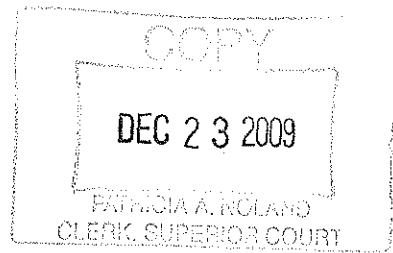


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10 **ARIZONA SUPERIOR COURT**

11 **COUNTY OF PIMA**

12 State of Arizona, ex rel. Terry Goddard,  
13 Attorney General,

14 Plaintiff,

15 vs.

16 Quik Cash; QC Holdings Inc. dba QC  
17 Financial Services Inc./Quik Cash; QC  
18 Financial Services Inc. dba Quik Cash,

19 Defendants.

Case No. C20099397

AMENDED COMPLAINT FOR INJUNCTIVE  
AND OTHER RELIEF

Assigned to the Hon. Richard Gordon

(Unclassified Civil)

20 **JURISDICTION AND VENUE**

21 1. The State of Arizona brings this action pursuant to the Arizona Consumer  
22 Fraud Act, A.R.S. § 44-1521 *et seq.*, to obtain restitution, injunctive relief, civil  
23 penalties, attorneys' fees and costs, investigative expenses and other relief to prevent  
24 the unlawful acts and practices alleged herein and to remedy the consequences of  
25 such unlawful practices.

26 2. Venue is proper in Pima County, Arizona.

27 3. The Superior Court has jurisdiction to enter appropriate orders both prior to  
28 and following a determination of liability pursuant to the Arizona Consumer Fraud Act,  
A.R.S. § 44-1528.

1 **PARTIES**

2 4. Plaintiff is the State of Arizona, ex rel. Terry Goddard, who is authorized  
3 to bring this action under the Arizona Consumer Fraud Act, A.R.S. § 44-1521 *et seq.*

4 5. Defendant QC Holdings Inc. ("QC Holdings") is a publicly traded  
5 company incorporated in Kansas and headquartered in Overland, Kansas. QC  
6 Holdings does business as QC Financial and/or Quik Cash, a "payday lender".

7 6. Defendant QC Financial Services Inc. (QC Financial) is a Missouri  
8 corporation that does business in Arizona as payday lender Quik Cash with  
9 approximately 38 store locations. QC Financial has its corporate headquarters in  
10 Overland, Kansas. QC Financial is a wholly-owned subsidiary of QC Holdings, Inc.

11 7. "Quik Cash" and "Defendant" hereafter collectively refer to the  
12 Defendants named in Paragraph 5 and 6, and all members, officers, directors,  
13 shareholders, owners, managers, employees, independent contractors and agents of  
14 these named individuals and corporations which facilitated the deceptive and/or  
15 fraudulent acts and/or schemes which are the subject of this complaint.

16 **INTRODUCTORY BACKGROUND ON PAYDAY LENDING**

17 8. "Payday" loans are deferred presentment loans defined in A.R.S. § 6-  
18 1251.3. Payday loans are small cash advances secured by a personal check held for  
19 future deposit or electronic withdrawal from a customer's bank account where the  
20 lender agrees to hold the check for at least five days before presentment for payment.  
21 These loans of \$50-\$500 are due in full on the borrower's next pay day or within 14  
22 days. If the customer is unable to repay the loan within two weeks, most companies  
23 allow for the loan to be rolled over by paying the interest. Customers are charged  
24 fees of up to 15% per check. The Annual Percentage Rate (APR) typically falls within  
25 a range of 390% to 500%. These high-cost "payday loans" are marketed as a tool for  
26 cash-strapped borrowers to make it to the next paycheck.

27 9. Before 2000, Arizona lenders were precluded from charging more than  
28 36% APR on small loans. In 2000, the legislature enacted a law to license payday

1 lenders and exempted them from the 36% APR rate cap, allowing for a 15 percent fee  
2 on checks of up to \$500 with a term of at least five days. For a typical two-week  
3 payday loan, this equates to an APR of 459%. See *Pay Day Lending in Pima County,*  
4 *Arizona, A Report by the Southwest Center for Economic Integrity* (2003), at p. 3.  
5 (Exhibit A.) Arizona's payday lender law has a sunset provision which will remove the  
6 exemption and return to the 36% APR rate cap on July 1, 2010.

7 10. Although few payday lenders existed in the 90s, by the year 2008 there  
8 were more than 22,000 lenders and \$40 billion in outstanding loans nationwide. The  
9 payday loan industry has come under scrutiny and criticism. Non-profit organizations  
10 such as the Center for Responsible Lending have criticized payday loans as fringe  
11 products that drain borrowers' income, damage their credit, and worsen their financial  
12 situation rather than help them through financial challenges.<sup>1</sup>

13 11. In 2007, after studies found payday lenders were exploiting service  
14 members and clustering near military bases, a Defense Department report found that  
15 "predatory lending undermines the morale of troops and families." (*U.S. Defense Dept.*  
16 *Report On Predatory Lending Practices Directed at Members of the Armed Forces*  
17 *and Their Dependents* (Aug. 2006). In 2007, Congress prohibited payday and car-title  
18 lenders from charging more than 36% interest to military borrowers.

19 12. In 2008, the Center for Responsible Lending reported that there were  
20 more than 700 payday lenders in Arizona and that the typical borrower pays an  
21 estimated \$516 in fees for a \$325 loan and still owes the principal as well. (Exh.C.)<sup>2</sup>

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23 <sup>1</sup> In 2006, the Center for Responsible Lending concluded the payday lending industry  
24 charges American borrowers in debt with 4.2 billion dollars in what the Center calls  
25 "predatory fees" each year. *Financial Quicksand: Payday lending sinks borrowers in*  
26 *debt with 4.2 billion dollars in predatory fees every year*, Uriah King, Leslie Parrish  
27 and Ozlem Tanik, (Center for Responsible Lending: Nov. 30, 2006). (Exhibit B.)

