

Brigitte Headen  
312 Stevens Cir., Apt. 1C  
Aberdeen, MD 21001

*on her own behalf and on  
behalf of all others similarly  
situated,*

Plaintiff,

v.

Conservice, LLC  
750 South Gateway Drive  
River Heights, UT 84321

Serve on:  
Conservice, LLC, c/o  
Maryland Agent Service, Inc.,  
Resident Agent  
8007 Baileys Lane  
Pasadena, MD 21122

Defendant.

In the Circuit Court for  
Prince George's County

Case No. CAL 20-19314

CLERK OF THE  
CIRCUIT COURT  
2020 DEC -3 AM 11:12  
PR GEO CO MD 455

## Class Action Complaint and Demand for Jury Trial

### Introduction

1. Plaintiff Brigitte Headen ("Plaintiff" or "Ms. Headen"), on behalf of herself and all others similarly situated, sues Defendant Conservice, LLC ("Conservice") on a class-action basis.

2. Conservice acts as a collection agency for residential landlords in Maryland, and contracts to directly and indirectly assist these third-party landlords to collect charges from tenants, including charges denominated as for water and sewer and other charges.

3. Conservice's core business is to take a landlord's utility bill from a utility provider, and bill it back to tenants.

4. Conservice billed the Plaintiff and Class members for utility charges and fees they purportedly owed to their landlords.

5. Conservice has a business practice of sending dunning communications to consumer debtors.

6. Conservice is a third party collection agency that collects and solicits the debt of others and sells a system by which to collect debt from consumers.

7. Conservice even billed Plaintiff and Class members a fee to pay Conservice for its collection activities directed at them.

8. But Conservice does not have a license to act as a collection agency in Maryland, which is required by the Maryland Collection Agency Licensing Act, Md. Code Ann., Bus. Reg. §§ 7-101 *et seq* ("MCALA") for, *inter alia*, any entity that directly or indirectly collects or solicits collection of consumer debts on behalf of a third-party.

9. Accordingly, Conservice is not permitted to act as a collection agency, and may not engage in the collection activity described in this Complaint – including billing Plaintiff and the Class to induce them to pay debts, or otherwise directly or indirectly seek to collect debts allegedly owed by Plaintiff and the Class to their landlords.

10. The method Conservice utilized to seek to collect debts from Plaintiff and the Class, a method which included sending bills to Plaintiff and the Class demanding payment, claimed, attempted and threatened to enforce a right which Conservice

knew did not exist.

11. Conservice had no right to attempt to collect debts allegedly owed by Plaintiff and the Class to their residential landlords, because Conservice does not have a license to act as a collection agency in Maryland. Conservice's collection activity in Maryland directed to Plaintiff and the Class was illegal.

12. Conservice's bills to Plaintiff and Class members included a substantial "Service Fee."

13. This fee was charged to Plaintiff and Class members because of Conservice's billing services for the landlords of Plaintiff and the Class, services which were illegal and which were provided illegally by Conservice.

14. Plaintiff and Class members were damaged by the service fees imposed in the Conservice bills, among other things.

15. Plaintiff and Class members, for example, have been saddled with an alleged obligation to pay those service fees, even though the supposed "service" for which the fee was charged is illegal, and the fee is uncollectible and should not be assessed against Plaintiff and the Class.

16. Accordingly, Plaintiff brings claims on behalf of a Class that consists of:

All persons to whom Conservice sent a bill, concerning a Maryland residence, which included a service fee, within three years prior to the filing of this Complaint.

17. Excluded from the Class are all employees, officers and directors of Conservice and its parent or subsidiary companies and predecessors and successors, and all employees of the Court.

### Conservice's Collection Agency Activity

18. Conservice sent monthly, computer-generated bills to Plaintiff, titled in the name of Conservice, derived from form templates, demanding that Plaintiff pay amounts denominated as for "utility charges," including "sewer," "trash," "water," and "Service Fee." Each of Conservice's bills demanded payment of the charges by a "due" date. The form bills characterized themselves as "bill[s]."

19. Conservice E-mailed bills to Plaintiff. The E-mails from Conservice included a link which Conservice represented could be clicked in order to "Pay Bill."

