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12 Attorneys for Defendants REALOGY HOLDINGS CORP.,
13 REALOGY INTERMEDIATE HOLDINGS LLC, REALOGY
14 GROUP LLC, REALOGY SERVICES GROUP LLC and
15 REALOGY BROKERAGE GROUP LLC

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO

18 RONALD CHINITZ, SARAH BUMPUS,
19 DAVID GRITZ, MICHELINE PEKER,
20 NATHAN ROWAN, CHERYL ROWAN,
21 DANIEL CARUSO and PARAMJIT LALLI,
22 individually, and on behalf of a class of
23 similarly situated persons,

24 Plaintiffs,

25 v.

26 REALOGY HOLDINGS CORP., REALOGY
27 INTERMEDIATE HOLDINGS LLC,
28 REALOGY GROUP LLC, REALOGY
SERVICES GROUP LLC, REALOGY
BROKERAGE GROUP LLC (f/k/a NRT LLC)
and MOJO DIALING SOLUTIONS, LLC,

Defendants.

CASE NO. 3:19-cv-03309-JD
Judge: Hon. James Donato
Courtroom: 11 – 19th Floor

**ANSWER BY DEFENDANTS REALOGY
HOLDINGS CORP., REALOGY
INTERMEDIATE HOLDINGS LLC,
REALOGY GROUP LLC, REALOGY
SERVICES GROUP LLC AND
REALOGY BROKERAGE GROUP LLC
TO THE THIRD AMENDED CLASS
ACTION COMPLAINT**

Defendants Realogy Holdings Corp. (“Realogy Holdings”), Realogy Intermediate Holdings, LLC (“Realogy Intermediate”), Realogy Group LLC (“Realogy Group”), Realogy Services Group LLC (“Realogy Services”), Realogy Brokerage Group LLC (f/k/a NRT LLC) (“RBG”) (collectively referred to herein as “Defendants”) hereby respond to the Third Amended Class Action Complaint (“Complaint”) of Plaintiffs Ronald Chinitz, Sarah Bumpus, David Gritz,

1 Micheline Peker, Nathan Rowan, Cheryl Rowan, Daniel Caruso and Paramjit Lalli (collectively
2 referred to herein as “Plaintiffs”), as follows:

3
4 **INTRODUCTION**

5 1. Answering paragraph 1, Defendants admit that their brands include Coldwell
6 Banker and Sotheby’s International Realty. Defendants deny the remaining allegations of this
7 paragraph.

8 2. Answering paragraph 2, Defendants deny the allegations of this paragraph.

9 3. Answering paragraph 3, Defendants deny the allegations of this paragraph.

10 4. Answering paragraph 4, Defendants deny the allegations of this paragraph.

11 5. Answering paragraph 5, Defendants deny the allegations of this paragraph.

12 6. Answering paragraph 6, Defendants deny the allegations of this paragraph.

13 7. Answering paragraph 7, Defendants deny the allegations of this paragraph.

14 8. Answering paragraph 8, Defendants lack sufficient knowledge or information to
15 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

16 9. Answering paragraph 9, Defendants deny the allegations of this paragraph.

17 10. Answering paragraph 10 and subparagraphs (a)-(d) therein, Defendants deny the
18 allegations of this paragraph and subparagraphs (a)-(d) therein.

19 11. Answering paragraph 11, Defendants deny the allegations of this paragraph.

20 12. Answering paragraph 12, Defendants deny the allegations of this paragraph.

21 **JURISDICTION AND VENUE**

22 13. Answering paragraph 13, Defendants deny the allegations of this paragraph.

23 14. Answering paragraph 14, Defendants admit that this court has federal question
24 jurisdiction over this case pursuant to 28 U.S.C. § 1331, but deny the remaining allegations of
25 this paragraph.

26 15. Answering paragraph 15, Defendants lack sufficient knowledge or information to
27 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

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PARTIES

Plaintiffs

16. Answering paragraph 16, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

17. Answering paragraph 17, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

18. Answering paragraph 18, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

19. Answering paragraph 19, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

20. Answering paragraph 20, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

21. Answering paragraph 21, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

22. Answering paragraph 22, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

23. Answering paragraph 23, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

Defendant Realogy Holdings Corp.

24. Answering paragraph 24, Defendants admit the allegations of this paragraph.

25. Answering paragraph 25, Defendants admit that Realogy Holdings is incorporated in the State of Delaware and its principal place of business is located at 175 Park Avenue, Madison, New Jersey 07940. Defendants deny the remaining allegations of this paragraph.

26. Answering paragraph 26, Defendants deny the allegations of this paragraph.

Defendant Realogy Brokerage Group LLC (formerly known as NRT LLC)

27. Answering paragraph 27, Defendants admit the allegations of this paragraph.

28. Answering paragraph 28, Defendants admit that RBG is incorporated in the State

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1 of Delaware and its principal place of business is located at 175 Park Avenue, Madison, New
2 Jersey 07940. Defendants deny the remaining allegations of this paragraph.

3 29. Answering paragraph 29, Defendants admit that RBG is one subsidiary of
4 Realogy Holdings Corp. Defendants deny the remaining allegations of this paragraph.

5 30. Answering paragraph 30, Defendants deny the allegations of this paragraph.

6 **Other Realogy Defendants**

7 31. Answering paragraph 31, Defendants admit that Realogy Services Group LLC is
8 incorporated in the State of Delaware and its principal place of business is located at 175 Park
9 Avenue, Madison, New Jersey 07940. Defendants deny the remaining allegations of this
10 paragraph.

11 32. Answering paragraph 32, Defendants admit that Realogy Group LLC is
12 incorporated in the State of Delaware and its principal place of business is located at 175 Park
13 Avenue, Madison, New Jersey 07940. Defendants deny the remaining allegations of this
14 paragraph.