<sup>2</sup> See *High Cost Payday Lending Traps Arizona Borrowers*, Leslie Parrish (Center for  
Responsible Lending: September 16, 2008). (Exhibit C.)

13. In 2008, the Center for Responsible Lending also estimated that Arizona payday loan borrowers annually pay nearly \$149 million in fees over and above the amount which is borrowed. (Exhibit C.)

14. In recent years, media outlets in different parts of the country, including Arizona, have reported that payday lenders are now cramming the dockets of small claims courts.<sup>3</sup> In Pima County, Arizona, payday lenders have greatly increased their collection litigation against consumers over the past 7 years.<sup>4</sup>

## SUMMARY OF THE CASE

15. From 2007 to the present date, Quik Cash has engaged in a widespread deceptive pattern and practice of suing Arizona payday loan customers who live outside of Pima and Maricopa counties in the distant legal forum of Pima County Justice Court, far from where the consumers lived or where the loans occurred, in violation of A.R.S. § 22-202(D), governing the venue for litigation in Justice Court. Quik Cash misrepresents to their customers that their payday loan contract will be "governed by Arizona law" but the company then repeatedly and knowingly violates Arizona law by suing hundreds of customers in an improper court venue -- the Justice Courts of Pima County -- thus depriving Arizonans throughout the state of their legal privilege to have the lender file the case in a local Justice Court near them.

<sup>3</sup>For example, see *Courts Are Overloaded With Payday Loan Lawsuits*, KLAS-TV, Nevada (March 2007) - [www.klas-tv.com/Global/story.asp?S=6300873](http://www.klas-tv.com/Global/story.asp?S=6300873); see also, *Debt Collectors pushing to get their day in court: More aggressive strategies fill court dockets, result in mistaken identities*; Chicago Union Tribune, June 8, 2008; <http://www.chicagotribune.com/news/nationworld/chi-sun-debtchasers-jun08.0.2426495.print.story>. (Exhibit D.)

<sup>4</sup> See *Payday Lenders Sue More Clients*, Arizona Daily Star, February 2, 2006; [www.azstarnet.com/sr/related/114476](http://www.azstarnet.com/sr/related/114476). (Exhibit E.) Payday lender collection lawsuits in Pima County Justice Courts averaged about 15 per month in 2002, but went up to 52 a month in 2005. In January 2006, lenders filed 135 lawsuits in one month and were expected to file 1,620 lawsuits in 2006. *Id.*

1           16.     Quik Cash's pattern of deceptive litigation tactics benefits Quik Cash by  
2 streamlining its process, reducing cost, and making it more likely to obtain default  
3 judgments against Arizona consumers. After deceptively suing in the wrong court and  
4 county, Quik Cash then pursues default judgments and wage garnishments in the  
5 same distant venue. Furthermore, Quik Cash deceptively advertises and represents  
6 that the company follows "mandatory" industry standards requiring lawful methods of  
7 debt collection and also suggesting that the company follows federal laws prohibiting  
8 legal actions in court venues other than where the borrower lives or where the loan  
9 occurred. Quik Cash's deceptive business and litigation practices are on-going and  
10 have been used against hundreds of Arizona payday loan customers.

11           17.     Finally, the Attorney General is informed and believes that Quik Cash  
12 deceived and continues to deceive thousands of Arizona customers into signing  
13 standard form payday loan contracts with fraudulent "unconscionable" and  
14 unenforceable provisions waiving customers' rights to bring class action lawsuits or  
15 act as class representatives, which the federal district court in Arizona had previously  
16 found to be "unconscionable" and "against public policy" in the 2007 case *Cooper v.*  
17 *QC Financial Services Inc.*, 503 F.Supp. 2d 1266 (D. AZ. 2007).

18           **QUIK CASH IS A REPEAT OFFENDER THAT HAS FLAUNTED THE LAW**

19           18.     Significantly, Quik Cash has engaged in "outrageous" collection practices  
20 elsewhere that "flaunted the law," while taking a "catch me if you can" posture.

21           19.     In *Brewer v. QC Financial Services, Inc.*, 313 B.R. 795, 798 (Bankr. E.D.  
22 Wis. 2004), a judge ordered a hearing on whether Quik Cash violated federal law by  
23 cashing the check of a debtor in bankruptcy. The judge later ruled Quik Cash's willful  
24 and outrageous conduct violated federal law. (Exhibit F at 7-8.) The major factor  
25 making the conduct "outrageous" was Quik Cash's "sue me if you can" or "catch me if  
26 you can" posture; the judge noted that the company had been effectively thumbing its  
27 figurative nose at borrowers. (Exh. F at 5.) In another hearing, the court explained  
28

1 Quik Cash had a practice and "corporate policy of [cashing checks in violation of  
2 bankruptcy law protection] ...." (Exh. G at 10-11.) The "conduct was egregious  
3 because [Quik Cash] flaunted the law and depended on the small amounts of its loans  
4 to shield it from the consequences." (Exh. G at 13.) The judge imposed \$25,000 of  
5 punitive damages and stated her "hope" the "wealthy lender would no longer bully  
6 impecunious debtors ...." (Exh. G at 14.)<sup>5</sup>

### 7 **LEGAL PROTECTIONS AGAINST DECEPTIVE "DISTANT FORUM" LAWSUITS**

8 20. Quik Cash's deceptive and abusive debt litigation practice of "distant  
9 forum" litigation is a practice that has been found to be deceptive and/or unfair by  
10 federal and state court decisions across the country over the course of nearly 40  
11 years. *See Celebreze v. United Research, Inc.*, 19 Ohio. App. 3d 49, 482 N.E.2d  
12 1260, 1261-62 (1984) (citing cases and Federal Trade Commission consent orders  
13 from the 1970s finding distant forum lawsuits unfair and deceptive; the "practice in  
14 effect denies the consumer a day in court to contest the claim-a right that is the basis  
15 of our legal system. Due to the distance of the forum from the consumer's residence  
16 and the expense of defending, the creditor easily obtains default judgments and the  
17 consumer is prevented from raising defenses or contesting the claim.")  
18  
19  
20

