

ORIGINAL

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

CONVERGENT OUTSOURCING, INC.,
a Washington corporation.

Defendant.

NO. 20-2-10463-9 SEA

CONSENT DECREE

[CLERK'S ACTION
REQUIRED]

I. JUDGMENT SUMMARY

- 1.1 Judgment Creditor State of Washington
- 1.2 Judgment Debtor Convergent Outsourcing, Inc.
- 1.3 Principal Judgment Amount: \$1,675,000
- 1.4 Post Judgment Interest Rate: 12 percent per annum
- 1.5 Attorneys for Judgment Creditor: Matthew Geyman
Amy C. Teng
Assistant Attorneys General
- 1.6 Attorneys for Judgment Debtor: Michael J. Agolia and Deborah Yoon
Jones, Alston & Bird LLP; and Douglas C.
Berry, Miller Nash Graham & Dunn LLP

1 1.7 Plaintiff State of Washington conducted an investigation and commenced this
2 action pursuant to the Consumer Protection Act (CPA), RCW 19.86, and the Collection Agency
3 Act (CAA), RCW 19.16.

4 1.8 Defendant Convergent Outsourcing, Inc., is a Washington-licensed collection
5 agency that operates in Washington and other states throughout the country and is headquartered
6 at 800 SW 39th Street, Suite 100, Renton, Washington 98057.

7 1.9 Defendant was served or waived service and appears by and through its attorneys,
8 Deborah Yoon Jones and Michael J. Agoglia, Alston & Bird LLP, and Douglas C. Berry, Miller
9 Nash Graham & Dunn LLP.

10 1.10 The State of Washington appears by and through its attorneys, Robert W.
11 Ferguson, Attorney General, and Matthew Geyman and Amy C. Teng, Assistant Attorneys
12 General.

13 1.11 The State and Defendant have agreed on a basis for settlement of the matters
14 alleged in the State's Complaint and to entry of this Consent Decree against Defendant without
15 the need for trial or adjudication of any issue of law or fact.

16 1.12 Defendant recognizes and agrees that this Consent Decree is entered into
17 voluntarily and that no promises, representations, or threats have been made by the Attorney
18 General's Office (AGO) or any member, officer, agent, or representative thereof to induce
19 Defendant to enter into this Consent Decree, except the provisions and representations herein.

20 1.13 The State and Defendant waive any right it may have to appeal from this Consent
21 Decree or to otherwise contest the validity of this Consent Decree.

22 1.14 The State and Defendant further agree that this Court has and shall retain
23 jurisdiction of this action and jurisdiction over the Parties for the purpose of implementing and
24 enforcing the terms and conditions of this Consent Decree and for the purpose of granting such
25 additional relief as may be necessary and appropriate.

26 The Court finds no just reason for delay.

1 NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, AND DECREED as
2 follows:

3 **II. GENERAL**

4 2.1 This Court has jurisdiction over the subject matter of this action and over the
5 parties. The State's Complaint in this matter states claims upon which relief may be granted
6 under the provisions of the CPA, RCW 19.86, and the CAA, RCW 19.16.

7 2.2 This Consent Decree or the fact of its entry does not constitute evidence or an
8 admission by any party regarding the existence or non-existence of any issue, fact, or violation
9 of any law alleged by the State.

10 2.3 This Consent Decree resolves with prejudice all claims raised by the State against
11 Defendant in this action arising out of or relating to the acts and omissions described in the
12 Complaint, except that Defendant's material failure to comply with this Consent Decree shall
13 permit the Attorney General of Washington to take such further action against Defendant as may
14 be necessary and appropriate as provided herein.

15 **III. INJUNCTIONS**

16 3.1 Application of Injunctions. The injunctive provisions of this Consent Decree shall
17 apply to Defendant and its successors, assigns, employees, contractors, representatives, and all
18 others acting in concert or active participation with Defendant.

19 3.2 Notice. Within thirty (30) days following entry of this Consent Decree, Defendant
20 shall inform all successors, assigns, employees, contractors, representatives, and all others acting
21 in concert or active participation with Defendant of the terms and conditions of this Consent
22 Decree and shall direct those persons and entities to comply with this Consent Decree.

23 3.3 Injunctive Relief. Defendant and its successors, assigns, employees, contractors,
24 representatives and all others acting in concert or active participation with Defendant shall
25 permanently refrain from sending collection letters that use the term "settle" or "settlement" in
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1 offering to resolve time-barred debts without disclosing that the statute of limitations has
2 expired.