15 33. Answering paragraph 33, Defendants admit that Realogy Intermediary Holdings
16 LLC is incorporated in the State of Delaware and its principal place of business is located at 175
17 Park Avenue, Madison, New Jersey 07940. Defendants deny the remaining allegations of this
18 paragraph.

19 34. Answering paragraph 34, Defendants deny the allegations of this paragraph.

20 **Defendant Mojo Dialing Solutions, LLC**

21 35. Answering paragraph 35, Defendants lack sufficient knowledge or information to
22 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

23 36. Answering paragraph 36, Defendants lack sufficient knowledge or information to
24 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

25 **FACTUAL BACKGROUND**

26 37. Answering paragraph 37, the paragraph does not contain any allegations against
27 Defendants that would require an admission or a denial but only legal conclusions. To the extent
28 any answer to paragraph 37 is required, Defendants admit the quoted language therein is from

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1 the case cited. Defendants lack sufficient knowledge or information to form a belief as to the
2 truth of the remaining allegations of this paragraph and on that basis deny them.

3 38. Answering paragraph 38, the paragraph does not contain any allegations against
4 Defendants that would require an admission or a denial but only legal conclusions. To the extent
5 any answer to paragraph 38 is required, Defendants admit that the quoted language therein is
6 from the Public Law cited. Defendants lack sufficient knowledge or information to form a belief
7 as to the truth of the remaining allegations of this paragraph and on that basis deny them.

8 39. Answering paragraph 39, the paragraph does not contain any allegations against
9 Defendants that would require an admission or a denial but only legal conclusions. To the extent
10 any answer to paragraph 39 is required, Defendants deny the allegations of this paragraph.

11 40. Answering paragraph 40, the paragraph does not contain any allegations against
12 Defendants that would require an admission or a denial but only legal conclusions. To the extent
13 any answer to paragraph 40 is required, Defendants admit that in 2003, the cited regulation was
14 enacted. Defendants lack sufficient knowledge or information to form a belief as to the truth of
15 the remaining allegations of this paragraph and on that basis deny them.

16 41. Answering paragraph 41, the paragraph does not contain any allegations against
17 Defendants that would require an admission or a denial but only legal conclusions. To the extent
18 any answer to paragraph 41 is required, Defendant admits that the quoted language therein is
19 from the cited regulation, and that the regulation speaks for itself. Defendants lack sufficient
20 knowledge or information to form a belief as to the truth of the remaining allegations of this
21 paragraph and on that basis deny them.

22 42. Answering paragraph 42, the paragraph does not contain any allegations against
23 Defendants that would require an admission or a denial but only legal conclusions. To the extent
24 any answer to paragraph 42 is required, Defendant admits that the quoted language therein is
25 from the cited order. Defendants lack sufficient knowledge or information to form a belief as to
26 the truth of the remaining allegations of this paragraph and on that basis deny them.

27 43. Answering paragraph 43, Defendants lack sufficient knowledge or information to
28 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

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1 44. Answering paragraph 44, Defendants deny the allegations of this paragraph.

2 45. Answering paragraph 45, the paragraph does not contain any allegations against
3 Defendants that would require an admission or a denial but only legal conclusions. To the extent
4 any answer to paragraph 45 is required, Defendant admits that the quoted language therein is
5 from the cited order. Defendants lack sufficient knowledge or information to form a belief as to
6 the truth of the remaining allegations of this paragraph and on that basis deny them.

7 46. Answering paragraph 46, the paragraph does not contain any allegations against
8 Defendants that would require an admission or a denial but only legal conclusions. To the extent
9 any answer to paragraph 45 is required, Defendant admits that the quoted language therein is
10 from the cited order. Defendants lack sufficient knowledge or information to form a belief as to
11 the truth of the remaining allegations of this paragraph and on that basis deny them.

12 47. Answering paragraph 47, the paragraph does not contain any allegations against
13 Defendants that would require an admission or a denial but only legal conclusions. To the extent
14 any answer to paragraph 45 is required, Defendant admits that the statute and declaratory ruling
15 cited speak for themselves. Defendants lack sufficient knowledge or information to form a belief
16 as to the truth of the remaining allegations of this paragraph and on that basis deny them.

17 48. Answering paragraph 48, Defendants deny the allegations of this paragraph.

18 49. Answering paragraph 49, Defendants deny the allegations of this paragraph.

19 50. Answering paragraph 50, Defendants admit that on April 8, 2020, the LinkedIn
20 page identified in footnote 4 of the Complaint stated, among other things, that NTR LLC
21 operates approximately 725 offices nationwide. Defendants deny the remaining allegations of
22 this paragraph.

23 51. Answering paragraph 51, Defendants deny the allegations of this paragraph.

24 52. Answering paragraph 52, Defendants admit that individuals cannot just simply
25 decide to hold themselves out as being a Coldwell Banker representative. Defendants deny the
26 remaining allegations of this paragraph.