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21 <sup>5</sup>In Arizona, customers have sued Quik Cash, alleging it violated Arizona limits on  
22 rolling over payday loans and engaged in other unlawful practices. *QC Financial*  
23 *Services Inc. v. Randolph* (Pima County Superior Court No. C2005-3582); *Cooper v.*  
24 *QC Financial Services Inc.* (Pima County Superior Court No. C2005-5220). (Exh. H.)  
25 In *Randolph*, the court dismissed the consumer's counterclaim due to a mandatory  
26 arbitration clause in the contract that barred court litigation. In *Cooper*, after that case  
27 was transferred to federal court, a U.S. District Court judge found that the provisions in  
28 Quik Cash's standard form contracts that barred customers from bringing class action  
lawsuits, acting as class representatives, or from class arbitration, were substantively  
"unconscionable" to consumers and struck down the unconscionable language.  
*Cooper v. QC Financial Servs., Inc.*, 503 F.Supp.2d 1266, 1292 (D. Ariz. 2007).

1           21.     "Distant forum abuse" has been described as "unconscionable" and  
2 "insidious," and courts have concluded that the "misuse of the courts in this manner  
3 contributes to an undermining of confidence in the judiciary by reinforcing the  
4 unfortunate image of courts as 'distant' entities, available only to wealthy or large  
5 interests," and leads consumers "to conclude that the legal system is merely a 'rubber  
6 stamp' for the improper practices utilized by predatory agencies." *Barquis v.*  
7 *Merchants Collection Assn.*, 7 Cal.3d 94, 107-08, 496 P.2d 817 (1972); *Yu v. Signet*  
8 *Bank/Virginia*, 103 Cal.App.4th 298, 305, 126 Cal.Rptr.2d 516, 520 (2002). Our  
9 "courts have a strong interest in ensuring that [such] abuses of the legal process by  
10 collection agencies are not perpetuated." *Id.*

11           22.     Deceptive and unfair debt collection practices, including distant forum  
12 abuse, resulted in Congress passing the Fair Debt Collection Practices Act (FDCPA)  
13 in 1977 to protect consumers. See 15 U.S.C. § 1692i. This federal law specifically  
14 prohibits third party debt collectors from suing to collect anywhere except in the  
15 judicial district where the debtor resides or where the transaction occurred.<sup>6</sup>

16           23.     In Arizona, the law on the proper venue for small claims similarly  
17 requires such cases to be filed in the precinct where the defendant lives or where the  
18 transaction occurred. The venue law for cases in Justice Court has been the law in  
19 some form or another since Arizona became a state in 1912. A.R.S. § 22-202(D)  
20 requires that: "Actions for collection of an account, enforcement of a contract or any  
21

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22  
23 <sup>6</sup> *Fox v. Citicorp Credit Services, Inc.*, 15 F.3d 1507 (9th Cir.1994) (collectors must file  
24 in the debtor's home county rather than in a neighboring county); *Wiener v. Bloomfield*,  
25 901 F. Supp. 771 (S.D. N.Y. 1995) (threat to file collection suit in distant forum violated  
26 15 U.S.C.A. § 1692e(5) of the FDCPA, which prohibits false, deceptive, and  
27 misleading debt collection practices); compare *Schubach v. Household Finance*  
28 *Corporation*, 375 Mass. 133, 137, 76 N. E.2d 140, 142 (1978) (even if a party complies  
with venue laws, distant forum abuse might still constitute deceptive and unfair  
practice under state law prohibiting unfair and deceptive acts and practices).

1 other claim may be brought in the precinct where the account, contract or other claim  
2 was made or entered into, or where the defendant lives, at the option of the plaintiff."

3 24. A.R.S. § 22-202(A) provides: "The rules governing venue of civil actions  
4 in the superior court shall govern justice of the peace courts, and the word "precinct"  
5 shall be substituted for the word "county" wherever applicable." A.R.S. § 12-401  
6 relates to venue for actions filed in the Superior Court and states that "no person shall  
7 be sued out of the county in which he resides," except for certain cases or situations,  
8 stating, for example, that "Persons who have contracted in writing to perform an  
9 obligation in one county may be sued in such county or where they reside."

10 25. The Arizona venue law for small claims cases protects Arizona  
11 consumers from being forced to defend over a small debt in some faraway court  
12 where the consumers do not live and which has nothing to do with the transaction.

13 26. The harm from distant forum abuse ranges from dramatically increasing  
14 the total debt burden on consumers to making it less likely consumers will respond in  
15 court, effectively depriving consumers from having their day in local court.<sup>7</sup>

### 16 ALLEGATIONS

17 27. Quik Cash (QC Holdings) is one of the largest publicly-traded payday  
18 lenders in the country, primarily dealing in payday lending,<sup>8</sup> with 585 stores nationwide  
19

20 \_\_\_\_\_  
21 <sup>7</sup> "Judgment expenses increase the cost of paying off a payday loan dramatically ....  
22 Borrowers often fail to appear in court, resulting in a judgment in favor of the lender. In  
23 the event that a defendant does not appear in court, an ex parte judgment is granted  
24 and the lender wins the case by default." *Hunting Down the Payday Loan Customer:  
The Debt Collection Practices of Two Payday Loan Companies*, Monsignor John Egan  
Campaign for Payday Loan Reform (Oct. 2006), at pp. 9-10. (Exhibit I.)

25 <sup>8</sup> See *Alternative Financial Services: A Primer*, Federal Deposit Insurance  
26 Corporation, FDIC Quarterly, Vol. 3, No.1, April 27, 2009. (Exhibit J.)  
27  
28

1 as of December 2008. Quik Cash describes itself as an industry leader and "pioneer"  
2 in the payday lending industry, making its first payday loan in 1992. (Exhs. M and V.)