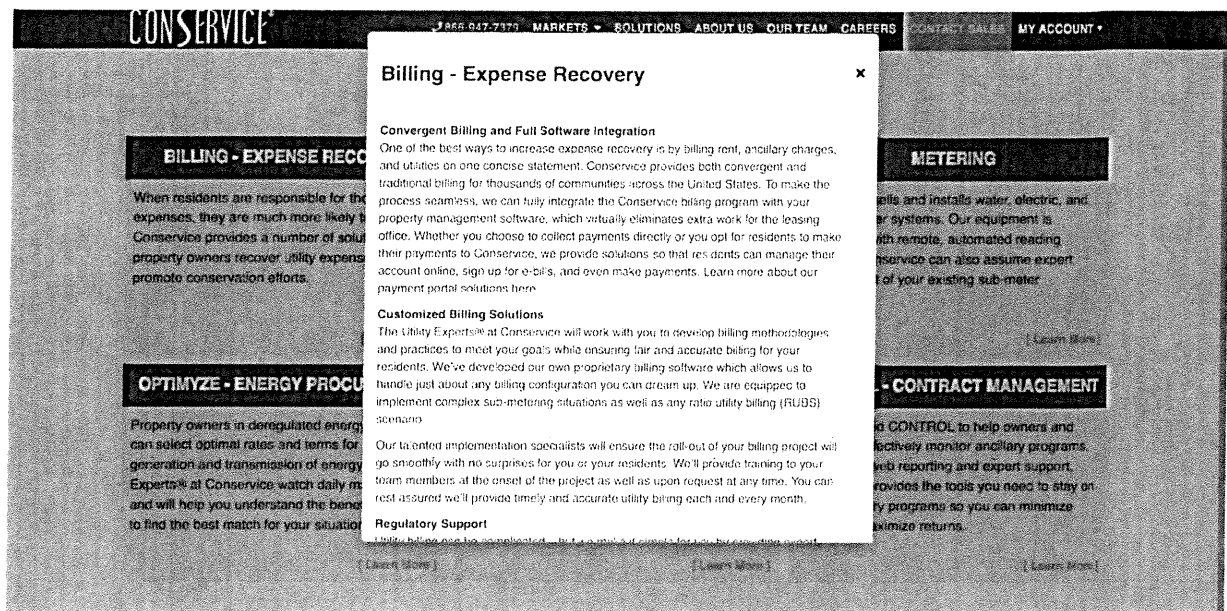
20. The bills that Conservice sent to Plaintiff and the Class involved consumer claims under MCALA §7-101(f), as the bills sought payment of money owed or said to be owed by a resident of the State, and arose from transactions in which, for family, household, or personal purposes, the resident sought or got credit, money, personal property, real property, or services. In particular, the bills that Conservice sent to Plaintiff and Class members concerned alleged debts which arose from consumer water, sewer, and other services provided to residential tenants in connection with their residential tenancies.

21. Conservice's business in Maryland, including its activities in its dealings with Plaintiff and Class members, is the business of 1) collecting for landlords, and soliciting from tenants, payments for consumer claims; as well as 2) giving, selling, attempting to give or sell to landlords, and using, for collection of those consumer claims, a series or system of forms or letters that indicate directly or indirectly that a person other than the owner is asserting the consumer claim; and, 3) employing the

services of an individual or business to solicit or sell a collection system to be used for collection of those consumer claims. *See* MCALA §7-101(d).

22. In particular, Conservice sent bills to Plaintiff and each Class member demanding payment of amounts allegedly due to third-party landlords, including alleged “utility charges.” Although Conservice was collecting charges on behalf of the landlord, and soliciting payment for those charges from the Plaintiff and each Class member, the bills by Conservice to Plaintiff and each Class member indicated that the bills were from Conservice. Conservice employed numerous persons to market and sell to landlords its utility collection system, which Conservice used to send the bills at issue to Plaintiff and Class members.

23. Conservice’s advertising confirms its regular business as a collection agency. For example, Conservice’s website advertises that when using Conservice’s “billing program,” landlords can “choose to collect payments directly or ... opt for residents to make their payments to Conservice,” and further describes Conservice’s collection system:



24. The website goes on to state that Conservice's "Products such as utility expense management, vacant billing and cost recovery, and resident payment processing show that we are committed to helping you recover the cost of utilities."

25. Conservice's bills to Plaintiff and the Class were intended to collect consumer debts from Plaintiff and the Class, and resulted in collection of alleged consumer debts from Plaintiff and the Class – including utility charges allegedly due to their landlords.

26. In connection with its collection activities directed to Plaintiff and the Class, a Service Fee was imposed on Plaintiff and the Class for Conservice. For example, a \$5.00 Service Fee was charged in Conservice bills directed to Plaintiff, multiple times, with the explanatory statement that "Conservice is a service provider contracted to prepare monthly statements and provide conservation resources."