27 53. Answering paragraph 53, Defendants lack sufficient knowledge or information to
28 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

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- 1 54. Answering paragraph 54, Defendants deny the allegations of this paragraph.
- 2 55. Answering paragraph 55, Defendants deny the allegations of this paragraph.
- 3 56. Answering paragraph 56, Defendants deny the allegations of this paragraph.
- 4 57. Answering paragraph 57, Defendants deny the allegations of this paragraph.
- 5 58. Answering paragraph 58, Defendants deny the allegations of this paragraph.
- 6 59. Answering paragraph 59, Defendants deny the allegations of this paragraph.
- 7 60. Answering paragraph 60, Defendants deny the allegations of this paragraph.
- 8 61. Answering paragraph 61, Defendants deny the allegations of this paragraph.
- 9 62. Answering paragraph 62, Defendants deny the allegations of this paragraph.
- 10 63. Answering paragraph 63, Defendants deny the allegations of this paragraph.
- 11 64. Answering paragraph 64, Defendants deny the allegations of this paragraph.
- 12 65. Answering paragraph 65, Defendants deny the allegations of this paragraph.
- 13 66. Answering paragraph 66, Defendants deny the allegations of this paragraph.
- 14 67. Answering paragraph 67, Defendants lack sufficient knowledge or information to
- 15 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 16 68. Answering paragraph 68, Defendants lack sufficient knowledge or information to
- 17 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 18 69. Answering paragraph 59, Defendants lack sufficient knowledge or information to
- 19 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 20 70. Answering paragraph 70, Defendants lack sufficient knowledge or information to
- 21 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 22 71. Answering paragraph 71, Defendants deny the allegations of this paragraph.
- 23 72. Answering paragraph 72, Defendants lack sufficient knowledge or information to
- 24 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 25 73. Answering paragraph 73, Defendants deny the allegations of this paragraph.
- 26 74. Answering paragraph 74, Defendants lack sufficient knowledge or information to
- 27 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
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- 1 75. Answering paragraph 75, Defendants deny the allegations of this paragraph.
- 2 76. Answering paragraph 76, Defendants lack sufficient knowledge or information to
- 3 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 4 77. Answering paragraph 77, Defendants lack sufficient knowledge or information to
- 5 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 6 78. Answering paragraph 78, Defendants deny the allegations of this paragraph.
- 7 79. Answering paragraph 79, Defendants lack sufficient knowledge or information to
- 8 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 9 80. Answering paragraph 80, Defendants lack sufficient knowledge or information to
- 10 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 11 81. Answering paragraph 81, Defendants deny the allegations of this paragraph.
- 12 82. Answering paragraph 82, Defendants deny the allegations of this paragraph.
- 13 83. Answering paragraph 83, Defendants deny the allegations of this paragraph.
- 14 84. Answering paragraph 84, Defendants deny the allegations of this paragraph.
- 15 85. Answering paragraph 85, Defendants deny the allegations of this paragraph.
- 16 86. Answering paragraph 86, Defendants deny the allegations of this paragraph.
- 17 87. Answering paragraph 87, Defendants deny the allegations of this paragraph.
- 18 88. Answering paragraph 88, Defendants lack sufficient knowledge or information to
- 19 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 20 89. Answering paragraph 89, Defendants lack sufficient knowledge or information to
- 21 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 22 90. Answering paragraph 90, Defendants deny the allegations of this paragraph.
- 23 91. Answering paragraph 91, Defendants admit that RBG developed a Do Not
- 24 Contact Guide. Defendants deny the remaining allegations of this paragraph.
- 25 92. Answering paragraph 92, Defendants admit that the Do Not Contact Guide
- 26 contains screen shots of how to check a phone number to see if it is listed on the National Do Not
- 27 Contact List. Defendants deny the remaining allegations of this paragraph.
- 28 93. Answering paragraph 93, Defendants deny the allegations of this paragraph.

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- 1 94. Answering paragraph 94, Defendants deny the allegations of this paragraph.
- 2 95. Answering paragraph 95, Defendants deny the allegations of this paragraph.
- 3 96. Answering paragraph 96, Defendants deny the allegations of this paragraph.
- 4 97. Answering paragraph 97, Defendants deny the allegations of this paragraph.
- 5 98. Answering paragraph 88, Defendants deny the allegations of this paragraph.
- 6 99. Answering paragraph 99, Defendants lack sufficient knowledge or information to
- 7 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 8 100. Answering paragraph 100, Defendants deny the allegations of this paragraph.
- 9 101. Answering paragraph 101, Defendants deny the allegations of this paragraph.
- 10 102. Answering paragraph 102, Defendants deny the allegations of this paragraph.
- 11 103. Answering paragraph 103, Defendants deny the allegations of this paragraph.
- 12 104. Answering paragraph 104, Defendants lack sufficient knowledge or information
- 13 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 14 105. Answering paragraph 105, Defendants deny the allegations of this paragraph.
- 15 106. Answering paragraph 106, Defendants deny the allegations of this paragraph.
- 16 107. Answering paragraph 107, Defendants admit that their offices are located at the
- 17 same address. Defendants deny the remaining allegations of this paragraph.
- 18 108. Answering paragraph 108, Defendants admit that at this time the results of a
- 19 business search for “Realogy” LLCs on the California Secretary of State’s website are RBG,
- 20 Realogy Franchise Group LLC, Realogy Global Services LLC, Realogy Operations LLC and
- 21 Realogy Title Group LLC and the address provided for each is 175 Park Ave., Madison, NJ
- 22 07940. Defendants deny the remaining allegations of this paragraph.
- 23 109. Answering paragraph 109, Defendants deny the allegations of this paragraph.
- 24 110. Answering paragraph 110, Defendants admit that NRT West, Inc. (“NRT West”)
- 25 is a subsidiary of RBG that operates in Northern California only, that RBG has other subsidiaries
- 26 that operate in other geographic regions, and that Coldwell Banker franchises operate in other
- 27 geographic regions. Defendants admit that NRT West “Mailing Address” is the same as Realogy
- 28 Holding Corp.’s address. Defendants admit that Ryan Gorman is President and Chief Executive

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1 Officer of Coldwell Banker Real Estate LLC and RBG. Defendants deny the remaining
2 allegations of this paragraph.