3 28. In 2008, QC Holdings reportedly originated approximately \$1.35 billion in  
4 payday loans and posted revenues of approximately \$180 million in payday loan fees.  
5 Payday loans represented nearly 80 percent of QC Holdings' total revenues.

6 29. In a 2009 filing with the Securities and Exchange Commission, QC  
7 Holdings reported that its Arizona store operations represented approximately 11% of  
8 the company's total branch gross profit for the six months ending on June 30, 2009.  
9 In 2008, Quik Cash's Arizona branches represented nearly 8% of its total revenues.

10 30. Quik Cash does business in Arizona as a payday loan lender with  
11 approximately 38 store locations in 12 Arizona counties: Cochise, Coconino, Gila,  
12 Graham, Mohave, Maricopa, Navajo, Pima, Pinal, Santa Cruz, Yavapai, and Yuma.

13 31. Forty-three percent of Quik Cash's 38 Arizona payday lending stores are  
14 located in the more rural counties in Arizona.

15 32. QC Holdings advertises Arizona Quik Cash branch locations on its  
16 website and provides map links to all Quik Cash store locations in Arizona. (Exh. K.)

17 **QC HOLDINGS EFFECTIVELY CONTROLS QUIK CASH/QC FINANCIAL**

18 33. The Attorney General is informed and believes QC Holdings maintains  
19 and exercises tight control over QC Financial, and that QC Holdings' area and/or  
20 regional managers are functional managers of QC Financial employees and have  
21 operational authority. As described in *Fortna v. QC Holdings, Inc.*, 2007 WL 214438  
22 (N.D. Okla. 2007) and 2006 WL 2385303 (N.D. Okla. 2006), "QC's tightly controlled  
23 store operations are standardized nationwide" and QC Holdings, among other things,  
24 "sets quotas for collections" for regions or stores. (Exhibit L.)

25 34. QC Holdings and QC Financial share members of their respective  
26 boards of directors. (Exhibits M and N.)

27 35. High level executive officers and members of the board of directors for  
28 QC Holdings serve as officers and corporate directors of QC Financial. (Exhs. M & N.)

1           36. Don Early, President and Chief Executive Officer (CEO) of QC Holdings,  
2 is also the CEO and one of several corporate Directors for QC Financial. Douglas  
3 Nickerson is the Chief Financial Officer (CFO) for QC Holdings and he is also the CFO  
4 and a corporate Director for QC Financial. Mary Lou Anderson is a Vice Chairman of  
5 the Board of Directors and Corporate Secretary for QC Holdings, and she is also a  
6 corporate Director and a corporate officer for QC Financial. (Exhibits M and N.)

7           37. Various QC Holding and QC Financial management and/or executive  
8 employees are employed by both QC Holdings and QC Financial and/or at a minimum  
9 are represented to the public as employees of both companies. This includes but is  
10 not limited to management employees such as Don Early, Mary Lou Anderson, Darrin  
11 Anderson, Doug Nickerson, Richard Michael Peck, Brian Elvin, Brian Crump, etc.

12           38. Don Early is a "Key Man" in the operations of Quik Cash. QC Holdings  
13 has a "Key Man" life insurance policy for Early in the amount of \$15,000,000.00.

14           39. QC Holdings advertises for jobs including regional, area and branch  
15 managers to manage and operate Quik Cash lending store operations. (Exhibit O.)

16           40. QC Holdings' employees, including Kerry Hart, have given directives to  
17 QC Financial employees about what actions to take in collection activities. (Exhibit P.)

18           41. Senior QC Holding employees, such as Darrin McCarty, the Senior  
19 Manager over collections and recoveries, have interacted directly with the public to  
20 resolve complaints about purported Quik Cash debt collection efforts. (Exhibit Q.)

21           **QUIK CASH HAS SOPHISTICATED DEBT COLLECTION EFFORTS**

22           42. QC Holdings' Corporate Collections Department was formed in 2005 to  
23 collect on accounts that Quik Cash branches were unsuccessful in collecting. QC  
24 Holdings advertises for collections jobs that deal with debtors at "all stages of  
25 delinquency." (Exhibit R.) QC Holdings employs collectors in a corporate collections  
26 call center to contact Quik Cash customers to collect on payday loan debts.

1        43.    QC Holdings created and implemented a collection strategy and training  
2 program for Quik Cash stores. QC Holdings has and/or had a collections manual.

3        44.    Quik Cash uses and relies on a "high end enterprise solution" software  
4 called Cashwise to manage its payday lending operations at a branch, regional, and  
5 corporate level on a daily basis. This software has a specific "Debt Collections"  
6 module with automated collection processes. The Debt Collections module  
7 automatically generates a "daily debtor call list," logs the history of all calls and  
8 contacts with debtors, generates detailed collection reports, and "*Tracks all court*  
9 *activities, including court dates, fees, garnishments, etc.*" (Exhibit S; italics added.)

10       45.    Beginning in 2006, Quik Cash began expanding its collections efforts,  
11 formalizing a company collections strategy, and developing the strategic collections  
12 plan it uses today. (Exhibit T; see *Reading Between the Lines: ACA member Darrin*  
13 *McCarty believes that good listeners make good collectors*, Association of Credit and  
14 Collection Professionals International, Rachel Remley, July 30, 2007.)

15       46.    Quik Cash tracks geographical and collection performance data, using  
16 an internal scoring system as to which states perform better. According to Quik Cash  
17 senior collections manager Darrin McCarty, "*the most important information to look at*  
18 *when collecting payday loans is geographical data....*" (Exh. U.)

19       **QUIK CASH USED AGGRESSIVE AND DECEPTIVE COLLECTIONS PRACTICES**  
20       **TO COUNTER LOSSES**

21       47.    Quik Cash went public in mid-2004. Due to increases in losses and  
22 decreases in collections from 2006 through 2008, the company rolled out aggressive  
23 new collection initiatives and strategies, including regional collection strategies. Quik  
24 Cash's collection litigation in Arizona resulted, at least in part, from the corporate  
25 and/or regional strategies focused on controlling losses and increasing collections.