27. These service fees, charged to Plaintiff and every Class member, were not

based upon the amount of any utility or other service consumed or used at their residences – rather, the service fees were fees imposed on Plaintiff and Class members to pay Conservice for its unlicensed collection activity.

28. By undertaking its activities in allocating and billing alleged “utilities” to residential tenants like Plaintiff, Conservice is engaged in “collecting for, or soliciting from another, a consumer claim,” Md. Code Ann., Bus. Reg. § 7-101(d)(1)(i), and is a collection agency under Maryland law.

29. Conservice also fits the definition of a “collection agency” under Maryland law because it is engaged in “giving, selling, attempting to give or sell to another, or using, for collection of a consumer claim, a series or system of forms or letters that indicates directly or indirectly that a person other than the owner is asserting the consumer claim.” Md. Code Ann., Bus. Reg. § 7-101(d)(2).

30. For example, Conservice’s bills are forms or letters which each are titled in the name of Conservice, and each bill characterizes itself as a “bill.” For example, the form bills E-mailed to Plaintiff included a link to “Pay Bill.”

31. Conservice gave and sold and used a series or system of forms or letters, such as Conservice’s bills which were sent to Plaintiff and Class members, which directly or indirectly indicated that Conservice was asserting consumer claims against Plaintiff and Class members, including claims for service fees.

32. Conservice also fits the definition of a collection agency under Maryland law because it “employ[s] the services of an individual or business to solicit or sell a collection system to be used for collection of a consumer claim.” MCALA § 7-101(d)(4).

33. For example, Conservice employs the services of individuals to sell, to multifamily housing owners, its collection system for collection of residential tenants' allocated utilities as well as service fees. For example, the landlords of Plaintiff and each Class member purchased or licensed or otherwise acquired, in exchange for consideration, Conservice's collection system which resulted in the computer generated bills sent to Plaintiff and each Class member.

34. Conservice has never owned the claims for payment of the utilities that it has billed to Plaintiff or other residential tenants in Maryland. Conservice is not related by common ownership with any of the landlords on whose behalf Conservice engages in utility billing in Maryland.

35. Conservice is in the business of, and dedicated to, the collection, directly or indirectly, of consumer debts including alleged utilities from residential tenants for its landlord customers.

36. Conservice advertises that its services result in the collection of charges for utilities.

37. The entire purpose of Conservice's utility billing business is to induce tenants to pay for alleged utility charges allegedly owed to third-party landlords.

38. Conservice intended to induce Plaintiff and Class members to pay alleged utility charges allegedly owed to third-party landlords through its billing practices and the actions described in this Complaint.

39. Indeed, Conservice's utility collection system worked as a collections process. Conservice sent utility bills to Plaintiff and each and every Class member to

collect alleged utility charges. Plaintiff and Class members paid alleged utility charges and Service Fees charged on those bills.

40. As a result of Conservice's illegal bills, Plaintiff and Class members faced an alleged obligation to pay those alleged utility charges and Service Fees as a result of the collection agency activity of Conservice.

41. Conservice collected and sought to directly and indirectly collect consumer debt from Plaintiff, and from many other Maryland residents, by taking actions including but not limited to using a collection system which obtained data concerning the total amount of alleged utilities consumed by multiple residential units, calculated and allocated alleged utility charges to residential units, generated alleged utility bills, and sent correspondence to tenants demanding payment of allegedly due utility charges and service fees.

42. Conservice's business in Maryland is dedicated to the collection of alleged utilities through bills like the ones sent to Plaintiff and the Class.

**Conservice Is Not Licensed to Act as a Collection Agency in Maryland**

43. Conservice could not legally engage in the collection activity described in this Complaint because it is not licensed as a collection agency under MCALA.

44. In particular, MCALA requires any person doing business as a "collection agency" in the State to have a license. *See* MCALA § 7-301(a). MCALA affirmatively forbids any person who is not licensed to act as a collection agency. *See* MCALA § 7-401(a).

45. When Conservice directly and indirectly collected and sought to collect money from Plaintiff and Class members, and engaged in the activity described in this Complaint, it was acting as a “collection agency” within the meaning of MCALA.

46. Specifically, the alleged utility charges and service fees which Conservice sought to collect from Plaintiff and members of the Class are “consumer claims” under MCALA, because each such claim is for money owed or said to be owed by a resident of the State, and arises from a transaction in which, for a family, household, or personal purpose (i.e., personal residence), the resident sought or got credit, money, personal property, real property, or services. *See* MCALA § 7-101(f).