3 IV. RESTITUTION

4 4.1 Defendant shall take the following steps to provide restitution to Washington
5 consumers. For purposes of restitution pursuant to Section IV of this Consent Decree a
6 “Washington Consumer” includes any consumer who resided in Washington State to whom
7 Defendant sent one of the collection letters described in paragraph 4.2 from January 1, 2013 to
8 November 17, 2016, even if the consumer has since moved out of state.

9 4.2 From January 1, 2013 to November 17, 2016, Defendant sent a total of 80,285
10 letters to Washington Consumers titled “Settlement Offer” in which it offered to “settle” a time-
11 barred debt without disclosing to the consumer that the debt was legally unenforceable because
12 the statute of limitations had expired.

13 4.3 For those Washington Consumers 1) to whom Defendant sent a “Settlement
14 Offer” letter described in paragraph 4.2 and 2) who sent one or more payments to Defendant
15 within 90 days of the date of the “Settlement Offer” letter, Defendant shall refund to these
16 consumers a total amount of \$355,000, to be divided among the consumers pro rata in proportion
17 to the respective amounts paid by each consumer.

18 4.4 Within sixty (60) days following entry of this Consent Decree, Defendant shall
19 (a) provide the AGO with an accounting identifying the consumers eligible for the restitution set
20 forth in paragraph 4.3 and the amount of restitution provided to each consumer; (b) issue checks
21 to these consumers in the amounts identified; and (c) provide the issued checks to the AGO so
22 that the AGO can mail the checks to consumers with a cover letter from the AGO. Defendant
23 should send the issued checks to the Office of the Attorney General, Consumer Protection
24 Division, Attention: Margaret Farmer, Litigation Support Manager, 800 Fifth Avenue, Suite
25 2000, Seattle, WA 98104. The Parties acknowledge that the accounting will contain highly
26 confidential, personally identifying information about consumers, and agree to treat it

1 accordingly. Defendant will send the accounting as an Excel spreadsheet via a secure FTP portal
2 to the AGO, and shall provide the information relating to that secure portal to the AGO
3 sufficiently in advance of the transmission to ensure an orderly and confidential transmission of
4 the accounting.

5 4.5 Unless the Parties later stipulate in writing to a different time frame, one hundred
6 eighty (180) days from the date the AGO mails the checks to eligible consumers, any remaining
7 amounts that were designated for distribution but remain undistributed because issued checks
8 mailed to consumers were uncashed, undeliverable, or returned shall be paid by Defendant to
9 the AGO to the address set forth in paragraph 5.2. The AGO may apply the funds to a *cy pres*
10 fund for debt counseling or similar services offered to Washington consumers or for any other
11 use, including further efforts by the AGO to provide restitution to eligible consumers whose
12 checks were not cashed, at its discretion.

13 V. OTHER MONETARY PAYMENT

14 5.1 Defendant shall pay the State the amount of \$1,320,000. The Attorney General
15 shall use the funds for recovery of its costs and attorneys' fees in investigating this matter, future
16 monitoring and enforcement of this Consent Decree, future enforcement of the CPA,
17 RCW 19.86, and the CAA, RCW 19.16, or for any lawful purpose in the discharge of the
18 Attorney General's duties at the sole discretion of the Attorney General.

19 5.2 The payment referenced in paragraph 5.1 shall be made no later than thirty (30)
20 days following entry of this Consent Decree to the Office of the Attorney General, Consumer
21 Protection Division, Attention: Margaret Farmer, Litigation Support Manager, 800 Fifth
22 Avenue, Suite 2000, Seattle, WA 98104.

23 5.3 Defendant's failure to timely make payment as required by this Consent Decree
24 shall constitute a material breach of this Consent Decree.

1 **VI. ENFORCEMENT**

2 6.1 Violation of any of the terms of this Consent Decree, as determined by the Court,
3 shall constitute a violation of the Consumer Protection Act, 19.86.020.

4 6.2 Violation of any of the injunctions contained in this Consent Decree, as
5 determined by the Court, shall subject Defendant to a civil penalty pursuant to RCW 19.86.140,
6 restitution, injunctive relief, attorneys' fees, costs, and such other remedies as the Court may
7 deem appropriate. In any successful action to enforce this Consent Decree against Defendant,
8 Defendant shall bear the AGO's costs, including reasonable attorneys' fees.

9 6.3 Jurisdiction is retained for the purpose of enabling any party to this Consent
10 Decree to apply to the Court for enforcement of compliance with this Consent Decree, to punish
11 violations thereof, or to modify or clarify this Consent Decree.

12 6.4 Representatives of the AGO shall be permitted, upon advance written notice of
13 twenty (20) days to Defendant, to access, inspect, and/or copy non-privileged business records
14 or documents in possession, custody, or under control of Defendant to monitor compliance with
15 this Consent Decree; provided that the inspection and copying shall avoid unreasonable
16 disruption of Defendant's business activities.