26       48.    During 2006, QC Holdings conducted an "intensive branch by branch"  
27 review of all of its stores. (Exh. W at 3.) In 2007, QC Holdings reported, "*Entering*  
28 *2006, our top operating priority was controlling losses, which had reached*

1 unacceptable levels during the rapid growth of the previous 18 months. *We focused*  
2 *on reducing our returns and improving collections.*" (Exh. W at 3; italics added.)

3 49. In November 2007, QC Holdings President Darrin Anderson reported a  
4 "dramatic increase in loan losses," citing economic fallout from the sub prime loan  
5 fallout as also hurting "payday loan collections." Anderson stated that due to the  
6 economic climate, it was reasonable that the company's "ability to collect on defaulted  
7 loans would be more difficult." <sup>9</sup>

8 50. In February 2008, QC Holdings reported "higher than typical losses"  
9 during 2007 (a 4 percent increase). In response, the company reported it had begun  
10 new corporate "Collections Initiatives," such as improved training, collections systems,  
11 debt management and reporting processes and implementation of a "Regional  
12 Collections hub strategy." The company reported training 1,877 field employees with  
13 a "Collections Course" workshop, improved debt management reporting, and "a  
14 regional collection hub strategy that concentrates collections expertise at market level  
15 hubs."<sup>10</sup> President and CEO Darrin Anderson told investors that as a result of losses  
16 in 2007: *"We are focusing on collections, as a way to counter these increased losses*  
17 *and to help us thrive in the less than ideal economy."* <sup>11</sup>

18 51. Quik Cash's loss ratio continued to increase while collections decreased.  
19 For the first quarter of 2008, QC Holdings reported their "loss ratio" was up more than  
20

---

21 <sup>9</sup> See "Sub Prime Fallout Hurts Payday Loan Collections; QC Holdings Reports  
22 Dramatic Increase In Loan Losses; Same Store Sales Up 17%," 11/01/07;  
23 [www.rtoonline.com/.../QC\\_Holdings\\_Results897690110107.asp](http://www.rtoonline.com/.../QC_Holdings_Results897690110107.asp).

24 <sup>10</sup> See 4<sup>th</sup> Qtr and full year 2007 "Earnings Conference Call" held on February 7, 2008;  
25 [http://seekingalpha.com/article/63669-qc-holdings-inc-q4-2007-earnings-call-](http://seekingalpha.com/article/63669-qc-holdings-inc-q4-2007-earnings-call-transcript?page=-1&find=collection)  
[transcript?page=-1&find=collection](http://seekingalpha.com/article/63669-qc-holdings-inc-q4-2007-earnings-call-transcript?page=-1&find=collection).

26 <sup>11</sup> See [http://seekingalpha.com/article/63669-qc-holdings-inc-q4-2007-earnings-call-](http://seekingalpha.com/article/63669-qc-holdings-inc-q4-2007-earnings-call-transcript?page=-1&find=collection)  
27 [transcript?page=-1&find=collection](http://seekingalpha.com/article/63669-qc-holdings-inc-q4-2007-earnings-call-transcript?page=-1&find=collection); italics added.  
28

1 1 percent and collections were down 4 percent, compared with 2007. (First Quarter  
2 2008 Earnings Conference Call on May 8, 2009.)<sup>12</sup>

3 52. After Quik Cash implemented various debt collection strategies which  
4 were "refined" in 2008, Quik Cash was able to increase its collections numbers.

5 53. During an investor call for the second quarter of 2008, QC Holdings  
6 noted its "Established collections process," "Field-based efforts focused on customer  
7 contacts" and its "Central collection program." Quik Cash's CEO stated that "our  
8 collections process has proven itself as an effective blend of field and central  
9 collection efforts. We are pleased with the growth and performance of our central  
10 collections group as it supports our overall collection strategy."<sup>13</sup>

11 54. For the fourth quarter of 2008, QC Holdings reported on Feb. 12, 2009,  
12 that its loan losses were "slightly up from last year, quarter-to-quarter, but that "for the  
13 year [2008], exclusive of debt sales in each year, the loss ratio [had] declined," citing  
14 the decrease in losses as being due to the company's, "Consistent underwriting and  
15 collections processes," "Field-based efforts focused on customer contacts," and the  
16 company's "Central collection program," efforts which were "refined in 2008."<sup>14</sup>

17 55. In Arizona, Quik Cash's deceptive collection litigation helped reduce its  
18 net losses and/or increase its collections rate.

19  
20  
21  
22  
23 <sup>12</sup> See [http://seekingalpha.com/article/75255-qc-holdings-inc-q1-2008-earnings-call-](http://seekingalpha.com/article/75255-qc-holdings-inc-q1-2008-earnings-call-transcript)  
transcript.

24 <sup>13</sup> See [http://seekingalpha.com/article/96423-qc-holdings-inc-q2-2008-earnings-call-](http://seekingalpha.com/article/96423-qc-holdings-inc-q2-2008-earnings-call-transcript?page=1)  
25 transcript?page=1.

26 <sup>14</sup> See [http://seekingalpha.com/article/120372-qc-holdings-inc-q4-2008-earnings-call-](http://seekingalpha.com/article/120372-qc-holdings-inc-q4-2008-earnings-call-transcript?source=trans_sb_previous&page=2)  
27 transcript?source=trans\_sb\_previous&page=2.

1       **QUIK CASH'S "REGIONAL" COLLECTIONS STRATEGY HAS RESULTED IN**  
2       **DECEPTIVE COLLECTION LAWSUITS AGAINST ARIZONA BORROWERS**

3       56.     Quik Cash has a Regional Collections Compliance and Small Claims  
4     Processing department in Pima County Arizona. (Exh. X.) This department is part of  
5     Quik Cash's overall collections strategy and the "Regional Collections hub strategy."

6       57.     Quik Cash uses regional officers and/or managers in Arizona involved in  
7     and/or responsible for corporate efforts like its "Regional Collections hub strategy."

