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7 **STATE OF WASHINGTON**
SKAGIT COUNTY SUPERIOR COURT

8 STATE OF WASHINGTON,

9 Plaintiff,

10 v.

11 OSCAR HERNANDEZ, individually
12 and as part of his marital community;
13 ROSALINDA HERNANDEZ,
14 individually and as part of her marital
community; LA VOZ DE SKAGIT, a
Washington sole proprietorship,

15 Defendants.

NO.

COMPLAINT FOR PERMANENT
INJUNCTIVE RELIEF AND OTHER
RELIEF UNDER THE CONSUMER
PROTECTION ACT

16 The Plaintiff, State of Washington, by and through its attorneys Robert M. McKenna,
17 Attorney General, and James T. Sugarman, Assistant Attorney General, brings this action
18 against the defendants named below. The State alleges the following on information and
19 belief:

20 **I. PLAINTIFF**

21 1.1 The Plaintiff is the State of Washington.

22 1.2 The Attorney General is authorized to commence this action pursuant to
23 RCW 19.86.080, 19.86.140 and 19.154.090.

1 **II. DEFENDANTS**

2 2.1 Defendant OSCAR HERNANDEZ is an adult male resident of the State of
3 Washington. Defendant Oscar Hernandez created and operates Defendant LA VOZ DE
4 SKAGIT, a for-profit Washington sole proprietorship. Defendants directed, controlled,
5 formulated and carried out the acts, practices and activities that are the subject of this
6 Complaint. Defendant Oscar Hernandez is married to Rosalinda Hernandez and all acts done
7 by Oscar Hernandez were done on behalf of their marital community.

8 2.2 All defendants reside and have their primary place of business in Skagit County,
9 Washington. The violations hereinafter alleged have been committed in whole or in part
10 within Skagit County and elsewhere within the State of Washington by the Defendants.

11 2.3 The Attorney General's standing to commence this action is conferred by
12 RCW 19.86.080 and 19.154.090.

13 2.4 Jurisdiction over the Defendants is vested in this Court because Defendants
14 have committed the acts alleged below in the State of Washington. Jurisdiction over the
15 subject matter of this Complaint is conferred by the above-referenced statutes.

16 **III. NATURE OF TRADE OR COMMERCE**

17 3.1 Defendants, during the time period relevant to this action, engaged in the for-
18 profit business of immigration assistance. Defendants use unfair and deceptive acts and
19 practices in the course of providing immigration-related services to Washington consumers,
20 including by failing to provide the contractual terms and disclosures and the cancellation rights
21 mandated by the Immigration Assistant Practices Act (IAA), RCW 19.154. As such,
22 Defendants are engaged in trade or commerce within the meaning of RCW 19.86.020.

23 **IV. BACKGROUND FACTS**

24 4.1 Defendants have engaged in the unauthorized practice of law by providing legal
25 advice and services regarding applications for visas or other immigration or citizenship status.
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1 4.2 Defendants have provided immigration assistance without providing the written
2 contract and disclosures required by the Immigration Assistant Practices Act (IAA),
3 RCW 19.154.

4 4.3 Defendants have failed to inform consumers in writing of their right to cancel
5 their transaction. RCW 19.154.070(4).

6 4.4 Defendants have given inaccurate legal advice and injurious services to
7 consumers resulting in substantial prejudice to the consumers' ability to obtain immigration
8 benefits they might otherwise have qualified for and subjecting them to possible denial of legal
9 status, fees, removal (deportation) and criminal liability.

10 4.5 Defendants have charged fees for inaccurate advice and harmful services.

11 4.6 Defendants have used titles or references such as "notary public" and
12 "immigration consultant" that indicate special professional skills or expertise, which titles are
13 prohibited by the IAA. RCW 19.154.080.

14 4.7 Defendants have advertised or failed to correct advertising that lists their
15 business as a law office or one capable of providing "legal services" when not actually licensed
16 to practice law.

17 4.8 Each of the allegations in this Complaint refer back to conduct that has
18 occurred. Plaintiff alleges that the described conduct is a material part of Defendants' business
19 practices and is continuing or will continue unless enjoined or restrained by order of the Court.

20 **V. FIRST CAUSE OF ACTION**
21 **Misrepresentations**

22 5.1 Plaintiff re-alleges paragraphs 1.1 through 4.8, inclusive and incorporates them
23 herein by this reference.

24 5.2 In the context of conducting their business Defendants made numerous
25 misrepresentations. Such conduct constitutes unfair or deceptive acts or practices in trade or
26 commerce, and/or unfair methods of competition in violation of RCW 19.86.020.

1 **VI. SECOND CAUSE OF ACTION**
2 **Unfair Practices**

3 6.1 Plaintiff re-alleges paragraphs 1.1 through 5.2, inclusive and incorporates them
4 herein by this reference.

5 6.2 In the context of conducting their business, Defendants engaged in numerous
6 unfair acts and practices. Such conduct constitutes unfair or deceptive acts or practices in trade or
7 commerce, and/or unfair methods of competition in violation of RCW 19.86.020.

8 **VII. THIRD CAUSE OF ACTION**
9 **Violations of the Immigration Assistant Practices Act, RCW 19.154**

10 7.1 Plaintiff re-alleges paragraphs 1.1 through 6.2, inclusive and incorporates them
11 herein by this reference.

12 7.2 In the context of conducting their business, Defendants created and enforced
13 agreements that violate the IAA, failed to provide written notice of a consumer's right to cancel
14 the transaction, provided legal services forbidden by the IAA, and used prohibited titles or
15 references in advertising or solicitations.

16 7.3 Pursuant to RCW 19.154.090, violations of the Immigration Assistant Practices
17 Act are *per se* violations of the Consumer Protection Act, RCW 19.86.

18 7.4 Notwithstanding RCW 19.154.090, Defendants' conduct affects the public interest
19 and has the capacity to mislead a substantial number of consumers and constitutes unfair or
20 deceptive acts or practices in trade or commerce and unfair methods of competition in violation of
21 RCW 19.86.020.

22 **VIII. PRAYER FOR RELIEF**

23 **WHEREFORE**, the State moves the Court for:

24 8.1 That the Court adjudge and decree that Defendants have engaged in the conduct
25 complained of herein.
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1 8.2 That the Court adjudge and decree that the conduct complained of in the above
2 causes of action constitutes violations of RCW 19.86.020.

3 8.3 That the Court issue such preliminary, ancillary and permanent injunctive relief
4 restraining Defendants and their representatives, successors, assigns, officers, agents, servants,
5 employees, and all other persons acting or claiming to act for, on behalf of, or in active concert or
6 participation with Defendants, from continuing or engaging in the unlawful conduct complained
7 of herein.

8 8.4 That the Court make such orders pursuant to RCW 19.86.080, as it deems
9 appropriate to provide for consumer restitution.


10 8.5 That pursuant to RCW 19.86.140, the Court assess a civil penalty of two thousand
11 dollars (\$2,000) per violation against the Defendants for each violation of RCW 19.86.020.

12 8.6 That the State have and recover from Defendants the costs of this action, including
13 a reasonable attorneys' fee, pursuant to RCW 19.86.080.

14 8.7 For such other relief as the court may deem just and proper to fully and effectively
15 dissipate the effect of the conduct complained of herein, or which may otherwise seem proper to
16 the court.

17 DATED this 16th day of June, 2010.

18 ROBERT M. MCKENNA
19 Attorney General

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21 _____
22 JAMES T. SUGARMAN, WSBA #39107
23 Assistant Attorney General
24 Attorneys for Defendant State of Washington
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