17 6.5 This Consent Decree in no way limits the AGO, or any other state agency, from
18 conducting any lawful non-public monitoring of Defendant's compliance with this Consent
19 Decree or investigating other alleged violations of state or federal law.

20 6.6 Nothing in this Consent Decree shall grant any third-party beneficiary or other
21 rights to any person who is not a party to this Consent Decree.

22 6.7 Nothing in this Consent Decree shall be construed to limit or bar any other
23 governmental entity or person from pursuing other available remedies against Defendant or any
24 other person.

25 6.8 Under no circumstances shall this Consent Decree, or the name of the State of
26 Washington, the AGO, the Consumer Protection Division, or any of their employees or

1 representatives, be used by Defendant or any of their successors, assigns, employees, contractors,
2 representatives, or any others acting in concert or active participation with Defendant, in
3 connection with any selling, advertising, or promotion of products or services, or as an
4 endorsement or approval of Defendant's acts, practices, or conduct of business, including in
5 filings in court proceedings.

6 6.9 This Consent Decree shall be binding upon Defendant's successors and assigns.

7 6.10 Any notice or other communication required or permitted under this Consent
8 Decree shall be in writing and delivered to the following persons or any person subsequently
9 designated by the parties:

10 For Plaintiff:

11 Office of the Attorney General
12 Consumer Protection Division
13 Attention: Matthew Geyman, AAG
14 800 Fifth Avenue, Suite 2000
15 Seattle, WA 98104

For Defendant:

Alston & Bird LLP
Attention: Deborah Yoon Jones
333 South Hope Street, 16th Floor
Los Angeles, CA 90071

14 **VII. OTHER PROVISIONS**

15 7.1 This Consent Decree is a voluntary agreement and it shall not be construed in any
16 way as an admission of law, fact, liability, or misconduct, including, without limitation, as a
17 violation of the CPA or the CAA. Defendant expressly denies the claims, allegations, or causes
18 of action asserted by the State.

19 7.2 This Consent Decree represents the full and complete terms of the settlement
20 entered into by the Parties hereto. In any action undertaken by the Parties, no prior versions of
21 this Consent Decree and no prior versions of any of its terms that were not entered by the Court
22 in this Consent Decree, may be introduced for any purpose whatsoever.

23 7.3 The Parties agree and affirm that each of them has the authority to execute and
24 perform the terms of this Consent Decree.

25 7.4 This Consent Decree may be executed in counterparts, and a facsimile or .pdf
26 signature shall be deemed to be, and shall have the same force and effect as, an original signature.

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Presented by:

ROBERT W. FERGUSON
Attorney General

Matthew Geyman
MATTHEW GEYMAN, WSBA #17544
AMY C. TENG, WSBA #50003
Assistant Attorneys General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104

Attorneys for Plaintiff State of Washington

Notice of Presentment Waived and
Approved as to Form by:

ALSTON & BIRD LLP

Deborah Yoon Jones
DEBORAH YOON JONES*
MICHAEL J. AGOGLIA*
333 South Hope Street, 16th Floor
Los Angeles, CA 90071
*Pro Hac Vice

Attorneys for Defendant Convergent
Outsourcing, Inc

CERTIFICATE OF SERVICE

I certify that I served a copy of the forgoing on the following party/parties via the following methods:

<p>Deborah Yoon Jones (<i>Pro Hac Vice</i>) Michael J. Agoglia (<i>Pro Hac Vice</i>) John C. Redding (<i>Pro Hac Vice</i>) Alston & Bird LLP 333 South Hope Street, 16th Floor Los Angeles, CA 90071 Email: debbie.jones@alston.com michael.agoglia@alston.com john.redding@alston.com</p> <p>Counsel for Defendant</p>	<p><input type="checkbox"/> Legal Messenger <input type="checkbox"/> First-Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Receipt Requested <input type="checkbox"/> Facsimile <input type="checkbox"/> King County E-Service <input checked="" type="checkbox"/> E-Mail per E-Service Agreement</p>
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Douglas C. Berry, WSBA #12291 Miller Nash Graham & Dunn LLP Pier 70 – 2801 Alaskan Way, Suite 300 Seattle, WA 98121 Email: doug.berry@millernash.com Counsel for Defendant	<input type="checkbox"/> Legal Messenger <input type="checkbox"/> First-Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Receipt Requested <input type="checkbox"/> Facsimile <input type="checkbox"/> King County E-Service <input checked="" type="checkbox"/> E-Mail per E-Service Agreement
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I certify, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

DATED this 27 day of August, 2021, at Seattle, Washington.

s/ Matthew Geyman

MATTHEW GEYMAN
Assistant Attorney General