8       58.     Quik Cash's "Arizona Regional Officer" and/or "Arizona Regional  
9     Manager" was/is Brian Crump, who was/is in charge of regional operations in Nevada  
10    and Southern Arizona. (Exhibits X and Y.)

11      59.     Quik Cash senior level management employee Richard Michael Peck  
12    was/is the company's Regional Vice President for the Western Region and works  
13    and/or resides in Pima County, Arizona.

14      60.     Quik Cash officers Don Early, Mary Lou Anderson and Doug Nickerson  
15    provided written authorization from QC Financial to certain employees in Pima County  
16    to represent Quik Cash in Arizona small claims court in collection cases. (Exh. X.)

17      61.     Since 2003, Quik Cash has entered into pay day loan agreements with  
18    Arizona residents across the state at multiple locations. These written agreements  
19    expressly represent the agreements will be governed by Arizona law. (Exh. MM.)

20      62.     As a result of *Cooper v. QC Financial Services* and other cases, Quik  
21    Cash has litigated at all levels of the trial court system in Arizona and was aware of  
22    Arizona laws and rules, as reflected in QC Holdings' 10Q filings with the SEC.<sup>15</sup>

23  
24  
25       <sup>15</sup>Quik Cash reported filing a Pima County small claims case and that the customer  
26    "removed the case to Pima County Justice Courts (in accordance with established  
27    small claims court procedures)...."  
28

1        63. Arizona law requires that a lawsuit on small claims must be filed  
2 exclusively in justice court. A.R.S. § 22-201(B).

3        64. Arizona law on the proper venue for justice court requires such cases to  
4 be filed in the precinct where the defendant lives or where the transaction occurred.  
5 See A.R.S. § 22-202(A) and (D); see also A.R.S. § 22-505(A) (rules governing venue  
6 of civil actions in justice courts govern small claims actions); see also A.R.S. § 12-401  
7 (rules of venue for superior court actions – which apply to justice court – state that “no  
8 person shall be sued out of the county in which he resides,” with certain exceptions).

9        65. Since at least 2007, Quik Cash has entered into hundreds of payday  
10 loan agreements with Arizona consumers who did not and do not reside in Pima  
11 County, while representing that the agreement would be governed by Arizona law.

12        66. Since at least 2007, Quik Cash has used Pima County Justice Courts to  
13 sue hundreds of Arizona consumers who did not reside in any Pima County Justice  
14 Court precinct and who did not obtain their payday loan in Pima County.

15        67. For example, in 2008 alone, Quik Cash sued more than 100 hundred  
16 Arizona payday loan consumers in Pima County Justice Courts even though the  
17 consumers did not enter the payday loan transaction in Pima County and did not  
18 reside there at the time of filing. The bulk of these lawsuits resulted in default  
19 judgments against consumers who did not respond.

20        68. Quik Cash knew or should have known that it was violating Arizona law.  
21 At least one Pima County Justice Court Judge issued an order to Quik Cash stating:

22        “Contract entered: Safford,  
23        Defendant lives: Thatcher  
24        See ARS 22-202 & ARS 22-505 & file in appropriate county. JLC”

25        (Exhibit Z; July 28, 2008.) This particular Justice of the Peace issued orders in  
26 several other Quik Cash debt collection cases either informing Quik Cash that it had  
27 sued in the wrong court and/or ordering the company to file in the correct county.  
28

1        69. Quik Cash has improperly sued hundreds of Arizona consumers in Pima  
2 County Justice Courts with the knowledge that they did not and/or do not reside in  
3 Pima County and that the payday loan did not occur in Pima County. Quik Cash's  
4 deceptively filed lawsuits and practices have resulted in and/or contributed to  
5 hundreds of default judgments against these defrauded Arizona consumers.

6        **Count 1 - Misrepresentations in the Standard Payday Loan Contracts**

7        70. Quik Cash misrepresents to Arizona consumers in its standard payday  
8 loan agreements that the contract will be governed by Arizona law, when in fact the  
9 company knowingly and routinely violates Arizona's venue laws in collection lawsuits  
10 against consumers who do not or did not reside in Pima County.

11        71. Quik Cash deceptively misrepresented the potential cost of loans due to  
12 consumers' unexpected costs of having to defend against lawsuits in a distant court.

13        72. From 2007 through 2009, Quik Cash deceived hundreds of affected  
14 Arizona consumers, violating the Arizona Consumer Fraud Act hundreds of times.

15        **Count 2 - Deceptive Pattern of Suing Consumers in the Wrong Court**

16        73. Quik Cash deceptively engages in "distant forum abuse" as part of a  
17 scheme of deceptively filing lawsuits against Arizona consumers from rural counties in  
18 the justice courts of Pima County. The practice is contrary to Arizona law and makes  
19 it difficult for Arizona consumers to travel to court to respond. This practice increases  
20 the likelihood that Quik Cash can obtain default judgments against these consumers.

21        74. Quik Cash's deceptive pattern and practice of "distant forum" litigation  
22 and their practice of violating Arizona law has imposed an undue burden on and harm  
23 to these Arizona consumers. This deceptively imposed burden requires consumers to  
24 travel a lengthy distance to appear and contest the case, hire an attorney to travel this  
25 distance to appear and contest the case, or hire an attorney from Pima County to  
26 defend the case. For rural consumers, this is a difficult and onerous burden. Quik  
27 Cash's practice was so egregious that it actually sued several Nevada residents in  
28

1 Pima County Justice Court, even though the out-of-state borrowers lived in Nevada  
2 and the loans occurred in Bullhead City in Mohave County, Arizona. (Exh. AA.)

3 75. Consumers in such small claims cases are likely unable and/or unwilling  
4 to expend the money to travel to a distant forum to defend against a small claims case  
5 involving a debt such as a payday loan, or to hire an attorney to do so, even simply to  
6 move for a change of venue. Quik Cash was aware of these practical limitations given  
7 that Quik Cash is acutely aware of the geographic demographics of its customer and  
8 geographic data related to the success of debt collections on a state-by-state basis.