47. Accordingly, when Conservice directly and indirectly collected and sought to collect alleged utilities and service fees from Plaintiff and members of the Class, all of which arose from their lease of residential real property, Conservice was “collecting for, or soliciting from another, a consumer claim.” Md. Code Ann., Bus. Reg. § 7-101(d)(1)(i).

48. Through its actions in billing and attempting to collect consumer debt from Plaintiff and Class members, Conservice was also “giving, selling, attempting to give or sell to another, or using, for collection of a consumer claim, a series or system of forms or letters that indicates directly or indirectly that a person other than the owner is asserting the consumer claim.” Md. Code Ann., Bus. Reg. § 7-101(d)(2).

49. In addition, Conservice contracted to sell its billing system to collect consumer debt from Maryland residents, thus “employing the services of an individual or business to solicit or sell a collection system to be used for collection of

a consumer claim.” Md. Code Ann., Bus. Reg. § 7-101(d)(4).

50. Although Conservice is, and at all times relevant to this Complaint was, a collection agency within the meaning of MCALA, it does not have a Maryland license to act as a collection agency, as required by MCALA.

51. Conservice unlawfully undertook actions in violation of MCALA in its dealings with Plaintiff and Class members, including directly and indirectly collecting and attempting to collect consumer claims by allocating and assessing alleged utility charges, generating correspondence demanding payment of alleged allocated utility charges and fees, and undertaking other actions, all without being licensed as a collection agency as required by Maryland law.

52. The service fees assessed by Conservice against Plaintiff and other members of the Class are unlawful because they are charged to pay Conservice for undertaking its unlawful actions as a collection agency in violation of Maryland law.

53. Conservice’s method of business in Maryland, in acting as a collection agency, when Conservice was not licensed as a collection agency, damaged Plaintiff and other members of the Class. For example, Plaintiff and other members of the Class faced an alleged obligation to pay “Service Fees” as a direct and proximate result of, and for, Conservice’s collection activity, even though that activity was against the law and no fees should have been assessed to Plaintiff and other Class members for Conservice’s illegal business practices, directed at them.

54. Neither Conservice nor anyone else is entitled to assess, charge or collect any service fees charged in the bills sent by Conservice to Plaintiff and other Class

members – fees which are imposed to pay Conservice for its collection activity, when Conservice was not licensed as a collection agency and was not licensed to engage in utility billing or any other consumer debt collection activity.

55. Conservice is not entitled to be paid for undertaking an unlawful course of business in Maryland. The service fees charged to Plaintiff and the Class were imposed to pay Conservice for its unlawful, unlicensed business in seeking to collect alleged consumer debts from them, and damaged Plaintiff and the Class.

56. MCALA's prohibition against persons doing business as a collection agency without a license is designed to protect the interests of consumer debtors like Plaintiff and the Class who are subjected to collection activity by collection agencies and to prohibit collection agencies from using abusive and unfair debt collection practices against them. In its transactions with Plaintiff and the Class, Conservice uniformly and systematically failed to comply with, and violated, the requirements of MCALA, and abused the consumer Plaintiff and Class members, who MCALA was enacted to protect.

57. Moreover, by acting as a collection agency without being licensed to do so, and causing damages to Plaintiffs and the Class as a result, Conservice engaged in multiple violations of the Maryland Consumer Debt Collection Act, Md. Code Ann., Com. Law §§ 14-201 *et seq.* ("MCDCA"). These violations include claiming, attempting, or threatening to enforce a right with knowledge that the right does not exist. *See* Md. Code Ann., Com. Law § 14-202(8).

58. In particular, Conservice claimed, attempted and threatened to enforce the

right to act as a collection agency by engaging in collection activity and billing Plaintiff and Class members, even though it was not licensed as a collection agency, even though it knew it was not licensed as a collection agency, and even though it had no right to act as a collection agency because unlicensed collection agency activity is prohibited by Maryland law.

59. Conservice claimed, attempted, and threatened to enforce the right to charge service fees for its actions as a collection agency, even though its actions as an unlicensed collection agency were unlawful, even though Conservice knew it was not licensed as a collection agency, and even though Conservice had no right to send bills charging Plaintiff and Class members to pay for Conservice's unlawful collection activities.

60. These wrongful acts by Conservice have hurt Plaintiff and the Class. Conservice's actions as a collection agency in violation of Maryland law have enriched it unfairly and illegally, and have unfairly and illegally harmed Plaintiff and the Class.