3 111. Answering paragraph 111, Defendants deny the allegations of this paragraph.

4 112. Answering paragraph 112, Defendants admit the allegations of this paragraph.

5 113. Answering paragraph 113, Defendants admit the allegations of this paragraph.

6 114. Answering paragraph 114, Defendants admit that coldwellbanker.com webpage
7 related to Mike James does not reference NRT West and states near the bottom, among other
8 things, “Coldwell Banker Real Estate LLC. A Realogy Company.” Defendants deny the
9 remaining allegations of this paragraph.

10 115. Answering paragraph 115, Defendants admit that there are several Coldwell
11 Banker offices in the City of San Francisco. Defendants deny the remaining allegations of this
12 paragraph and/or lack sufficient knowledge or information to form a belief as to the truth of the
13 remaining allegations of this paragraph and on that basis deny them.

14 116. Answering paragraph 116, Defendants admit that at the time of her 2019
15 deposition, Ms. Murtagh was the National Director of Independent Contractor Relations for NRT
16 LLC (which is now RBG). Defendants deny the remaining allegations of this paragraph.

17 117. Answering paragraph 117, Defendants admit that on September 5, 2019, Realogy
18 Holdings Corp. issued the press release identified in footnote 1 of the Complaint and that the
19 quoted language in this paragraph is contained in the press release. Defendants deny the
20 remaining allegations of this paragraph.

21 118. Answering paragraph 118, Defendants admit that on February 25, 2020, Realogy
22 Holdings Corp. issued the press released identified in footnote 14 of the Complaint and that the
23 quoted language in this paragraph is contained in the press release. Defendants deny the
24 remaining allegations of this paragraph.

25 119. Answering paragraph 119, Defendants deny the allegations of this paragraph.

26 120. Answering paragraph 120, Defendants lack sufficient knowledge or information
27 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

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1 221. Answering paragraph 121, Defendants lack sufficient knowledge or information
2 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

3 222. Answering paragraph 122, Defendants deny the allegations of this paragraph.

4 223. Answering paragraph 123, Defendants deny the allegations of this paragraph.

5 224. Answering paragraph 124, Defendants lack sufficient knowledge or information
6 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

7 225. Answering paragraph 125, Defendants lack sufficient knowledge or information
8 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

9 226. Answering paragraph 126, Defendants lack sufficient knowledge or information
10 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

11 227. Answering paragraph 127, Defendants lack sufficient knowledge or information
12 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

13 228. Answering paragraph 128, Defendants lack sufficient knowledge or information
14 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

15 229. Answering paragraph 129, Defendants lack sufficient knowledge or information
16 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

17 230. Answering paragraph 130, Defendants deny the allegations of this paragraph.

18 231. Answering paragraph 131, Defendants deny the allegations of this paragraph.

19 232. Answering paragraph 132, Defendants deny the allegations of this paragraph.

20 233. Answering paragraph 133, Defendants deny the allegations of this paragraph.

21 234. Answering paragraph 134, Defendants deny the allegations of this paragraph.

22 235. Answering paragraph 135, Defendants lack sufficient knowledge or information
23 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

24 236. Answering paragraph 136, Defendants lack sufficient knowledge or information
25 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

26 237. Answering paragraph 137, Defendants deny the allegations of this paragraph.

27 238. Answering paragraph 138, Defendants deny the allegations of this paragraph.

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1 139. Answering paragraph 139, Defendants lack sufficient knowledge or information
2 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

3 140. Answering paragraph 140, Defendants lack sufficient knowledge or information
4 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

5 141. Answering paragraph 141, Defendants admit that Mr. Chinitz filed a Class Action
6 Complaint on October 4, 2018, titled *Chintz v. Coldwell Banker Real Estate LLC*, Case No. 5:18-
7 cv-06100-NC (“*NRT West*”) in the United States District Court for the Northern District of
8 California against Coldwell Banker Real Estate, LLC and Coldwell Banker Residential
9 Brokerage Company. Defendants deny the remaining allegations of this paragraph.

10 142. Answering paragraph 142, Defendants admit the allegations of this paragraph.

11 143. Answering paragraph 143, Defendants admit that Mr. Chinitz amended his
12 complaint in *NRT West to name* NRT West, Inc. as the sole defendant on December 14, 2018.
13 Defendants lack sufficient knowledge or information to form a belief as to the truth of the
14 remaining allegations of this paragraph and on that basis deny them.

15 144. Answering paragraph 144, Defendants admit the allegations of this paragraph.

16 145. Answering paragraph 145, Defendants admit the allegations of this paragraph.

17 146. Answering paragraph 146, Defendants admit the allegations of this paragraph.

18 147. Answering paragraph 147, Defendants object that this allegation appears to seek
19 attorney-client and/or attorney work product privileged information. To the extent any response
20 is required, Defendants lack sufficient knowledge or information to form a belief as to the truth
21 of the allegations of this paragraph and on that basis deny them.

22 148. Answering paragraph 148, Defendants admit that there was a case management
23 conference in this lawsuit on October 24, 2019, and any statements by counsel and the Court are
24 reflected in the October 24, 2019 transcript. Defendants deny the remaining allegations of this
25 paragraph to the extent they differ from the October 24, 2019 transcript of proceedings.

26 149. Answering paragraph 149, Defendants admit that there was a case management
27 conference in this lawsuit on October 24, 2019, and any statements by counsel and the Court are
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1 reflected in the October 24, 2019 transcript. Defendants deny the remaining allegations of this
2 paragraph to the extent they differ from the October 24, 2019 transcript of proceedings.

3 150. Answering paragraph 150, Defendants object that this allegation appears to seek
4 attorney-client and/or attorney work product privileged information. To the extent any response
5 is required, Defendants lack sufficient knowledge or information to form a belief as to the truth
6 of the allegations of this paragraph and on that basis deny them.