9 76. Quik Cash, by knowingly violating the protection of the Arizona venue  
10 statute, has deceptively exploited consumers by filing actions in Pima County where  
11 consumers would have greater difficulty in affording to defend or to move for change  
12 of venue. Quik Cash deceptively gained an unlawful and unfair advantage that  
13 increased the number Quik Cash default judgments and/or favorable settlements.

14 77. Quik Cash's deceptive practice has deprived more than one hundred  
15 Arizonans of the legal protection of being sued in the precinct and county where they  
16 live or where the loan occurred. Quik Cash deceived hundreds of Arizona consumers  
17 from 2007 through 2009, violating the Arizona Consumer Fraud Act hundreds of times.

18 **Count 3 -- Deceptive Practice of Filing Default Judgments and/or Garnishments**

19 78. Quik Cash deceptively and regularly files numerous default judgment  
20 actions and legal garnishment actions against Arizona consumers with the knowledge  
21 that the original lawsuits were deceptively filed in the wrong court and county/precinct.

22 79. Quik Cash deceptively imposed this burden on these consumers and  
23 obtained the improper resulting benefit of an increased number of default judgments  
24 and the easier ultimate collection on the pay day loan debt which results from being  
25 able to use a default judgment in wage garnishment and/or attachment proceedings.

26 80. Quik Cash deceptively obtained a veritable assembly line of default  
27 judgments and/or garnishment actions against hundreds of Arizona consumers.  
28

1           81. Quik Cash's deceptive pattern and practice of pursuing default and/or  
2 garnishment actions has deprived more than one hundred Arizona residents of the  
3 legal protection of being sued in the precinct and county where they live or where the  
4 pay day loan actually occurred. Quik Cash deceived hundreds of Arizona consumers  
5 from 2007 though 2009, violating the Arizona Consumer Fraud Act hundreds of times.

6           **Count 4 - Deceptive Advertising About Lawful Collection Methods**

7           82. Quik Cash misrepresents, through its advertising and public statements,  
8 that the company fully discloses the terms of its payday loan agreements, complies  
9 with applicable laws, and that it pursues debt collections in a fair and lawful manner.  
10 Quik Cash also misrepresents, expressly and/or impliedly, that it follows the FDCPA.

11           83. Quik Cash represents that it is a member of the Community Financial  
12 Services Association of America (CFSA), a national trade group which "promotes laws  
13 and regulations that protect consumers" and that "[m]embership is contingent upon  
14 compliance with CFSA's "mandatory 'Best Practices.'" (Exh. BB.) Company officials  
15 claim Quik Cash "always use[s] best practices for the industry." (Exh. CC.) Quik Cash  
16 advertises in stores and online with the "CFSA membership seal" that is designed to  
17 inform customers that it abides by the mandatory standards. (Exh. BB, DD, EE.)

18           84. CSFA's "mandatory" best practices were adopted in 2000 and state that  
19 the best practices represent a "special code of standards, Industry Best Practices,  
20 which were developed to ensure responsible lending practices, and to protect  
21 borrowers' rights" and that an advance loan provider "must abide by these practices."  
22 (Exhs. FF, GG and HH.) QC Holdings is advertised on the CFSA website as one of  
23 various payday lenders "that adhere to the CFSA Best Practices." (Exh. II.)

24           85. Quik Cash, through its advertising, represents that it abides by CFSA's  
25 mandatory best practices to fully outline the terms of the payday advance transaction  
26 and to "comply with all applicable laws." The standards further state that "each  
27 member company is committed to collecting past due accounts in a professional, fair  
28 and lawful manner as required by our Industry Best Practices." (Exh. JJ.) The

1 mandatory practices include using "appropriate collection practices" and that CFSA  
2 members "must collect past due accounts in a professional, fair and lawful manner,"  
3 "will not use unlawful threats, intimidation, or harassment to collect accounts," and that  
4 the CFSA "believes that the collection limitations contained in the Fair Debt Collection  
5 Practices Act (FDCPA) should guide a member's practice in this area." (Exh. JJ.)

6 86. The FDCPA provides that debt collectors must file collection actions in  
7 the venue where the consumer lives or where the contract was signed. 15 U.S.C.A. §  
8 1692i. Although this federal law would not ordinarily apply because Quik Cash owns  
9 the debt and is not a third party debt collector, the mandatory Best Practices state that  
10 the CFSA "believes that the collection limitations contained in the Fair Debt Collection  
11 Practices Act (FDCPA) should guide a member's practice in this area." (Exh. JJ.)

12 87. From 2005 through early 2008, Quik Cash President Anderson was the  
13 CFSA President and was featured in CFSA's 2008 national TV campaign, urging  
14 borrowers to use payday loans responsibly. In one editorial, Anderson suggested  
15 Americans are capable of making a reasonable decision about payday loans when  
16 "presented with clear, understandable and truthful information" about the costs of the  
17 products. (Exh. KK.) In another, he stated that "a consumer has the right to basic  
18 information .... if you're using any financial product, you should have access to clear,  
19 easy-to-understand information about the cost of that product or service" and that:  
20 "Misinforming or manipulating consumers is unacceptable in any industry." (Exh. LL.)

21 88. While Anderson was making such representations, his company Quik  
22 Cash deceptively deprived Arizonans of "truthful information" about their loans and  
23 misrepresented engaging in lawful collection methods in compliance with the FDCPA.

24 89. From 2007 through 2009, Quik Cash violated Arizona's Consumer Fraud  
25 Act each day that it deceptively advertised and/or represented that it followed CFSA  
26 "mandatory" best practices, complied with applicable laws and the FDCPA, and  
27  
28

1 engaged in only fair and lawful debt collection practices. Quik Cash's advertising and  
2 representations resulted in hundreds of violations of the Arizona Consumer Fraud Act.