### **Parties**

61. Brigitte Headen is a natural person who is a resident and citizen of the State of Maryland.

62. Conservice is a Utah limited liability company with its principal place of business in Utah.

### **Jurisdiction and Venue**

63. This Court has subject-matter jurisdiction over this case pursuant to Md. Cts. & Jud. Proc. Code Ann. §§ 1-501 and 4-402(e)(2). This Court has personal jurisdiction pursuant to Md. Cts. & Jud. Proc. Code Ann. §§ 6-102 and 6-103(b), as Conservice transacts business and performs work and service in the State of Maryland, contracts to supply services in the State of Maryland, and regularly does and solicits business and engages in other persistent courses of conduct in the State of Maryland, including the business described in this Complaint.

64. Venue is proper in this Court under Md. Cts. & Jud. Proc. Code Ann. §§ 4-402(e)(2) and 6-201, as the amount in controversy in this case exceeds \$15,000.00 and because Conservice carries on a regular business and habitually engages in vocation in Prince George's County, Maryland. Among other things, Conservice directs its activity described in this Complaint to persons including residents of Prince George's County Maryland, and contracts to perform that business with respect to properties located in Prince George's County Maryland.

### **Factual and Legal Allegations**

#### **Conservice's Actions as a Collection Agency Involving Ms. Headen**

65. Conservice sent numerous monthly bills to Ms. Headen seeking to collect alleged allocated utility charges and other fees from her, in connection with her former residence at an apartment house.

66. Each of the bills Conservice sent to Ms. Headen was a form document.

67. Conservice repeatedly billed Ms. Headen, and demanded payment by a due date, of an amount due, for charges including “Water,” “Sewer,” “Trash,” and “Service Fee.”

68. Each bill sent by Conservice to Ms. Headen characterized itself as a “bill.”

69. For example, Conservice sent Ms. Headen a bill that indicated it was from Conservice, for alleged “Utility Charges”, with an alleged date “Due” of February 1, 2019. It demanded payment of \$18.40 for “Sewer,” \$5.00 for “Trash,” and \$11.44 for “Water.” It also demanded payment of a \$5.00 “Service Fee,” for Conservice. Conservice’s “Service Fee” thus totaled more than 10% of the alleged utility charges.

70. Conservice sent Ms. Headen another bill that indicated it was from Conservice, for alleged “Utility Charges”, with an alleged date “Due” of March 1, 2019. It demanded payment of \$19.02 for “Sewer,” \$5.00 for “Trash,” and \$12.21 for “Water.” It also demanded payment of a \$5.00 “Service Fee,” for Conservice. Conservice’s “Service Fee” thus totaled more than 10% of the alleged utility charges.

71. Conservice sent Ms. Headen another bill that indicated it was from Conservice, for alleged “Utility Charges”, with an alleged date “Due” of May 1, 2019. It demanded payment of \$19.93 for “Sewer,” \$5.00 for “Trash,” and \$12.79 for “Water.” It also demanded payment of a \$5.00 “Service Fee,” for Conservice. Conservice’s “Service Fee” thus totaled more than 10% of the alleged utility charges.

72. Conservice sent Ms. Headen another bill that indicated it was from Conservice, for alleged “Utility Charges”, with an alleged date “Due” of June 1, 2019. It demanded payment of \$17.25 for “Sewer,” \$5.00 for “Trash,” and \$10.98 for “Water.”

It also demanded payment of a \$5.00 “Service Fee,” for Conservice. Conservice’s “Service Fee” thus totaled more than 10% of the alleged utility charges.

73. Conservice sent Ms. Headen another bill that indicated it was from Conservice, for alleged “Utility Charges”, with an alleged date “Due” of July 1, 2019. It demanded payment of \$15.97 for “Sewer,” \$5.00 for “Trash,” and \$10.16 for “Water.” It also demanded payment of a \$5.00 “Service Fee,” for Conservice. Conservice’s “Service Fee” thus totaled more than 10% of the alleged utility charges.

74. Conservice sent Ms. Headen another bill that indicated it was from Conservice, for alleged “Utility Charges”, with an alleged date “Due” of August 1, 2019. It demanded payment of \$16.70 for “Sewer,” \$5.00 for “Trash,” and \$10.63 for “Water.” It also demanded payment of a \$5.00 “Service Fee,” for Conservice. Conservice’s “Service Fee” thus totaled more than 10% of the alleged utility charges.

75. Conservice sent numerous additional materially identical bills to Ms. Headen, demanding payment of alleged utility charges and fees.

