

# **Exhibit 6**

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2019 FEB 15 03:02 PM  
KING COUNTY  
SUPERIOR COURT CLERK  
E-FILED  
CASE #: 18-2-09350-3 SEA

The Honorable Maureen McKee

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

ALEX GALLEGOS,

Plaintiff,

vs.

NATIONAL CREDIT SYSTEMS, INC.,

Defendant.

No. 18-2-09350-3 SEA

DECLARATION IN RESPONSE TO  
DECLARATION OF T. TYLER SANTIAGO  
RE ATTORNEY FEES

Benjamin Stone declares and states:

1. I am an attorney for the defendant National Credit Systems, Inc. I am over 18, competent to give testimony, and base this declaration on personal knowledge.

2. Attached as Exhibit A is a true and correct copy that, upon information and belief, is the letter for which plaintiff's attorney Jason Anderson billed 2.1 hours.

Sworn to under penalty of perjury of the laws of the State of Washington in Seattle, Washington.

1 DATED this 15th day of February, 2019

LEWIS BRISBOIS BISGAARD & SMITH LLP

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By: s/Benjamin J. Stone

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Benjamin J. Stone, WSBA #33436

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1111 Third Avenue, Suite 2700

Seattle, Washington 98101

(206) 436-2020

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[Benjamin.Stone@lewisbrisbois.com](mailto:Benjamin.Stone@lewisbrisbois.com)

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Attorneys for Defendant

National Credit Systems, Inc.

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**CERTIFICATE OF SERVICE**

The undersigned makes the following declaration certified to be true under penalty of perjury pursuant to RCW 9A.72.085:

On the date given below, I caused to be sent out for service a true and correct copy of the foregoing on the following parties in the manner indicated:

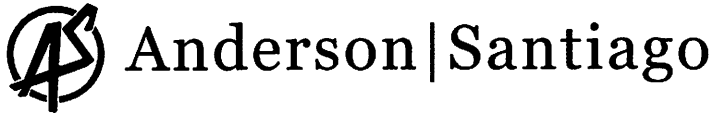
<p><i>Plaintiff's Attorney</i>  T. Tyler Santiago, WSBA #46004  Jason D. Anderson, WSBA #38014  787 Maynard Avenue S  Seattle, WA 98104  (206) 395-2665</p>	<input type="checkbox"/> via U.S. Mail, first class, postage prepaid <input type="checkbox"/> via Legal Messenger Hand Delivery <input type="checkbox"/> via Facsimile <input checked="" type="checkbox"/> via King County Eservice <input checked="" type="checkbox"/> <b>via Email per Eservice Agreement:</b> <a href="mailto:Tyler@alkc.net">Tyler@alkc.net</a> <a href="mailto:Jason@alkc.net">Jason@alkc.net</a>
<p><i>Co-Attorney for Defendant</i>  Mark T. Case, WSBA #38589  20816 44th Avenue W  Lynnwood, WA 98036  (425) 890-2817</p>	<input type="checkbox"/> via U.S. Mail, first class, postage prepaid <input type="checkbox"/> via Legal Messenger Hand Delivery <input type="checkbox"/> via Facsimile <input checked="" type="checkbox"/> via King County Eservice <input checked="" type="checkbox"/> via Email: <a href="mailto:Markcaselaw@gmail.com">Markcaselaw@gmail.com</a>

Dated this 15th day of February, 2019 at Seattle, Washington.

*s/Tami L. Foster*

Tami L. Foster  
[Tami.Foster@lewisbrisbois.com](mailto:Tami.Foster@lewisbrisbois.com)

# **EXHIBIT A**



JASON ANDERSON  
CALL (206) 395-2665  
WRITE JASON@ALKC.NET  
TYLER SANTIAGO  
CALL (206) 395-8989  
WRITE TYLER@ALKC.NET

787 MAYNARD AVENUE SOUTH  
SUITE 201  
SEATTLE, WASHINGTON 98104  
FAX (206) 395-2719  
EXPLORE ALKC.NET

January 23, 2019

Mark Case  
20816 44th Ave. W.  
Lynnwood, WA 98036

Re: Alex Gallegos v. National Credit Systems, Inc., KCSC No. 18-2-09350-3 SEA

Counsel:

I write concerning your client's systemic and ongoing defiance of Judge McKee's orders in this case. This matter has become overly time-sensitive, so **I ask that you respond immediately, but in any event, no later than 2:00 p.m. Monday, January 28, 2019** or else we will (again) raise these matters with the Court.

#### **Court-ordered payment**

Your client was ordered, repeatedly, to pay the Plaintiff in this matter for discovery violations. As you are aware, this was reduced to judgment on January 9, 2019 in the amount of \$17,011.00 and bearing 12% interest. By my calculation, that is an additional \$5.59 per day. If you are uncertain about the total as of the date your client makes payment, please contact my office.

Although this is a judgment, this originates from orders of the Court, and Judge McKee made clear that nonpayment is a violation of those orders. If payment is not received by January 28, 2019, we will move for contempt on this issue.

Payment is to be made to Anderson Santiago, PLLC IOLTA.