7 151. Answering paragraph 151, Defendants admit the allegations of this paragraph.

8 152. Answering paragraph 152, Defendants lack sufficient knowledge or information
9 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

10 153. Answering paragraph 153, Defendants object that this allegation appears to seek
11 attorney-client and/or attorney work product privileged information. To the extent any response
12 is required, Defendants lack sufficient knowledge or information to form a belief as to the truth
13 of the allegations of this paragraph and on that basis deny them.

14 154. Answering paragraph 154, Defendants lack sufficient knowledge or information
15 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

16 155. Answering paragraph 155, Defendants admit the allegations of this paragraph.

17 156. Answering paragraph 156, Defendants admit the allegations of this paragraph.

18 157. Answering paragraph 157, Defendants lack sufficient knowledge or information
19 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

20 158. Answering paragraph 158, Defendants deny the allegations of this paragraph.

21 159. Answering paragraph 159, Defendants deny the allegations of this paragraph.

22 160. Answering paragraph 160, Defendants lack sufficient knowledge or information
23 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

24 161. Answering paragraph 161, lack sufficient knowledge or information to form a
25 belief as to the truth of the allegations of this paragraph and on that basis deny them.

26 162. Answering paragraph 162, Defendants lack sufficient knowledge or information
27 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

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- 1 163. Answering paragraph 163, Defendants lack sufficient knowledge or information
- 2 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 3 164. Answering paragraph 164, Defendants deny the allegations of this paragraph.
- 4 165. Answering paragraph 165, Defendants deny the allegations of this paragraph.
- 5 166. Answering paragraph 166, Defendants lack sufficient knowledge or information
- 6 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 7 167. Answering paragraph 167, Defendants lack sufficient knowledge or information
- 8 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 9 168. Answering paragraph 168, Defendants lack sufficient knowledge or information
- 10 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 11 169. Answering paragraph 169, Defendants lack sufficient knowledge or information
- 12 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 13 170. Answering paragraph 170, Defendants lack sufficient knowledge or information
- 14 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 15 171. Answering paragraph 171, Defendants lack sufficient knowledge or information
- 16 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 17 172. Answering paragraph 172, Defendants lack sufficient knowledge or information
- 18 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 19 173. Answering paragraph 173, Defendants lack sufficient knowledge or information
- 20 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 21 174. Answering paragraph 174, Defendants lack sufficient knowledge or information
- 22 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 23 175. Answering paragraph 175, Defendants lack sufficient knowledge or information
- 24 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 25 176. Answering paragraph 176, Defendants lack sufficient knowledge or information
- 26 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.
- 27 177. Answering paragraph 177, Defendants lack sufficient knowledge or information
- 28 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

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1 178. Answering paragraph 178, Defendants lack sufficient knowledge or information
2 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

3 179. Answering paragraph 179, Defendants lack sufficient knowledge or information
4 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

5 180. Answering paragraph 180, Defendants lack sufficient knowledge or information
6 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

7 181. Answering paragraph 181, Defendants lack sufficient knowledge or information
8 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

9 182. Answering paragraph 182, Defendants lack sufficient knowledge or information
10 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

11 183. Answering paragraph 183, Defendants lack sufficient knowledge or information
12 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

13 184. Answering paragraph 184, Defendants lack sufficient knowledge or information
14 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

15 185. Answering paragraph 185, Defendants lack sufficient knowledge or information
16 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

17 186. Answering paragraph 186, Defendants lack sufficient knowledge or information
18 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

19 187. Answering paragraph 187, Defendants lack sufficient knowledge or information
20 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

21 188. Answering paragraph 188, Defendants lack sufficient knowledge or information
22 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

23 189. Answering paragraph 189, Defendants lack sufficient knowledge or information
24 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

25 190. Answering paragraph 190, Defendants lack sufficient knowledge or information
26 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

27 191. Answering paragraph 191, Defendants lack sufficient knowledge or information
28 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

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1 192. Answering paragraph 192, Defendants lack sufficient knowledge or information
2 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

3 193. Answering paragraph 193, Defendants lack sufficient knowledge or information
4 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

5 194. Answering paragraph 194, Defendants lack sufficient knowledge or information
6 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

7 195. Answering paragraph 195, Defendants lack sufficient knowledge or information
8 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

9 196. Answering paragraph 196, Defendants lack sufficient knowledge or information
10 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

11 197. Answering paragraph 197, Defendants lack sufficient knowledge or information
12 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

13 198. Answering paragraph 198, Defendants lack sufficient knowledge or information
14 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

15 199. Answering paragraph 199, Defendants lack sufficient knowledge or information
16 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

17 200. Answering paragraph 200, Defendants lack sufficient knowledge or information
18 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

19 201. Answering paragraph 201, Defendants lack sufficient knowledge or information
20 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

21 202. Answering paragraph 202, Defendants lack sufficient knowledge or information
22 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

23 203. Answering paragraph 203, Defendants lack sufficient knowledge or information
24 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

25 204. Answering paragraph 204, Defendants lack sufficient knowledge or information
26 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

27 205. Answering paragraph 205, Defendants lack sufficient knowledge or information
28 to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

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1 any answer to paragraph 224 is required, Defendants lack sufficient knowledge or information to
2 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

3 225. Answering paragraph 225, the paragraph does not contain any allegations against
4 Defendants that would require an admission or a denial but only legal conclusions. To the extent
5 any answer to paragraph 225 is required, Defendants admit that the quoted language therein is
6 from the statute cited. Defendants lack sufficient knowledge or information to form a belief as to
7 the truth of the remaining allegations of this paragraph and on that basis deny them.