76. Conservice acted in concert with and confederated with the landlords of Plaintiff and Class members in the actions alleged in this Complaint, engaged in a conspiracy with those landlords, and aided and abetted unlawful activity. Conservice affirmatively and voluntarily undertook to bill Plaintiff and members of the Class in an agreement and understanding with the landlords. Conservice and each such landlord had a common design. In particular, each landlord hired and contracted with Conservice to bill members of the Class for alleged utility charges. However, Conservice had a duty to not seek to collect alleged utility charges and fees from

Plaintiff and Class members when it did not have the license to act as a collection agency. Conservice's unlawful and unlicensed actions caused damages to Plaintiff and Class members, including the charges unlawfully collected from them as a result of Conservice's activities.

77. Unless and until this Court grants the relief Plaintiff seeks through this action, Conservice will retain the proceeds of its unlawful activities, to the detriment of Plaintiff and the Class.

### **Class Action Allegations**

78. Plaintiff brings claims on behalf of a Class that consists of:

All persons to whom Conservice sent a bill, concerning a Maryland residence, which included a service fee, within three years prior to the filing of this Complaint.

79. Excluded from the Class are all employees, officers and directors of Conservice and their parent or subsidiary companies and predecessors and successors, and all employees of the Court.

80. The Class, as defined above, is identifiable. The proposed Class Representative, Ms. Headen, is a member of the Class.

81. The Class is so numerous that joinder of all members is impracticable. The proposed Class consists of more than 40 persons.

82. There are questions of law and fact which are not only common to the Class, but which predominate over any questions affecting only individual Class

members. The common and predominating questions for the Class include, but are not limited to:

(a) Whether Conservice acted as a collection agency in its dealings with Ms. Headen and members of the Class;

(b) Whether Conservice had the license necessary to act as a collection agency at the time it billed Ms. Headen and the members of the Class;

(c) Whether Conservice must restore amounts paid by Ms. Headen and members of the Class resulting from Conservice's allegedly unlawful billing practices, including service fees;

(d) Whether Conservice's actions in its dealings with the Class violated the MCALA;

(e) Whether Plaintiff and Class members are entitled to a declaratory judgment that Conservice must be licensed as a collection agency under MCALA in connection with its collection activities directed at Maryland tenants;

(f) Whether Conservice's actions in its dealings with the Class violated the Maryland Consumer Debt Collection Act, Md. Code Ann., Com. Law §§ 14-201 et seq. ("MCDCA");

(g) Whether Conservice's actions in its dealings with the Class violated the Maryland Consumer Protection Act, Md. Code Ann., Com. Law §13-101 et seq. ("CPA");

(h) Whether Conservice's actions in its dealings with the Class entitle Plaintiff and the Class to restitution.

83. The claims of the Plaintiff are typical of the claims of the respective members of the Class within the meaning of Md. Rule 2-231(b)(3), and are based on and arise out of similar facts constituting the wrongful conduct of Conservice.

84. Plaintiff will fairly and adequately protect the interests of the Class within the meaning of Md. Rule 2-231(b)(4). Plaintiff is committed to vigorously litigating this matter. Further, Plaintiff has secured counsel experienced in handling consumer class actions and complex consumer litigation.

85. Neither Plaintiff nor her counsel have any interests which might cause them not to vigorously pursue this action.

86. The prosecution of separate actions by individual members of the Class would create a risk of establishing incompatible standards of conduct for Conservice within the meaning of Md. Rule 2-231(c)(1)(A).

87. Conservice's actions are generally applicable to the Class as a whole, and Plaintiff seeks declaratory relief with respect to the Class as a whole within the meaning of Md. Rule 2-231(c)(2).

88. Common questions of law and fact enumerated above predominate over questions affecting only individual members of the Class and a class action is the superior method for fair and efficient adjudication of the controversy within the meaning of Md. Rule 2-231(c)(3).

89. The likelihood that individual members of the Class will prosecute separate actions is remote due to the time and expense necessary to conduct such litigation, and due to the relatively small amounts of individual damages for Class members.

90. Plaintiff's counsel are experienced in class actions, and foresee little difficulty in the management of this case as a class action.

### **Causes of Action**

#### **Count One**

#### **Declaratory Relief under Md. Cts. & Jud. Pro. § 3-406**

91. Plaintiff re-alleges and incorporates by reference the allegations set forth above as if fully set forth herein.

92. This claim for declaratory relief is brought under the Maryland Declaratory Judgment Act, Md. Code Ann., Cts. & Jud. Pro. § 3-406, to settle and obtain relief from uncertainty and insecurity with respect to the rights, status and legal relations regarding Plaintiff and members of the Class and Conservice, and under MCALA, Md. Code Ann., Bus. Reg. § 7-101 *et seq.*

93. Conservice takes the position that it was entitled to undertake the actions alleged herein in its dealings with Plaintiff and members of the Class even though it was not licensed as a collection agency under MCALA.