#### **Deficient discovery responses**

After being repeatedly ordered to respond to discovery, your client finally submitted some limited responses on December 21, 2018, which continue to violate Judge McKee's orders by including numerous objections. These must be corrected by January 28, 2019 or we will move for further discovery sanctions.

NCS was twice ordered to respond without objection to the outstanding discovery requests. This was first ordered by Judge McKee on October 22, 2018, and Judge McKee entered an additional order on November 16, 2018. Despite these very clear orders of the court, your client's responses are replete with objections and other obfuscation.

NCS included three sets of "general objections" (one for each set of discovery requests), which were accompanied by a "preliminary statement" which also reads like an objection. Each and every interrogatory and request for production response includes objections (or incorporation of prior objections). This is flatly unacceptable, and continues to violate Judge McKee's orders.

Until the objections are removed, it is impossible to determine whether any of the answers are responsive or complete, which further delays Plaintiff's ability to move forward with this case. Therefore, proper responses (which comply with Judge McKee's orders) are required immediately, including verification of interrogatory responses. If not provided by January 28, 2019, we will move for further discovery sanctions.

### **Status of Defendant's representation**

As of today's date, you are counsel of record for NCS. Although the law firm Varnum, LLP made a brief quasi-appearance, by phone, before Judge McKee, there have been no notices of appearance filed, and no applications by anyone for *pro hac vice* status. My client does not need to expend resources to determine who supposedly also represents NCS, and as such, will proceed with the knowledge that you are counsel of record.

On January 11, 2019, my firm received an email from attorney Toni Newell at Varnum, LLP, who asserted that "Varnum is not national counsel for NCS," which contradicts prior statements made in this case. A copy of that email is attached hereto.

Until there is a court order to the contrary, we have no choice but to proceed with the understanding that you are counsel of record. Your prior comments (about being "local counsel" or otherwise disclaiming responsibility in this case) do not affect my client's rights to access the legal system and are no longer an acceptable excuse for delay. Therefore, we will no longer accept any excuses which imply that some other lawyer or law firm might be involved at an undisclosed future time. If NCS wishes us to correspond with any other attorney in this matter, we will do so once a Notice of Appearance has been filed by a licensed Washington lawyer (or someone formally admitted *pro hac vice*).

### **No further delays will be tolerated**

To this point in the case, we (including Mr. Gallegos) have been exceedingly and generously patient with NCS. You may recall that, despite our acquisition of an order of default in this case, my firm volunteered to vacate the order of default. This ended up costing my client several months of time, as NCS remained largely nonresponsive.

We have been patient with you personally, as you claim that you have been "only local counsel" or are otherwise not responsible for NCS' participation in this litigation. My firm, and my client, do understand that challenging circumstances can happen, but we have been given no explanation from you or from NCS about anything at all in this case. As stated above, we must treat you as counsel of record (because you are). We have seen no motion to withdraw, and we are mindful of the fact that no such motion has been made over the past several months of litigation. If you were truly not representing NCS or otherwise unable to discharge your duties to your client, a motion to withdraw would have been filed by now. I mention all of this because, while it is my firm's practice to be compassionate and understanding, our duty to our client comes first.

After many, many months of NCS' defiance of court orders and general nonresponsiveness, the inability to move forward with this case is prejudicing our client, Mr. Gallegos. I write the foregoing to explain that while we would ordinarily be flexible and accommodating, we have been

flexible and accommodating for nearly one year, and NCS has made no efforts at all to participate in this litigation. Therefore, we will no longer accept any excuses for any delays. If NCS has “national counsel” that wishes to handle the case, they can file an appearance and do so.

Until the aforementioned matters are resolved (or any motions that arise out of these matters), absent truly exceptional and unprecedented circumstances, my client will not agree to any further delays or extensions. We will proceed with the case and seek the Court’s intervention to bring the matter to a conclusion, with or without NCS’ participation.

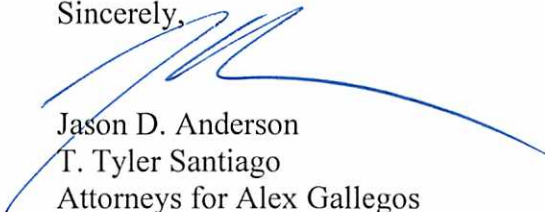
**Prejudice to Plaintiff Alex Gallegos**

I wish to make clear that NCS’ behavior is not just in violation of numerous court orders and the Civil Rules, but that this directly affects Mr. Gallegos. As we have stated in previous correspondence (and motions), NCS’ actions described in the Complaint have caused substantial financial damage to Mr. Gallegos and his family. Although he was able to save his house, he now bears a much higher monthly mortgage payment because of NCS’ actions. Moreover, each delay or failure to respond by NCS requires further engagement of my firm, which results in additional costs and attorney’s fees.

**Conclusion**

NCS’ open defiance of multiple court orders needs to end. If, by January 28, 2019, we do not receive the court-ordered payment (in certified funds), and proper verified discovery responses without any objections, we will proceed as necessary to protect our client’s interests. This will likely include a motion for contempt, further sanctions, and an entry of default against NCS.

Sincerely,



Jason D. Anderson  
T. Tyler Santiago  
Attorneys for Alex Gallegos