8 226. Answering paragraph 226, the paragraph does not contain any allegations against
9 Defendants that would require an admission or a denial but only legal conclusions. To the extent
10 any answer to paragraph 226 is required, Defendants admit that the quoted language therein is
11 from the regulation cited. Defendants lack sufficient knowledge or information to form a belief
12 as to the truth of the remaining allegations of this paragraph and on that basis deny them.

13 227. Answering paragraph 227, the paragraph does not contain any allegations against
14 Defendants that would require an admission or a denial but only legal conclusions. To the extent
15 any answer to paragraph 227 is required, Defendants admit that the quoted language therein is
16 from the regulation cited. Defendants lack sufficient knowledge or information to form a belief
17 as to the truth of the remaining allegations of this paragraph and on that basis deny them.

18 228. Answering paragraph 228, Defendants deny the allegations of this paragraph.

19 229. Answering paragraph 229, Defendants deny the allegations of this paragraph.

20 230. Answering paragraph 230, Defendants deny the allegations of this paragraph.

21 231. Answering paragraph 231, Defendants deny the allegations of this paragraph.

22 232. Answering paragraph 232, Defendants deny the allegations of this paragraph.

23 233. Answering paragraph 233, Defendants deny the allegations of this paragraph.

24 234. Answering paragraph 234, Defendants deny the allegations of this paragraph.

25 235. Answering paragraph 235, Defendants deny the allegations of this paragraph.

26 236. Answering paragraph 236, Defendants deny the allegations of this paragraph.

27 237. Answering paragraph 237, Defendants deny the allegations of this paragraph.

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CLAIM II
Violation of 47 U.S.C. § 227(c)(2) and 47 C.F.R. § 64.1200(c)(2)
(By Plaintiffs Lalli and Gritz Against Defendant Mojo on Behalf of

National Do Not Call Registry Mojo Nationwide and California Subclass)

238. Answering paragraph 238, Defendants incorporate by reference their responses to Paragraphs 1 through 237 of their Answer as if fully set forth herein.

239. Answering paragraph 239, the paragraph does not contain any allegations against Defendants that would require an admission or a denial but only legal conclusions. To the extent any answer to paragraph 239 is required, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

240. Answering paragraph 240, the paragraph does not contain any allegations against Defendants that would require an admission or a denial but only legal conclusions. To the extent any answer to paragraph 240 is required, Defendants admit that the quoted language therein is from the statute cited. Defendants lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of this paragraph and on that basis deny them.

241. Answering paragraph 241, the paragraph does not contain any allegations against Defendants that would require an admission or a denial but only legal conclusions. To the extent any answer to paragraph 241 is required, Defendants admit that the quoted language therein is from the regulation cited. Defendants lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of this paragraph and on that basis deny them.

242. Answering paragraph 242, the paragraph does not contain any allegations against Defendants that would require an admission or a denial but only legal conclusions. To the extent any answer to paragraph 242 is required, Defendants admit that the quoted language therein is from the regulation cited. Defendants lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of this paragraph and on that basis deny them.

243. Answering paragraph 243, the paragraph does not contain any allegations against Defendants that would require an admission or a denial. To the extent any answer to paragraph 243 is required, Defendants lack sufficient knowledge or information to form a belief as to the

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1 truth of the allegations of this paragraph and on that basis deny them.

2 244. Answering paragraph 244, the paragraph does not contain any allegations against
3 Defendants that would require an admission or a denial. To the extent any answer to paragraph
4 244 is required, Defendants lack sufficient knowledge or information to form a belief as to the
5 truth of the allegations of this paragraph and on that basis deny them.

6 245. Answering paragraph 245, the paragraph does not contain any allegations against
7 Defendants that would require an admission or a denial. To the extent any answer to paragraph
8 245 is required, Defendants lack sufficient knowledge or information to form a belief as to the
9 truth of the allegations of this paragraph and on that basis deny them.

10 246. Answering paragraph 246, the paragraph does not contain any allegations against
11 Defendants that would require an admission or a denial. To the extent any answer to paragraph
12 246 is required, Defendants lack sufficient knowledge or information to form a belief as to the
13 truth of the allegations of this paragraph and on that basis deny them.

14 247. Answering paragraph 247, the paragraph does not contain any allegations against
15 Defendants that would require an admission or a denial. To the extent any answer to paragraph
16 247 is required, Defendants lack sufficient knowledge or information to form a belief as to the
17 truth of the allegations of this paragraph and on that basis deny them.

18 248. Answering paragraph 248, the paragraph does not contain any allegations against
19 Defendants that would require an admission or a denial. To the extent any answer to paragraph
20 248 is required, Defendants lack sufficient knowledge or information to form a belief as to the
21 truth of the allegations of this paragraph and on that basis deny them.

22 249. Answering paragraph 249, the paragraph does not contain any allegations against
23 Defendants that would require an admission or a denial. To the extent any answer to paragraph
24 249 is required, Defendants lack sufficient knowledge or information to form a belief as to the
25 truth of the allegations of this paragraph and on that basis deny them.

26 250. Answering paragraph 250, the paragraph does not contain any allegations against
27 Defendants that would require an admission or a denial. To the extent any answer to paragraph
28 250 is required, Defendants lack sufficient knowledge or information to form a belief as to the

1 truth of the allegations of this paragraph and on that basis deny them.

2 **CLAIM III**

3 **Violation of 47 U.S.C. § 227(c)(2) and 47 C.F.R. § 64.1200(c)(2)**

4 **(By Plaintiffs Chinitz, Bumpus and Caruso on Behalf of Internal Do Not Call**
5 **Nationwide Class Against Realty Defendants)**

6 251. Answering paragraph 251, Defendants incorporate by reference their responses to
7 Paragraphs 1 through 250 of their Answer as if fully set forth herein.

8 252. Answering paragraph 252, the paragraph does not contain any allegations against
9 Defendants that would require an admission or a denial but only legal conclusions. To the extent
10 any answer to paragraph 252 is required, Defendants lack sufficient knowledge or information to
11 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

12 253. Answering paragraph 253, the paragraph does not contain any allegations against
13 Defendants that would require an admission or a denial but only legal conclusions. To the extent
14 any answer to paragraph 253 is required, Defendants admit that the quoted language therein is
15 from the statute cited. Defendants lack sufficient knowledge or information to form a belief as to
16 the truth of the remaining allegations of this paragraph and on that basis deny them.

17 254. Answering paragraph 254, the paragraph does not contain any allegations against
18 Defendants that would require an admission or a denial but only legal conclusions. To the extent
19 any answer to paragraph 254 is required, Defendants admit that the quoted language therein is
20 from the regulation cited. Defendants lack sufficient knowledge or information to form a belief
21 as to the truth of the remaining allegations of this paragraph and on that basis deny them.

22 255. Answering paragraph 255, Defendants deny the allegations of this paragraph.

23 256. Answering paragraph 256, Defendants deny the allegations of this paragraph.

24 257. Answering paragraph 257, Defendants deny the allegations of this paragraph.

25 258. Answering paragraph 258, Defendants deny the allegations of this paragraph.

26 259. Answering paragraph 259, Defendants deny the allegations of this paragraph.

27 260. Answering paragraph 260, Defendants deny the allegations of this paragraph.

28 261. Answering paragraph 261, Defendants deny the allegations of this paragraph.

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CLAIM IV

Violation of 47 U.S.C. § 227(b)(1)(B)

(By Plaintiffs C. Rowan, Peker and Gritz on Behalf of Artificial or Prerecorded Message Nationwide Class Against Realty Defendants)

262. Answering paragraph 262, Defendants incorporate by reference their responses to Paragraphs 1 through 261 of their Answer as if fully set forth herein.

263. Answering paragraph 263, the paragraph does not contain any allegations against Defendants that would require an admission or a denial but only legal conclusions. To the extent any answer to paragraph 263 is required, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

264. Answering paragraph 264, the paragraph does not contain any allegations against Defendants that would require an admission or a denial but only legal conclusions. To the extent any answer to paragraph 264 is required, Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

265. Answering paragraph 265, Defendants deny the allegations of this paragraph.

266. Answering paragraph 266, Defendants deny the allegations of this paragraph.

267. Answering paragraph 267, Defendants deny the allegations of this paragraph.

268. Answering paragraph 268, Defendants deny the allegations of this paragraph.

269. Answering paragraph 269, Defendants deny the allegations of this paragraph.

270. Answering paragraph 270, Defendants deny the allegations of this paragraph.

271. Answering paragraph 271, Defendants deny the allegations of this paragraph.

CLAIM V

Violation of 47 U.S.C. § 227(b)(1)(B)

(By Plaintiffs Peker and Gritz on Behalf of Artificial or Prerecorded Message Mojo Subclass Against Defendant Mojo)

272. Answering paragraph 272, Defendants incorporate by reference their responses to Paragraphs 1 through 271 of their Answer as if fully set forth herein.

273. Answering paragraph 273, the paragraph does not contain any allegations against

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1 Defendants that would require an admission or a denial but only legal conclusions. To the extent
2 any answer to paragraph 273 is required, Defendants lack sufficient knowledge or information to
3 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

4 274. Answering paragraph 274, the paragraph does not contain any allegations against
5 Defendants that would require an admission or a denial but only legal conclusions. To the extent
6 any answer to paragraph 274 is required, Defendants lack sufficient knowledge or information to
7 form a belief as to the truth of the allegations of this paragraph and on that basis deny them.

8 275. Answering paragraph 275, the paragraph does not contain any allegations against
9 Defendants that would require an admission or a denial. To the extent any answer to paragraph
10 275 is required, Defendants lack sufficient knowledge or information to form a belief as to the
11 truth of the allegations of this paragraph and on that basis deny them.

12 276. Answering paragraph 276, the paragraph does not contain any allegations against
13 Defendants that would require an admission or a denial. To the extent any answer to paragraph
14 276 is required, Defendants lack sufficient knowledge or information to form a belief as to the
15 truth of the allegations of this paragraph and on that basis deny them.

16 277. Answering paragraph 277, the paragraph does not contain any allegations against
17 Defendants that would require an admission or a denial. To the extent any answer to paragraph
18 277 is required, Defendants lack sufficient knowledge or information to form a belief as to the
19 truth of the allegations of this paragraph and on that basis deny them.

20 278. Answering paragraph 278, the paragraph does not contain any allegations against
21 Defendants that would require an admission or a denial. To the extent any answer to paragraph
22 278 is required, Defendants lack sufficient knowledge or information to form a belief as to the
23 truth of the allegations of this paragraph and on that basis deny them.

24 279. Answering paragraph 279, the paragraph does not contain any allegations against
25 Defendants that would require an admission or a denial. To the extent any answer to paragraph
26 279 is required, Defendants lack sufficient knowledge or information to form a belief as to the
27 truth of the allegations of this paragraph and on that basis deny them.

28 280. Answering paragraph 280, the paragraph does not contain any allegations against

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1 Defendants that would require an admission or a denial. To the extent any answer to paragraph
2 280 is required, Defendants lack sufficient knowledge or information to form a belief as to the
3 truth of the allegations of this paragraph and on that basis deny them.

4 281. Answering paragraph 281, the paragraph does not contain any allegations against
5 Defendants that would require an admission or a denial. To the extent any answer to paragraph
6 281 is required, Defendants lack sufficient knowledge or information to form a belief as to the
7 truth of the allegations of this paragraph and on that basis deny them.

8 **AFFIRMATIVE DEFENSES**

9 In further answer to Plaintiffs’ Complaint, and as separate and distinct affirmative
10 defenses, Defendants allege as follows:

11 **FIRST AFFIRMATIVE DEFENSE**

12 **(Failure to State a Cause of Action)**

13 282. The Complaint, in whole or in part, fails to state facts sufficient to constitute a
14 cause of action against Defendants.

15 **SECOND AFFIRMATIVE DEFENSE**

16 **(Standing)**

17 283. Plaintiffs and putative class members lack standing to assert the claims set forth in
18 the Complaint under Article III of the United States Constitution because Plaintiffs and the
19 putative class members have not been harmed or suffered “injury in fact” by the alleged conduct
20 at issue regardless of whether they seek only statutory damages.

21 **THIRD AFFIRMATIVE DEFENSE**

22 **(Waiver, Estoppel, Ratification, Acquiescence or Unclean Hands)**

23 284. Plaintiffs’ Complaint and all claims therein are barred, in whole or in part, by the
24 doctrines of waiver, estoppel, ratification, acquiescence and/or unclean hands, by reason of their
25 own conduct, acts or omissions.

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FOURTH AFFIRMATIVE DEFENSE

(Consent)

285. Plaintiffs' Complaint and all claims therein are barred, in whole or in part, as a result of Plaintiffs and/or the putative class members' consent and/or prior express consent.

FIFTH AFFIRMATIVE DEFENSE

(Good Faith)

286. Plaintiffs' Complaint and all claims therein are barred, in whole or in part, because Defendants have at all times acted in good faith and with reasonable grounds for believing they were in compliance with federal law, including 47 C.F.R. § 64.1200.

SIXTH AFFIRMATIVE DEFENSE

(Violation of Due Process)

287. The imposition of statutory damages, as sought by Plaintiffs and the putative class, would violate the Constitution of the United States, including the Due Process Clause.

SEVENTH AFFIRMATIVE DEFENSE

(Safe Harbor Provisions)

288. Plaintiffs' claims, and those of the putative claims members, are barred, in whole or in part, by the Safe Harbor provisions set forth in 47 U.S.C. §§ 64.1200(c)(2) and (d), and U.S.C. § 227(c)(5)(C).

EIGHTH AFFIRMATIVE DEFENSE

(Established Business Relationship)

289. Plaintiffs' claims, and those of the putative class members, are barred, in whole or in part, because one or more of the plaintiffs and putative class members have established business relationships with Defendants and/or their subsidiaries.

NINTH AFFIRMATIVE DEFENSE

(Lack of Constitutionality)

290. Plaintiffs' claims, and those of the putative claims members, are barred, in whole or in part, because the Telephone Consumer Protection Act violates the First Amendment of the Constitution of the United States of America on its face and as applied.

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TENTH AFFIRMATIVE DEFENSE

(Claim Preclusion/Issue Preclusion)

291. Plaintiffs’ claims, and those of the putative claims members, are barred, in whole or in part, by the doctrines of claim preclusion and/or issue preclusion, including as result of the dismissal with prejudice of the lawsuit entitled *Chinitz v. NRT West, Inc.*, Case No. 5:18-cv-06100-NC (N.D. Cal. 2018).

EVEVENTH AFFIRMATIVE DEFENSE

(Necessary and Indispensable Parties)

292. Plaintiffs’ claims, and those of the putative claims members, are barred, in whole or in part, because Plaintiffs fail to name all necessary and indispensable parties to this action.

TWELFTH AFFIRMATIVE DEFENSE

(Excessive Fines)

293. To the extent that the Complaint seeks putative class damages, the aggregate statutory damages, if any, may result in potential ruinous liability for Defendants and may constitute excessive fines in violation of the Eighth Amendment of the Constitution of the United States of America.

THIRTEENTH AFFIRMATIVE DEFENSE

(Superseding Cause)

294. Plaintiffs’ claims, and those of the putative class, are barred in whole or in part because the alleged acts or omissions of Defendants were superseded by the acts or omissions of others, including Plaintiffs or other third parties not named in the Complaint, which were the independent, intervening and proximate cause of the alleged damages or loss sustained by Plaintiffs and the putative class.

FOURTEENTH AFFIRMATIVE DEFENSE

(Reservation to Raise Other Defenses)

295. Defendants hereby give notice that they intends to rely upon such other and further affirmative defenses as may become available during discovery of this action and reserve the right to amend the Answer to the Complaint to assert any such defenses.

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PRAYER

Wherefore, Defendants pray for relief as follows:

1. That Plaintiffs takes nothing by their Complaint, and that judgment be entered in favor of Defendants as to each and every purported claim for relief set forth therein;
2. That Defendants be awarded their costs of suit incurred herein;
3. That Defendants be awarded their actual attorney’s fees incurred herein, to the extent recoverable; and
4. For such other and further relief as this Court deems just and proper.

Dated: February 26, 2021

GORDON REES SCULLY MANSUKHANI, LLP

By: /s/ Aaron P. Rudin
 Calvin E. Davis
 Aaron P. Rudin
 Candice S. Nam
 Attorneys for Defendant REALOGY HOLDINGS CORP., REALOGY INTERMEDIATE HOLDINGS LLC, REALOGY GROUP LLC, REALOGY SERVICES GROUP LLC and REALOGY BROKERAGE GROUP LLC

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