhibits A and B.

25 NCA filed its bankruptcy case, Case No. 09-31129-A-7, on June 1, 2009;
 26 NATIONAL filed its bankruptcy case, Case No. 09-31658-C-7, on June 9, 2009. NCA was
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 CASE MANAGEMENT STATEMENT
 C 09-00296 MEJ

1 served with this action on May 13, 2009, and NATIONAL was served on May 31, 2009. A
2 Meeting of Creditors has been set in each case: NCA's is set for July 13, 2009 at 8:00 a.m.;
3 NATIONAL's is set for July 17, 2009 at 1:00 p.m. Both defendants are represented in their
4 bankruptcy proceedings by the same attorney:

5 **John M. O'Donnell, Esq.**
6 **915 University Ave.**
7 **Sacramento, CA 95825**
8 **(916)563-7744**

9 Plaintiff's attorney plans to attend the July 13, 2009 Meeting of Creditors, and will
10 inform the Court of any relevant information after the Meeting. Since an automatic stay has
11 been entered as to both Defendants, Plaintiff has prepared this Case Management Statement
12 without participation from Defendants.

13 **No Proof of Claim yet filed:** Plaintiff has not filed a Proof of Claim with the
14 Bankruptcy Court as to either Defendant. The Bankruptcy Notices state that there does not
15 appear to be any property available to the trustee to pay creditors. Plaintiff may file Proof(s) of
16 Claim at a later date.

17 1. **Jurisdiction and Service:** This Court has jurisdiction under the provisions of 15
18 U.S.C. §1692k(d) and 28 U.S.C. §1367. Both defendants have been served, but plaintiff's
19 counsel has not yet been contacted by defense counsel for either defendant. No issues regarding
20 personal jurisdiction or venue are anticipated by Plaintiff.

21 2. **Facts:** In January, 2008, Defendants began telephoning Plaintiff at work, on her cell
22 phone, and at home, in an attempt to collect a debt they claimed she owed. Plaintiff alleges that
23 Defendants violated the federal Fair Debt Collection Practices Act ("FDCPA") and California's
24 Rosenthal Fair Debt Collection Practices Act ("Rosenthal Act") in attempting to collect this
25 debt, in the following ways: (a) Defendants told Plaintiff's supervisor that they were going to
26 send a sheriff to garnish plaintiff's wages, when in fact they had no legal right to do so; (b)
27 Defendants falsely told Plaintiff that they could garnish her security deposit from her landlord,

1 and that they could draw funds from her credit cards to pay the debt; (c) Defendants told
2 Plaintiff that they had a “court order” against Plaintiff, when in fact they did not; (d) Defendants
3 continued calling and sending letters to Plaintiff after they received her written request to cease
4 all communication with her; and (e) Defendants failed to send Plaintiff a “validation notice”
5 within five days of their first communication with her.

6 3. Legal Issues: Whether Defendants’ acts and omissions violated the FDCPA and
7 Rosenthal Act.

8 4. Motions: Plaintiff may request entry of default, and may move for default judgments
9 as to both defendants, depending on the status of the Bankruptcy Court's automatic stay.

10 5. Amendment of Pleadings: Depending on what Plaintiff's counsel finds out at the
11 Meeting of Creditors on July 13, 2009, Plaintiff may seek leave to amend her Complaint in
12 order to add other defendants.

13 6. through 9. These are not relevant since there is an automatic stay preventing
14 litigation.

15 10. Related Cases: *In re NCA Financial Services, Inc.*, Bankr. E.D. Cal., Case No. 09-
16 31129-A-7; and *In re National Credit Acceptance*, Bankr. E.D. Cal., Case No. 09-31658-C-7.

17 11. Relief: Plaintiff seeks actual and statutory damages as allowed under 15 U.S.C.
18 §1692k and California Civil Code §1788.30.

19 12. Settlement and ADR: Plaintiff is amenable to ADR and will discuss ADR methods
20 with Defendants after they appear, if the bankruptcy stay is lifted or if litigation is otherwise
21 resumed.

22 13. Consent to Magistrate Judge: It is unknown at this time whether all parties will
23 consent to proceed with a Magistrate Judge.

24 14. Other References: Plaintiff does not consent to binding arbitration, but may be
25 amenable to referral by the Court to some other program.

26 15. Narrowing of Issues: None at this time.

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16. Expedited Schedule: Unknown at this time.

17. Scheduling: Plaintiff is amenable to working with the Court to set a schedule for this case.

18. Trial: The following is dependant on the status of the Bankruptcy proceedings, and whether or not Plaintiff will amend in additional defendants: Plaintiff requests a jury trial. It is estimated that a trial in this matter will take three to six full court days.

19. Disclosure of Non-Party Interested Entities or Persons: No party has yet filed a disclosure of non-party interested entities or persons. The Bankruptcy Trustees in the pending bankruptcy proceedings may have a financial interest. The Trustees are:

In re NCA Financial Services, Inc., Bankr. E.D. Cal., Case No. 09-31129-A-7

Hank Spacone
P.O. Box 255808
Sacramento, CA 95865
(916)485-5530

In re National Credit Acceptance, Bankr. E.D. Cal., Case No. 09-31658-C-7

Prem N. Dhawan
P.O. Box 965
Benicia, CA 94510
(707)361-4264

20. Other Matters: None known.

Dated: July 9, 2009

/s/ James J. Bergmann

JAMES J. BERGMANN.
Law Office of Donald F. Seth
Attorneys for Plaintiff ENID G. RICKLEY

The CMC is hereby CONTINUED to October 8, 2009 at 10:00 a.m. in Courtroom B. Whenever such information becomes available, Plaintiff shall update the Court as to any automatic bankruptcy stay for both defendants. If no bankruptcy stay notice has been filed prior to the CMC, the parties shall file a joint statement by October 1, 2009.

Dated: July 10, 2009