94. Plaintiff takes the position that Conservice was required to be licensed as a collection agency under Md. Code Ann., Bus. Reg. §§ 7-101 at the time it engaged in

the activity alleged in this Complaint.

95. Conservice takes the position that it was not required to be licensed as a collection agency under Md. Code Ann., Bus. Reg. §§ 7-101 at the time that it engaged in the activity alleged in this Complaint.

96. Plaintiff and members of the Class have received collection notices from Conservice demanding payment of the amounts alleged in this Complaint, including amounts charged for service fees and alleged utility charges.

97. This presents an actual, judicable controversy between the parties relating to the actions by Conservice in its dealings with Plaintiff and members of the Class, relating to the application of MCALA to those actions, and relating to the legitimacy of charges assessed as a result of those actions. In particular, Conservice has acted as a collection agency with respect to Class members. Its actions as a collection agency include assessing and billing charges to Class members for alleged utilities, as well as service charges, when Conservice was not entitled to assess or allocate those charges because it did not have the license required to engage in collection activity under MCALA.

98. Plaintiff and members of the Class have a right to be free from the charges assessed against them through Conservice's unlawful actions, and to be free from the consequences of Conservice's unlawful activity as a collection agency when it had no collection agency license.

## **Count Two**

### **Violation of the Maryland Consumer Debt Collection Act**

99. Plaintiff re-alleges and incorporate by reference the allegations set forth above as if fully set forth herein.

100. Conservice, at all times relevant to the actions alleged herein, was a “collector” within the meaning of section 14-201(b) of the Maryland Consumer Debt Collection Act (“MCDCA”), because the alleged debts of Plaintiff and members of the Class which Conservice sought to collect from them through the actions described herein arose from consumer transactions – i.e. the lease of residential real property and the use of alleged utilities for residential real property.

101. In collecting and attempting to collect on the alleged debts of Plaintiff and members of the Class, Conservice violated section 14-202 of the MCDCA.

102. Among other things, Conservice violated section 14-202(8) of the MCDCA when it claimed, attempted, or threatened to enforce a right with knowledge that the right does not exist. Conservice claimed, attempted and threatened to enforce a right to act as a collection agency in its dealings with Plaintiff and members of the Class, when it had no such right. Conservice knew that it was not licensed as a collection agency in Maryland. Conservice knew that it had no right to act as an unlicensed collection agency in its dealings with Plaintiff and members of the Class. Conservice knew that it was acting as an unlicensed collection agency in its dealings with Plaintiff and the Class.

103. Conservice's actions in violation of the MCDCA proximately caused damages to Plaintiff and members of the Class. As a direct and proximate result of Conservice's method of collecting consumer debts in violation of Maryland law, and without a collection agency license, Plaintiff and other members of the Class were assessed and paid charges which they did not legally owe, including service fees meant to compensate Conservice for its illegal activity, which damaged them.

### **Count Three**

#### **Violation of the Maryland Consumer Protection Act**

104. Plaintiff re-alleges and incorporates by reference the allegations set forth above as if fully set forth herein.

105. The Maryland Consumer Protection Act ("CPA") generally prohibits unfair or deceptive trade practices in, among other things, the collection of consumer debts. *See* Md. Code Ann., Com. Law § 13-303(5).

106. The actions of Conservice alleged herein constituted unfair or deceptive trade practices in the collection of consumer debts as defined by the CPA, and in taking those actions Conservice violated the CPA.

107. Conservice's practice of engaging in the collection activity described in this Complaint, and seeking to collect consumer debt from Plaintiff and Class members, when Conservice was not licensed or permitted to do so, constituted the failure to state a material fact where the failure deceives or tends to deceive. Conservice's practice of assessing service charges attributed to Conservice's illegal collection

activity against the accounts of Plaintiff and Class members, and in bills sent to Class members demanding payment, constituted the failure to state a material fact where the failure deceives or tends to deceive.

108. Moreover, the unfair or deceptive trade practices barred by the CPA specifically include the violation of the MCDCA. *See* Md. Code Ann., Com. Law § 13-301(14)(iii).

109. Plaintiff and Class members sustained actual damages as a result of the actions in violation of the CPA and MCDCA alleged herein. Plaintiff and Class members were damaged by, among other things, the service fees assessed and paid for Conservice's illegal collection agency activity.

#### **Count Four**

##### **Money Had and Received**

110. Plaintiff re-alleges and incorporates by reference the allegations set forth above as if fully set forth herein.

111. Conservice acted as a collection agency in its dealings with Plaintiff and members of the Class, when it lacked the license required to act as a collection agency.

112. These actions of Conservice were and are illegal.

113. Any otherwise existing basis under which Conservice would be entitled to any form of payment or compensation of any kind for acting as a collection agency, when it did not have a license to act as a collection agency, is nugatory and ineffective as Conservice's collection agency activities in Maryland were in violation of Maryland law.

114. As a result of Conservice's actions, Conservice collected money, resulting from the charges which it unlawfully assessed to Plaintiff and Class members, to which it had no legal or equitable right.

115. Conservice, for example, collected and retained money which was paid by Plaintiff and Class members for the charge denominated as for service fees in the bills Conservice sent to them.

116. As a result of the actions alleged above, Conservice obtained possession of money which, in equity and good conscience, it ought not to be allowed to retain and should return to Plaintiff and other Class members.

### **Count Five**

#### **Negligence**

117. Plaintiff re-alleges and incorporates by reference the allegations set forth above as if fully set forth herein.

118. Conservice had a duty to Plaintiff and members of the Class to not send them bills and act as a collection agency, when it did not have the license to act as a collection agency required under Maryland law.

119. Conservice breached its duties of care to Plaintiff and members of the Class when it acted as a collection agency in its dealings with them, and when it did not have the license to do so.

120. Plaintiff and members of the Class have suffered actual losses and damages as the result of the conduct of Conservice. Among other things, Plaintiff and members of the Class have been assessed and forced to pay amounts for service fees to pay

Conservice for its unlawful actions as a collection agency. These damages, losses and injuries were proximately caused by the breaches of duty of Conservice, as Plaintiff and Class members would not have paid service fees for Conservice's unlicensed and unauthorized actions absent Conservice's breaches of duty.

### **Count Six**

#### **Unjust Enrichment**

121. Plaintiff re-alleges and incorporates by reference the allegations set forth above as if fully set forth herein.

122. Plaintiff and members of the Class conferred a benefit upon Conservice by paying amounts billed to them in the bills sent by Conservice, amounts from which Conservice took a portion of the payment.

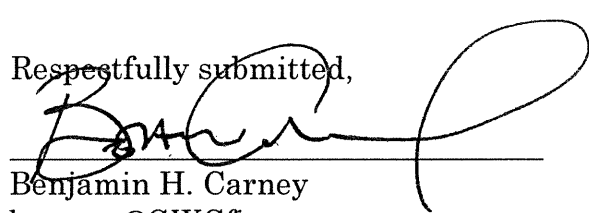
123. Conservice knew of the benefit conferred upon it by Plaintiff and the members of the Class. Conservice affirmatively demanded in its bills that Plaintiff and members of the Class pay amounts including, among other things, service fees for Conservice.

124. It would be inequitable for Conservice to retain the amounts that it has received in connection with the collection activity directed to Plaintiff and Class members, as those amounts were paid to Conservice as a result of its unlawful activity described in this Complaint, and were not legally owed to Conservice and could not legally be collected by Conservice.

WHEREFORE, Plaintiff respectfully requests:

- A. a declaratory judgment under Md. Cts. & Jud. Pro. § 3-406 establishing that Conservice is legally required to be licensed as a collection agency under Md. Code Ann., Bus. Reg. §§ 7-101 when undertaking the activities alleged in this Complaint;
- B. recovery of all amounts paid by Class members for service fees in connection with the bills sent by Conservice to Plaintiff and other Class members, disgorgement and restitution of all benefits received by Conservice in connection with its bills to Plaintiff and Class members as a result of the activities alleged in this Complaint, reasonable attorney's fees pursuant to Md. Code Ann., Com. Law § 13-408(b), and the costs of this action, all in an aggregated sum in excess of \$75,000.00 for the proposed Class as a whole; and,
- C. such other and further relief as the nature of this case may require.

Respectfully submitted,



Benjamin H. Carney

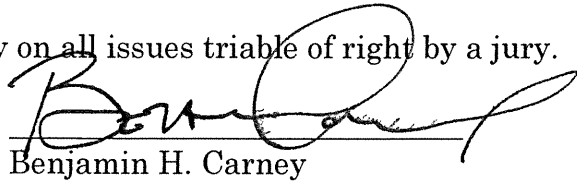
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**Attorney for Plaintiff and the Class**

**JURY TRIAL**

Plaintiff demands a trial by jury on all issues triable of right by a jury.



Benjamin H. Carney