3 **Count 5 - Quik Cash deceived thousands of Arizonans into signing**  
4 **contracts with fraudulent "unconscionable" provisions that the District**  
5 **Court had struck down as "unconscionable" and "against public policy"**

6 90. On March 20, 2007, a federal District Court in Arizona in *Cooper v. QC*  
7 *Financial Services Inc.*, 503 F.Supp. 2d 1266 (D. AZ. 2007), found that standard Quik  
8 Cash contract provisions which waived customers' rights to bring class action lawsuits  
9 or act as class representatives, and even denied class arbitration, were substantively  
10 "unconscionable" and "against public policy." The District Court cited various factors,  
11 including that the case involved standard form contracts of adhesion, predictably small  
12 amounts, the importance of class actions for consumer protection in cases where it is  
13 not economically feasible to obtain relief within the framework of a multiplicity of small  
14 individual claims, the fact that individual arbitration decisions insulate a company from  
15 collective lawsuits which could change company practices, and the context of the  
16 borrower's allegations that numerous consumers were cheated, as weighing in favor  
17 of the Court's finding that such terms were unconscionable.

18 91. Despite the federal court's order, Quik Cash continued to fraudulently  
19 mislead Arizona payday loan consumers into signing payday loan contracts using the  
20 same or substantially similar unconscionable and unenforceable contract provisions  
21 that the federal district court found had unconscionably deprived Arizona consumers  
22 from acting as class representatives or pursuing class action lawsuits. The Attorney  
23 General is informed and believes Quik Cash repeatedly engaged in such fraudulent  
24 conduct in virtually all of its standard payday loan contracts in the State of Arizona  
25 after March 20, 2007. Quik Cash used standardized form agreements with the same  
26 and/or substantially similar language in 2007, 2008, and 2009. (Exhibits NN and OO.)

27 92. Quik Cash is currently using contracts which contain substantively  
28 unconscionable class action prohibition provisions. (Exhibit PP.)

1           93.    Quik Cash knew or should have known that the continued and repeated  
2 inclusion of class action prohibition provisions in its standard form contracts was  
3 deceptive and misleading.

4           94.    The Attorney General is informed and believes Quik Cash filed hundreds  
5 of debt litigation cases in Pima County Justice Court from 2007 through 2009, virtually  
6 all of which did not include the complete loan contract and did not include the contract  
7 pages barring class action lawsuits or class arbitration. As such, the unconscionable  
8 contract provisions were not ordinarily included in Quik Cash's court filings.

9           95.    The Attorney General is informed and believes that Quik Cash has  
10 repeatedly deceived thousands of Arizona payday loan customers into signing  
11 contracts with such unconscionable contract terms or substantially similar  
12 unconscionable contract provisions. This deceptive and misleading practice has  
13 resulted in up to thousands of violations of the Arizona Consumer Fraud Act.

14                           **VIOLATIONS OF THE CONSUMER FRAUD ACT**

15           96.    Plaintiff re-alleges the prior allegations of this Complaint as though fully  
16 set forth herein.

17           97.    The deceptive acts, practices and transactions alleged above in  
18 Paragraphs 9 through 95 violated the Arizona Consumer Fraud Act.

19           98.    A.R.S. § 44-1522 (A) of the Arizona Consumer Fraud Act, provides that:  
20           The act, use, or employment by any person of any deception, deceptive  
21 act or practice, fraud, false pretense, false promise, misrepresentation, or  
22 concealment, suppression or omission of any material fact with intent that  
23 others rely upon such concealment, suppression or omission, in connection  
24 with the sale or advertisement of any merchandise whether or not any person  
25 has in fact been misled, deceived, or damaged thereby, is declared to be an  
26 unlawful practice.

27           99.    In all matters alleged above, Defendants falsely and deceptively acted in  
28 violation of the Arizona Consumer Fraud Act, A.R.S. § 44-1522(A).

          100.    In all matters alleged above, Defendants acted willfully in violation of the  
Arizona Consumer Fraud Act, A.R.S. § 44-1531(A).

**RELIEF REQUESTED**

WHEREFORE, the State respectfully requests that the Court:

1. Prohibit Defendants from violating the Consumer Fraud Act, A.R.S. § 44-1521 *et seq.*, and 13-2314.

2. Prohibit Defendants from engaging in the course of conduct alleged herein as a violation of A.R.S. § 44-1522(A), and prohibit Defendants from engaging in the payday lending business in the State of Arizona.

3. Order Defendants to restore to all persons any money or property, real or personal, acquired by any means or practice alleged to be in violation of A.R.S. § 44-1522(A) as deemed proper by the Court pursuant to A.R.S. § 44-1528.

4. Order Defendants to pay the Attorney General a civil penalty of up to \$10,000 for each violation of the Consumer Fraud Act pursuant to A.R.S. § 44-1531, which at the present time could include an amount of \$5,000,000.00 or more for the violations established thus far, but which is subject to proof of additional violations.

5. Order Defendants to reimburse the Attorney General for costs of investigation and reasonable attorneys' fees pursuant to A.R.S. § 44-1534.


6. Set aside the judgments obtained against Arizona consumers as a result of improperly suing Arizona consumers in the wrong court venue.

7. Order any other and further relief as the Court may deem just and proper.

DATED this 23<sup>rd</sup> day of December 2009.

TERRY GODDARD  
Attorney General

BY:

  
VINCE RABAGO  
Assistant Attorney General

1 STATE OF ARIZONA)

2 ) ss  
County of Pima )

3 BARBARA MARVEL, being first duly sworn, upon his oath states as  
4 follows:

5 1. I am a Paralegal for the Consumer Protection and Advocacy Section  
6 of the Arizona Attorney General's Office and am duly authorized to make this  
7 verification.

8 2. I have read the foregoing Verified Amended Complaint for Injunctive  
9 and Other Relief.

10 3. The statements and allegations contained therein are true and correct  
11 to the best of my knowledge, information and belief.

12 4. Further Affiant sayeth not.

13  
14 Barbara Marvel  
BARBARA MARVEL

15 SUBSCRIBED AND SWORN to before me this 23rd day of December, 2009.

16  
17 Yolanda U. Leon  
18 Notary Public

19 My Commission Expires:

