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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 JANE DOE, MARY MOE, and JOHN DOE,
15 individually and on behalf of all others
16 similarly situated,
17
18 Plaintiffs,

19 v.

Civil Action No. 3:18-cv-2125

20 WALMART INC., DARRELL HUNTSMAN,
21 GLENN BINGHAM, BRIAN ASHTON,
22 JEFFREY S. MITCHELL, RICHARD
23 HADDRILL, CHRIS COTTRELL, JEFF
24 POWERS, TIM HICKEY, JEFF
25 STRINGER, DSW, INC., BURLINGTON
26 COAT FACTORY WAREHOUSE
27 CORPORATION, BLOOMINGDALES,
28 INC., ABERCROMBIE & FITCH
MANAGEMENT Co., THE KROGER Co.,
SPORTSMAN’S WAREHOUSE, INC., and
DECATHLON CAPITAL PARTNERS,
LLC,

JURY DEMAND

Defendants.

**CLASS ACTION COMPLAINT FOR VIOLATION OF
THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT**

1 **I. INTRODUCTION**

2 We don't want one set of rules for people whose collars are blue or whose names end in
3 vowels, and another set for those whose collars are white and have Ivy League diplomas.

4 - *G. Robert Blakey, primary drafter of the Racketeer Influenced and Corrupt*
5 *Organizations Act as Chief Counsel of the Subcommittee on Criminal Laws and*
6 *Procedures of the United States Senate Committee on the Judiciary*¹

7 1. Plaintiffs, on behalf of the Class,² bring suit against the Defendants under the
8 Racketeer Influenced and Corrupt Organizations Act ("RICO").³ Defendants are not small-time
9 Mafia thugs. They do not break kneecaps; they do not torch storefronts. Many of the nation's
10 leading corporations number are among the Retailer Defendants. The Individual Defendants
11 include graduates of the Harvard Business School, the University of Oxford, and Brigham Young
12 University. But despite their glittering credentials, Defendants are all participants in a long-
13 running, highly profitable extortion scheme that has extracted millions of dollars from thousands
14 of poor, desperate people across the country. And RICO applies, with equal force, to street
15 hoodlums and Harvard MBAs alike.

17 2. Defendants' scheme is not complicated. Corrective Education Company, LLC
18 ("Corrective Education" or "CEC") is a Utah limited liability company founded by Defendants
19 Huntsman and Bingham and operated by the Individual Defendants. CEC's customers are large
20

21
22 _____

23 ¹ Alain Sanders, *Law: Showdown at Gucci*, TIME (Aug. 21, 1989) at 43 (quoting Blakey).

24 ² The Class is defined to include all persons who have made payments to CEC through the CEC Program (defined below) in the last four years.

25 ³ Defendants are: the "Individual Defendants" (Darrell Huntsman, Glenn Bingham, Brian Ashton, Jeffrey S.
26 Mitchell, Richard Hadrill, Chris Cottrell, Jeff Powers, Tim Hickey, and Jeff Stringer), the "Retailer Defendants"
27 (Walmart Inc. ("Walmart"), DSW, Inc. ("DSW"), Burlington Coat Factory Warehouse Corporation ("Burlington
28 Coat Factory"), Bloomingdales, Inc. ("Bloomingdale's"), Abercrombie & Fitch Management Co. ("Abercrombie"
or "A&F"), The Kroger Co. ("Kroger"), and Sportsman's Warehouse, Inc. ("Sportsman's Warehouse")), and the
"Other Defendant" (Declathon Capital Partners, LLC ("Decathlon")).

1 retailers (the Retailer Defendants) to whom CEC offers a program that it has branded, with
2 Orwellian relish, as “Restorative Justice” (hereafter, the “CEC Program”).

3
4 3. A 2015 article by Slate summarized the CEC Program as follows: “Imagine you’re
5 browsing at Bloomingdale’s when a security guard taps you on the shoulder and accuses you of
6 shoplifting. He takes you to a private room, sits you down, and runs your name through a database
7 to see if you have any outstanding warrants. Then he tells you that you have two options. The first
8 involves him calling the police, who might arrest you and take you to jail. The second allows you
9 to walk out of the store immediately, no questions asked—right after you sign an admission of guilt
10 and agree to pay ... to take an online course designed to make you never want to steal again.”⁴ In
11 other words, retailers who participate in the CEC program offer suspected shoplifters a choice:
12 (1) face criminal prosecution or (2) take an online class run by CEC. Those who choose the latter
13 option (about 90%) are forced to make a substantial payment to CEC, a portion of which is kicked
14 back to the participating retailer.
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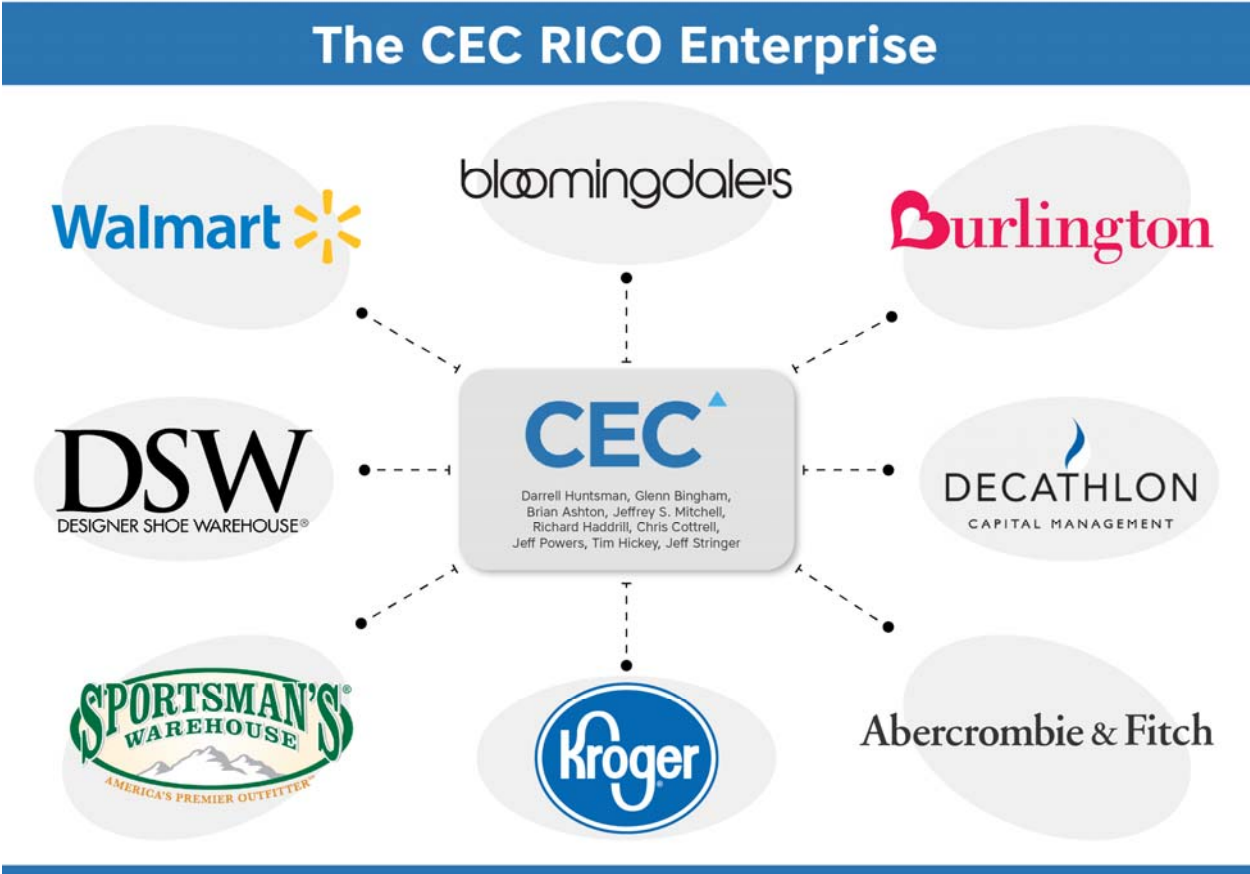
17 4. In the words of Patrick Harrington, County Prosecutor for Tippecanoe County,
18 Indiana, Corrective Education is “using the power of law enforcement—threats of arrest and [the
19 prosecutor’s] office—to compel [accused shoplifters] to take a class for a for-profit program. ...
20 That fundamentally is against what American jurisprudence stand[s] for.”⁵ The Superior Court of
21 California for the County of San Francisco has issued an order enjoining the CEC Program, holding
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23

24 ⁴ Leon Neyfakh, *Let’s Make A Deal: A startup helps stores like Bloomingdale’s and Whole Foods give suspected shoplifters a*
25 *choice: Pay \$320, or we’ll call the cops*, SLATE (Feb. 26, 2015), available at:
26 http://www.slate.com/articles/news_and_politics/crime/2015/02/shoplifting_at_whole_foods_or_bloomingdale_s_pay_corrective_education_company.html

27 ⁵ Ron Wilkins, *At Walmart, \$400 and 6 hours will make that shoplifting charge go away*, JOURNAL AND COURIER (July
28 27, 2017), available at <http://www.jconline.com/story/news/local/lafayette/2017/07/27/400-and-six-hours-make-shoplifting-charge-go-away/516599001/>

1 that “[t]he irreducible core of CEC’s program is a request by the retailer for the suspect to pay
2 money to CEC in exchange for the retailer’s forbearance of notifying the police that the suspect
3 committed a crime. ... This is textbook extortion under California law[.]”⁶
4

5 5. Defendants have operated the CEC Program scheme since at least 2012 and have
6 extorted hush money payments from thousands of people. A February 2015 story by Slate stated
7 that 20,000 people had gone through the CEC Program at the time of that article. CEC had \$7.6
8 million in revenue in 2017 alone—nearly all of which is attributable to payments through the CEC
9 Program:
10



27 ⁶ *People v. Corrective Education Company, et al.*, No. CGC-15-549094 (Sup. Ct. Cal. Aug. 14, 2017) (the “San
28 Francisco Litigation”).

1 6. Plaintiffs bring suit under RICO, on behalf of a Class of all persons who have made
2 payments to CEC or purportedly incurred an obligation to pay CEC through the CEC Program in
3 the last four years, and seek treble damages, permanent injunctive relief, attorneys’ fees, and any
4 other available remedies pursuant to RICO.
5

6 **II. JURISDICTION AND VENUE**

7 7. This Court has subject matter jurisdiction over this action pursuant to 18 U.S.C.
8 § 1964.
9

10 8. Venue is proper in this judicial district pursuant to 18 U.S.C. § 1965 and 28 U.S.C.
11 § 1391 because Defendants Walmart, DSW, Burlington Coat Factory, Bloomingdale’s,
12 Abercrombie, Kroger, and Sportsman’s Warehouse have agents and transact business in this
13 district, and Defendant Decathlon Capital Partners maintains an office in this district.
14

15 **III. PARTIES**

16 **A. PLAINTIFFS**

17 9. Plaintiff Jane Doe is a resident of Loganville, Georgia. In September 2017, Doe
18 used the self-checkout system at a store in Snellville, Georgia operated by Defendant Walmart,
19 Inc. (“Walmart”) to purchase food and supplies for a barbeque for her child’s birthday party.
20 Doe was the only adult supervising her three children at the time. After checking out with the
21 self-checkout system and paying for a number of items, Doe was detained by loss-prevention
22 personnel of Defendant Walmart who accused her of attempting to shoplift hot dog buns and a
23 case of water (which, according to Defendant Walmart, were not scanned). Walmart’s loss-
24 prevention personnel showed Doe a video explaining the CEC Program. In response to
25 Walmart’s threat to report Doe to criminal authorities, Doe agreed to participate in the CEC
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1 Program and make payments to CEC. In total, Doe has paid \$500 to CEC. After agreeing to
2 participate in the CEC Program, Doe paid for the goods she was accused of attempting to
3 shoplift.
4

5 10. Plaintiff Mary Moe is a resident of Hilliard, Florida. In November 2017, Moe was
6 detained at a Walmart store in Jacksonville, Florida, where she was accused of shoplifting
7 hygiene products and snacks. After being detained by Walmart’s loss prevention personnel, Moe
8 was shown a video explaining the CEC Program. In response to Walmart’s threat to report Moe
9 to criminal authorities, Moe agreed to participate in the CEC Program and to make payments to
10 CEC. In total, Moe paid \$400 to CEC, and completed the CEC Program.
11

12 11. Plaintiff John Roe is a resident of Houston, Texas. In January 2017, Roe was
13 detained at a Walmart store in Alvin, Texas and accused of shoplifting a tri-ball hitch. After being
14 detained by Walmart’s loss prevention personnel, Roe was shown a video explaining the CEC
15 Program. In response to Walmart’s threat to report Roe to criminal authorities, Roe agreed to
16 participate in the CEC Program and to make payments to CEC. Roe has yet to actually make any
17 payments to CEC but Roe’s CEC “account” has recently been sent to collections.
18

19 **B. INDIVIDUAL DEFENDANTS**

20 12. Defendant Darrell Huntsman is one of the co-founders of CEC. He is a graduate of
21 Brigham Young University and the Harvard Business School. According to Huntsman’s LinkedIn
22 profile, he was the Chief Executive Officer of CEC from January 2011 through August 2015.
23 According to an affidavit filed in the San Francisco Litigation on May 2, 2017 (the “Huntsman
24 Affidavit”), Huntsman stated that he was “currently the President” of CEC. Documents filed
25 with the Utah Division of Corporations and Commercial Code list Huntsman as the Registered
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1 Agent and Manager of CEC. In the Huntsman Affidavit, Huntsman states that he is a “primary
2 founder and officer of CEC,” with “first-hand knowledge of the working of CEC’s program,”
3 based on “personal communication and observations with [CEC’s] employees, retailers, local law
4 enforcement, prosecutors, and individuals who have successfully completed the program,” as well
5 as “regular and routine review of files generated in the ordinary course of business at CEC.” Upon
6 information and belief, Huntsman is a resident of Utah.
7

8 13. Defendant Glenn Bingham is a co-founder of CEC. He is a graduate of Brigham
9 Young University and the Harvard Business School. Bingham’s LinkedIn profile lists him as
10 “Founder” of CEC from 2010 to present. Upon information and belief, Bingham is still an investor
11 in and actively involved in the operation of CEC today. Upon information and belief, Bingham is a
12 resident of Utah.
13

14 14. Defendant Brian Ashton is a co-founder of CEC and is the current Chief Executive
15 Officer of CEC. He is a graduate of Brigham Young University and the Harvard Business School.
16 Ashton has been the CEO of CEC since taking over for Huntsman in August 2015. According to a
17 June 2015 profile of Ashton in the LDS Church News, he also served as a manager or director of
18 CEC from 2011 to 2012.⁷ Ashton was formerly a consultant at McKinsey & Company. Upon
19 information and belief, Ashton is a resident of Utah.
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21 15. Defendant Jeffrey S. Mitchell is a member of CEC’s board of directors. According
22 to his LinkedIn profile, Mitchell has been a director of CEC from May 2013 to the present and
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27 ⁷ <https://www.deseretnews.com/article/865631432/Brian-K-Ashton-New-counselor-in-the-Sunday-School-general-presidency.html>
28

1 served as its Chief Executive Officer from May 2013 to November 2013. Upon information and
2 belief, Mitchell is a resident of Georgia.

3
4 16. Defendant Richard Haddrill is the Chairman of CEC's board of directors. He is a
5 graduate of the University of Michigan. According to his LinkedIn profile, Haddrill has been
6 CEC's Chairman from October 2011 to the present. He is the former CEO of Bally
7 Technologies—a slot machine manufacturer. Upon information and belief, Haddrill is a resident
8 of Nevada.

9
10 17. Defendant Chris Cottrell is CEC's Vice President of Finance and Operations. He
11 holds a bachelor's degree from Brigham Young University and an MBA from Westminster
12 College. Upon information and belief, Cottrell is a resident of Utah.

- 13
- 14 a. According to his LinkedIn profile, Cottrell was CEC's Corporate Controller from
15 November 2011 to August 2013. His tasks in that position included: "Established
16 business and financial processes for CEC; Oversaw the owner equity fundraising
17 rounds (\$3.5M) for operating expenditures; Guide[d] financial decisions by
18 establishing, monitoring, and enforcing policies and procedures; Established
19 internal monitoring of assets and enforced internal controls; Prepared budgets by
20 collecting, analyzing and consolidating financial data; Provided recommendations
21 and status of the companies [*sic*] financial wellbeing to the CEO and board of
22 directors; Implemented and directed [CEC's] in-house call center."
 - 23 b. From August 2013 to February 2015, Cottrell was CEC's Director of Finance. His
24 tasks in that position included: "Oversaw and led annual budgeting and planning
25 process in conjunction with all corporate auxiliaries; along with monitoring
26 progress and changes while keeping senior leadership abreast of the organizations
27 [*sic*] financial status; Responsible for a variety of areas including human resources,
28 legal and facility management; including relationships with investors and venture
capitalists; Managed the organization [*sic*] cash flow and forecasting;
Recommended and secured debt financing of \$1.25M for operating and capital
expenditures; Renegotiated key vendor contracts to bolster Gross Margin by 120%
from 2014 to 2015."
 - c. From February 2015 to present, Cottrell has been CEC's Vice President of Finance
and Operations. In that role, his tasks included "Assumed responsibility for
planning, implementing and managing all finance related activities to support and
enhance the organizations [*sic*] goals; ... Oversaw all fundraising (debt and equity),

1 accounting, cash management, budgeting, forecasting, strategic financial planning,
2 cost benefit analysis, audit activities, reporting, facilities and property management,
3 capital projects, and contract analysis and negotiations; Oversaw \$5.5M in owner
4 equity financing; Cash infusion through a \$1.5M new market tax credit (NMTC);
5 Oversaw and managed the company's \$7.6M revenue and \$4M budget for 2017;
6 Exceeded EBITDA targets in 2017 by strictly managing COGS and contract
7 negotiation with ... vendors and clients; Direct reporting line of 15 people that drive
8 all of CEC's accounts receivables; improved collections rate by 65%; Reported to
9 Board of Directors for financial models, management and controls.

10 18. Defendant Jeff Powers has been CEC's Chief Customer Acquisition Officer since
11 November 2014. Powers served as CEC's Senior Vice President of Business Development from
12 June 2013 until November 2014. His LinkedIn profile describes his tasks as Chief Customer
13 Acquisition Officer as "Leading an incredible team of professionals dedicated to promoting
14 Restorative Justice. Building partnerships with corporations, law enforcement agencies and
15 prosecutors. Using mobile and cloud technologies to lead the change in the way petty crimes are
16 handled." Upon information and belief, Powers is a resident of Michigan.

17 19. Defendant Tim Hickey was, according to his LinkedIn profile, CEC's Director of
18 National Accounts from August 2013 to February 2015. A November 17, 2014 press release by
19 CEC stated that "Tim Hickey is now the Director of National Accounts. Hickey has over 24 years'
20 experience with retail loss prevention technologies, including video surveillance, EAS, source
21 tagging and RFID solutions. During his distinguished career, Hickey has built strong relationships
22 with many of the country's leading retail loss prevention executives and will continue to do so at
23 CEC." Upon information and belief, Hickey is a resident of Massachusetts.

24 20. Defendant Jeff Stringer was, according to his LinkedIn profile, CEC's Executive
25 Director of Business Development from January 2014 to December 2016. A November 17, 2014
26 press release by CEC stated that "[a]s the new Director of Business Development, Jeff Stringer is
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1 the fourth industry veteran to join CEC and has more than 28 years of technical experience in retail
2 loss prevention and security solutions. He has extensive business development expertise in
3 complex security sales and solution development for retailers. In his new role, he will be
4 responsible for strategic planning to help grow CEC market presence by defining and locating new
5 retailer prospects while coordinating and managing new customer proof-of-concepts pilots and full
6 deployments.” Upon information and belief, Stringer is a resident of Texas.

8 **C. RETAILER DEFENDANTS**

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10 21. Defendant Walmart Inc. (“Walmart”) is a publicly traded Delaware corporation
11 headquartered in Bentonville, Arkansas. It is the largest retail chain in the United States with over
12 4,000 stores, including stores in all 50 states, Puerto Rico, and the District of Columbia. Walmart
13 operates 320 stores in California, including stores in this District.

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15 22. Defendant DSW, Inc. (“DSW”) is a publicly traded Ohio corporation
16 headquartered in Columbus, Ohio. DSW is a footwear and accessories chain retailer with
17 approximately 500 stores across the United States. DSW operates 49 stores in California including
18 stores in this District.

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20 23. Defendant Burlington Coat Factory Warehouse Corporation (“Burlington Coat
21 Factory”) is a Delaware corporation headquartered in Burlington, New Jersey. It is the wholly
22 owned operating subsidiary of Burlington Stores, Inc., a publicly traded company, incorporated in
23 Delaware and headquartered in Burlington, New Jersey. Burlington Coat Factory is a large chain
24 retailer of coats and outerwear with approximately 600 stores throughout the United States.
25 Burlington Coat Factory operates 66 stores in California, including stores in this District.

1 24. Defendant Bloomingdale's, Inc. ("Bloomingdale's") is an Ohio corporation
2 headquartered in New York, New York. It is a wholly owned subsidiary of Macy's, Inc. a Delaware
3 corporation with headquarters in Cincinnati, Ohio and New York, New York. Bloomingdale's is a
4 high-end department store retailer with approximately 55 locations nationwide. Bloomingdale's
5 operates thirteen stores in California, including three stores in this District.
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7 25. Defendant Abercrombie & Fitch Management Co. ("Abercrombie" or "A&F") is
8 a Delaware corporation with headquarters in New Albany, Ohio. A&F is the wholly owned
9 operating subsidiary of Abercrombie & Fitch Co., a publicly traded company incorporated in
10 Delaware and headquartered in New Albany Ohio. Abercrombie is a retail apparel chain that
11 operates approximately 700 stores nationwide. Abercrombie operates 105 stores in California,
12 including stores in this District.
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14 26. Defendant The Kroger Co. ("Kroger") is a publicly traded Ohio corporation
15 headquartered in Cincinnati, Ohio. Kroger is a large national chain of supermarkets and
16 convenience stores with locations throughout the United States. Kroger currently operates
17 approximately 2,800 supermarkets and almost 800 convenience stores throughout the country,
18 including multiple stores operating in this District under the "QuikStop" and "FoodsCo" brands.
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20 27. Defendant Sportsman's Warehouse, Inc. ("Sportsman's Warehouse") is a Utah
21 corporation headquartered in Midvale, Utah. Sportsman's Warehouse is the wholly owned
22 operating subsidiary of Sportsman's Warehouse Holdings, Inc., a publicly traded Delaware
23 corporation headquartered in Midvale, Utah. Sportsman's Warehouse is a retail sporting goods
24 chain with 75 stores in 20 states throughout the Western U.S. and Alaska, including eleven stores
25 in California, including stores in this District.
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1 **D. OTHER DEFENDANT**

2 28. Defendant Decathlon Capital Partners (“Decathlon”) is a Delaware limited
3 liability company headquartered in Park City, Utah and Palo Alto, California. Decathlon is an
4 investment firm that focuses on growth-oriented small businesses with annual revenues between
5 \$3 million and \$75 million.
6

7 **IV. SUBSTANTIVE ALLEGATIONS**

8 **A. THE CEC PROGRAM**

9 29. The CEC Program has operated in substantially similar form since CEC was founded in
10 2010.
11

12 30. The CEC Program works as follows:

- 13 a. A retailer’s security personnel detain a purported suspected shoplifter (the
14 “Extortion Target”);
- 15 b. The retailer conducts a background check against databases, including a database
16 maintained by Corrective Education, to review the Extortion Target’s criminal
17 record;
- 18 c. If the retailer decides to process the Extortion Target through the CEC Program,
19 its security personnel read the following statement to the Extortion Target:

20 “Our establishment is offering you an alternative option to
21 traditional shoplifting consequences. You have the option to watch
22 a video that will explain this alternative option in more detail. If you
23 view the video, please pay close attention as it is entirely your
24 decision to determine which option is best for you, and I cannot
25 advise you.”

- 26 d. The Extortion Target then views a video created by Corrective Education and is
27 presented with the alternative to “traditional shoplifting consequences”: enrolling
28 in an “educational course” provided by CEC.

1 The script that CEC used from April 8, 2013 to, at least, July 14, 2016⁸ reads as
2 follows:

3 Notice: you are watching this video because you have been
4 detained by this company for a serious crime with very serious
5 criminal consequences. This establishment is giving you the
6 chance to avoid these serious criminal charges. This video is not
7 intended as legal advice, but it will outline an option provided by
8 this establishment. This establishment does not profit from your
9 choice, so whether you take that option is entirely your choice.

10 OK, slow down. You need to know what's happening here. Right
11 now, the agents who have detained you are preparing a case
12 against you. They are gathering the evidence and making a record
13 of this crime.

14 You need to know, the legal consequences of theft are serious,
15 long lasting, and can include any or all of the following: police
16 involvement, jail time, an expensive trial, high fines, and even a
17 permanent criminal record. In addition, there are civil demands,
18 or consequences for theft, which allows the establishment to
19 recover the cost of stolen property, the time and resources lost,
20 as well as attorney fees and court costs, adding up to hundreds of
21 dollars.

22 But I want to tell you that we're giving you a choice, what we call,
23 the resolution option. This option avoids the criminal and civil
24 consequences and enrolls you in a life skills program. If you
25 choose the resolution option, you won't have to wait for the
26 police, you won't have to go to jail, and you won't have a criminal
27 record of this incident. The criminal process is expensive, with
28 lawyers, court fees, and even fines which can range up to \$1,000.
With the resolution option, you avoid court costs, and won't be
charged with fines. The resolution option is not free, but it will
likely cost you less than the criminal process, and Corrective
Education Company can create a payment plan to suit your
unique circumstances. People are often afraid of jail time or fines,
but I want to warn you, having a criminal record can do more
damage than paying hefty fines or even spending time in jail.
Criminal record has long lasting effects. It can [a]ffect credit,
ability to get a car, or rent, or even buy a place to live. A criminal

⁸ As set forth below, CEC claims to have used an updated script in California after July 14, 2016. It is unclear whether the script was also updated in other states.

1 record can make it hard to get a job. And it can even affect current
2 employment once it becomes part of the public record. However,
3 this establishment wants to give you a chance, a chance to learn,
4 so that this incident won't negatively affect you for the rest of
5 your life.

6 Let me tell you more about the resolution option. It's a voluntary
7 program that you can complete on the [I]nternet, or with a
8 workbook that you can complete at your own pace in the privacy
9 of your own home. This program demonstrates the consequences
10 of crime on your life and others, but it also teaches you valuable
11 life changing skills, skills to help you get a job, excel in the work
12 place, and live the life you want.

13 As soon as you enroll in this program, you'll be released, and you
14 won't have criminal charges pressed against you. And, you will
15 avoid the costs of civil demands. The civil demands are what the
16 law allows a business to recover for the expenses caused by your
17 actions.

18 To enroll, you will need to do two things. First, you will need to
19 sign an admission of guilt. This admission will not be used if you
20 complete the program. Remember, if you complete the program,
21 no criminal charges will be filed.

22 Second, the agents are going to give you information with a phone
23 number for CEC coach. Call this coach in the next 48 hours. This
24 is the most important step you will take. Your CEC coach is on
25 your side and will walk you through everything you need to do to
26 complete the resolution option. Your CEC coach will also set up
27 a payment plan suited for you and your needs and abilities.

28 Once again, when you complete the resolution program, no
charges will be filed, you will not have to go to jail, and you won't
have to pay any criminal fines. Most importantly, you will not
have a criminal record and you will avoid the cost of civil
demands. However, if you fail to comply with the requirements
of this program, if you don't complete it, your case will be
submitted to the police and they may issue a warrant for your
arrest. This will happen only if don't complete the program.

I need to warn you of one more thing. If you're detained at another
establishment, the charges from this case will be forwarded to
prosecution. Also, if you commit a new offense at this

1 establishment within 12 months, this case will be reopened and
2 you may charged with this offense and the new offense, where the
3 judges may impose more serious penalties for multiple offenses,
4 jail time will be longer, fines will be higher, and punishment will
5 be more severe. If you understand anything from this video, it
6 should be this. This crime is serious. But this establishment is
7 giving you a choice to avoid criminal charges and to learn from
8 your experiences rather than suffer the consequences.

9 So if you choose to take the resolution option, tell the officer now.
10 The choice is yours.

11 An updated script that CEC has used since July 15, 2016 in California (it is unclear
12 whether the updated script is also used in other states) reads as follows:

13 You are watching this message because you have been detained
14 by this company for a crime with potential criminal
15 consequences. This establishment is giving you the chance
16 to avoid these criminal charges.

17 This video is not intended as legal advice, but it will outline an
18 option provided by this establishment.

19 This establishment receives no compensation for your choice. It
20 is entirely your decision if you choose to take this course.

21 You have been detained for shoplifting. Because this is your first
22 offense, this retailer would like to offer you a voluntary option as
23 an alternative to resolve this situation. This retailer wants you to
24 move beyond this incident and become a productive citizen and a
25 loyal customer.

26 We call this the Restorative Justice Option. If you choose the
27 Restorative Justice Option, there are three items that need to be
28 completed:

Number 1: Not repeat this offense. This option is only provided
to first time offenders.

Number 2: Take a six to eight hour education course offered by
Corrective Education Company or CEC. This education course
is designed to help you learn why you make decisions that are
harmful or illegal and then how. to make positive behavior
changes. Then you will gain life skills that will help you to lead a
more constructive life.

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Number 3: Pay for the education program. If you cannot afford this program, there are payment plans and financial assistance to help you. Your financial situation should not play a factor in whether to enroll in this program. You can contact CEC for this assistance.

Upon enrolling, you will need to contact CEC within 72 hours. During this 72-hour period, you are free to consult with an attorney. If you wish to consult with an attorney but you cannot afford one, you may call CEC and they will assist you to find legal aid services in your area.

If you choose to enroll and you successfully comply with the terms of the Restorative Justice Option, the retailer will not pursue this matter with law enforcement. Also, the retailer will not seek to have you pay the civil demand claims, which they are entitled to under the laws of this state. Finally, no criminal or arrest record related to this incident will be associated with you. If you accept the Restorative Justice Option but do not comply with the terms set forth here, CEC will refer this matter back to the retailer.

This retailer may pursue other legal rights to seek restitution and resolve this crime at their discretion.

To review, if you select the ‘Restorative Justice Option, you must: 1) not recommit this crime; 2) complete CEC’s online education course, and 3) contact CEC within 72 hours and to enroll in the course and arrange for payment for the education course.

If you would like to select the Restorative Justice Option, please let the store associate know. The store associate will provide you with instructions and the Restorative Justice Agreement. Please read the agreement carefully as it contains all the terms of the Restorative Justice Option and the pricing for the educational course.

- e. Extortion Targets have 72 hours to decide whether to enroll. Those who succumb to CEC’s threats—more than 90% of Extortion Targets—are given two payment options:
 - i. a one-time payment of \$400; or

1 ii. a deferred payment plan which requires a \$50 up-front payment and a total
2 payment, over time, of \$500.⁹

3 f. When the CEC Program began, CEC would pay a portion of the money collected
4 from each Extortion Target to the referring retailer. In the Huntsman Affidavit,
5 Huntsman claims that “CEC no longer offers reimbursements, or payments of any
6 kind to retailers who offer its program.”¹⁰

6 31. In 2014, Defendant Huntsman filed a patent application (the “Patent
7 Application”)¹¹ for a “system and method for preventing retail loss,” which included the following
8 flow chart depicting the CEC Program:

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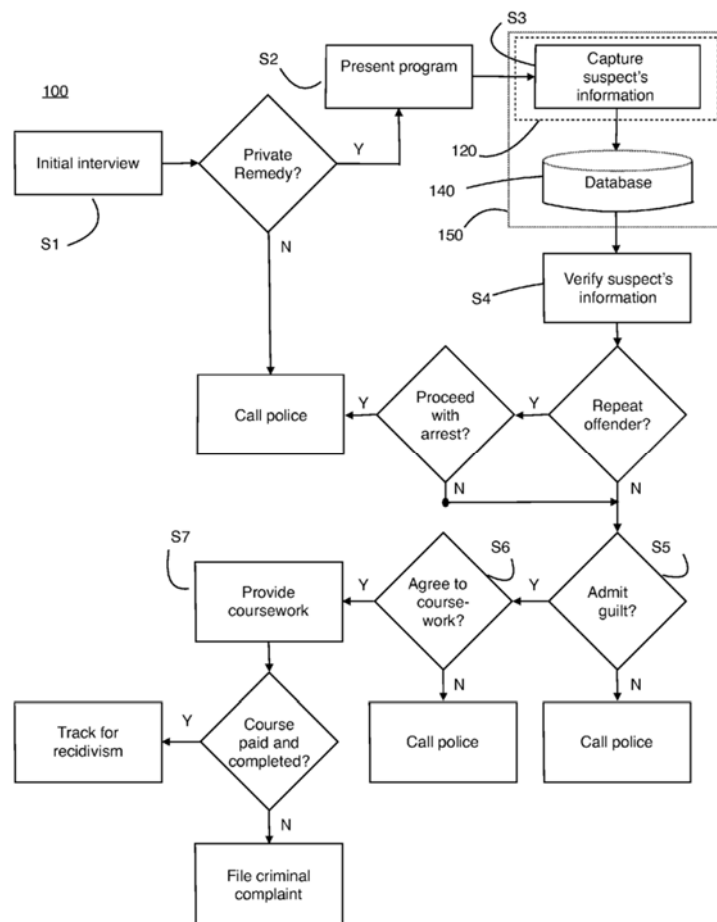
23 ⁹ CEC claims to offer a “tuition assistance” program for Extortion Targets who cannot afford a \$400 or \$500
24 payment. But according to the Huntsman Affidavit, only 3%-4% of “course takers” receive a discount and the
25 average financial assistance discount is only \$250.

26 The Huntsman Affidavit is attached as Exhibit A. Plaintiff does not allege (and, indeed, expressly denies) that all of
27 the self-serving statements in the Huntsman Affidavit are true.

28 ¹⁰ Plaintiff lacks sufficient information to determine the truth of this self-serving statement or to determine when, if
ever, CEC stopped making these kickback payments.

¹¹ US 2014/0279579 A1. Attached hereto as Exhibit B.

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32. The Patent Application provided the following description of the CEC Program, which repeatedly makes clear that a failure to pay will result in CEC or the retailer reporting the Extortion Target to the criminal authorities:

[W]hen a store owner or management team first apprehends a shoplifting suspect, the suspect is given an initial interview (S1) where **the suspect is given the choice of cooperating in a civil remedy, which may include an educational course in behavior modification, or, alternatively, being criminally prosecuted for the theft.** If the suspect agrees to the civil remedy, the owner proceeds to provide an overview (S2) to the suspect about the alternative civil process instead of the traditional method of initiating a criminal arrest. This overview is preferably presented to the suspect in the form of a short video presentation, which can be displayed on a laptop computer, tablet computer, hand-held computer, or hand-held communication device such as a smart phone or tablet device.

...

1 After obtaining the suspect's information and agreement to proceed with the
2 methods of civil remedy disclosed in the present invention, the owner or merchant
3 then obtains the suspect's voluntary, written admission of guilt (S5) and the
4 suspect's agreement to participate in and to complete corrective education
5 coursework within a specified timeframe (S6). The coursework is the[n] provided
6 to the suspect (S7). Under one embodiment, the timeframe for allowing the suspect
7 to complete the coursework is determined by local standards of the applicable statute
8 [sic] of limitations associated with the offense as well as considerations related to
9 the length of the course and the perceived ability of the individual to comprehend
10 and complete the work. It is preferred that the timeframe be at least fifteen days
11 after the incident, preferably thirty days after the incident, and in no event longer
12 than the applicable statute [sic] of limitations associated with the offense.

9 ...

10 **If the suspect is in default on the coursework, through either failing to complete**
11 **the course or failing to pay for the course within the noted timeframe, the**
12 **records of the incident are forwarded to law enforcement or local prosecutors**
13 **with the suspect's written admission of guilt and a criminal complaint is filed**
14 **on behalf of the retailer.** In another embodiment of the preset invention, a third-
15 party administrator monitors the suspect's progress in and payment for the
16 corrective education coursework. The third-party administrator, or corrective
17 education administrator (CEA), has access to database (140) and a copy of the
18 suspect's written admission of guilt and his agreement to complete the coursework.
19 **The CEA, on behalf of the owner, will proceed to forward this information to**
20 **law enforcement officials or to local prosecutors in the event of default by the**
21 **suspect.**

18 ...

19 33. In the course of litigation with the San Francisco City Attorney's Office (the "San
20 Francisco Litigation"), CEC produced recordings of conversations between "coaches" employed
21 by CEC and Extortion Targets who had agreed to participate in the CEC Program. Excerpts of
22 transcripts of those conversations filed in the San Francisco Litigation show CEC employees
23 extorting money from desperate people unable to afford even a \$50 payment through threats of
24 criminal prosecution. For example:
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a. Example One

CEC: So this course is just given as an option. So if you're unable to make the payments until January, the information will just get sent back to the store.

Caller: And then what they do; what do they do?

CEC: So they would handle it as if our course was never an option. So most likely that would mean sending it on to the law enforcement and filing criminal charges.

...

Caller: Um. There's no way I'm gonna be able to make that payment by tomorrow.

CEC: Okay. Um, do you think you'd be able to make it some time this week? Or is it you wouldn't be able to make that payment until January?

Caller: I have - not until January.

CEC: Okay. So we'll just have to send the information back then. So what would happen is most likely you'll receive some type of attention to appear in Court.

b. Example Two

Caller: I don't pay rent, I'm homeless.

...

CEC: What's really going to keep your information here is that payment of [\$]50, so if anything comes up, if anyone can help you out, something comes up where you can process [\$]50, give us a call right back.

Caller: So what if I can't get any help? I know I'm not going to be able to get anybody. And I don't know [how] I'm going to be able to get the money. And I don't want to go to jail, or get this to show up on my arrest.

CEC: Then you need to at least get ahold of some documentation showing you don't have any income, and then call back. ... We can see if we can do something with that but we can't really guarantee that we'll still allow you to enroll in the program.

c. Example Three

Caller: What would happen if I can't make the \$50 payment? Then how does that go?

1 CEC: Then what would happen is that your information would end up being sent
2 back to Walmart, who would then file charges for the incident.

3 d. Example Four

4 CEC: If you still can't make any sort of payment on the due date, it is a \$5 late fee
5 for every day it's late up until 5 days. At 5 days it maxes out at \$25. But after that if
6 you can't make a payment after 6 days, there is a chance that your information could
be sent back to the retailer where they can then file charges.

7 e. Example Five

8 CEC: Just make sure you get that payment in on the fifth because I'm going to
9 explain the risks of if you don't. If you don't get that payment in by the due date,
10 Walmart has the ability to look back and see that the payment isn't made and they
11 can take his information back and send it off. So just make sure you get that payment
made by that due date so he isn't at risk of getting his information sent off to law
enforcement.

12 f. Example Six

13 Caller: Why did they charge me \$400 though?

14 CEC: That covers the cost of the course and we can guarantee that resolving the
15 incident through the course, that Walmart will not file civil or criminal charges...
16 so [there will] be nothing on your record.

17 34. In the course of the San Francisco Litigation, CEC also produced copies of letters sent to
18 Extortion Targets who failed to make payments to CEC. These letters included direct threats that
19 Extortion Targets would be reported to criminal authorities unless they paid up. For example:

- 20 a. "Failure to complete this program will be reported as 'FAILED' and charges will
21 be filed in court."
22 b. "Failure to complete this program will be reported as 'FAILED' and your records
23 will be turned over to local law enforcement."
24 c. "If you do not complete this course immediately, we will have no option but to
25 report your case as 'FAILED' and refer this incident to local law enforcement."
(emphasis original)
26 d. "The pending charges against you will be dropped in exchange for the successful
27 completion of CEC's court alternative, educational program. ... This program is
28

1 voluntary and its completion is **MANDATORY** in order for you to stay out of court
2 and keep these charges off of your criminal record.” (emphasis original).

3 **B. CEC’S CO-CONSPIRATORS**

4 35. A number of prominent American retail brands have participated in this sordid
5 extortion scheme.

6 36. **Walmart.** In April 2014, Walmart and CEC executed a Master Services Agreement
7 for the implementation of the CEC Program at Walmart stores. A copy of that agreement is
8 attached hereto as Exhibit C. A November 1, 2016 story in SECURITY magazine quoted Walmart’s
9 Vice President of Asset Protection, Mike Lamb, as saying that Walmart was implementing the CEC
10 Program at one-third of its stores nationwide:
11

12 Walmart is currently piloting the solution in about a third of its stores, with plans to
13 expand it, says Mike Lamb, Vice President of Asset Protection for Walmart.

14 Walmart has typically relied on local law enforcement to deal with crime on
15 company property, but its partnership with CEC is helping to reduce the burden of
16 shoplifting on the criminal justice system and on its loss prevention teams. Walmart
17 executives are hoping the collaboration can help the store earn back some of the \$3
billion it loses each year to shoplifting.

18 ‘We’ve had the program in pilot at a handful of stores since 2014 so we could
19 evaluate results and effectiveness,’ Lamb explains. ‘We have recently expanded the
20 number of participating stores after the initial pilot was shown to be successful in
reducing calls to law enforcement while providing first-time offenders a second
chance to make better choices for themselves in the future.’

21 Lamb adds that Walmart’s Asset Protection Field Teams go through training
22 sessions with the CEC Restorative Justice Providers. ‘Our providers utilize mobile
23 technology and communicate to the participants on how the program works
24 through pre-recorded videos so that the communication to each participant is both
fair and consistent. We also strive to work closely with local law enforcement
25 because we know their collaboration and support is very important to overall
success,’ he says.

26 A main goal of the program at Walmart, Lamb says, is to decrease store calls to law
27 enforcement. ‘The reduction of calls to law enforcement also benefits our
28

1 associates because they spend less time processing an offender or in court and
2 instead can focus time and efforts on the sales floor.’

3 37. **DSW.** On December 3, 2014, CEC and DSW issued a press release announcing
4 that DSW would be implementing the CEC program in its stores. In relevant part, the release
5 stated:

6 Corrective Education Company (CEC), a leading provider of Restorative Justice
7 Education Programs, today announced that DSW, Inc. has made the decision to
8 incorporate the CEC Restorative Justice Education solution into its Loss
Prevention program.

9 ...

10 ‘DSW was looking for an alternate method of dealing with shoplifters in our stores,
11 one that aligns with our core values,’ said Jordan Rivchun, Senior Manager of
12 Investigations for DSW. ‘While every retailers’ objective is to reduce losses and
13 stem shoplifting in their locations, we were looking for solution that could not only
14 deliver on that objective, but one that offered a compassionate approach for those
individuals who may have simply made a bad choice.’

15 ...

16 ‘DSW now joins the list of prestigious retailers that are looking to change the way
17 petty crimes are handled through the deployment of our Restorative Justice
18 Education Program,’ stated Darrell Huntsman, Founder and CEO of CEC. ‘Our
19 approach to petty theft has proven to be effective in helping individuals get the
support they need though education that helps them put their lives back on track,
which ultimately has a positive impact on their communities.’

20 ...

21 ‘At DSW, we have a team of loss prevention professionals who are responsible for
22 a large number of locations. Anytime we can deploy technology that helps us
23 streamline our processes, save time and energy, and be a better partner to both law
24 enforcement and the communities we operate in, we consider that to be a force
multiplier. CEC delivers on all points,’ concluded Rivchun.

25 38. **Burlington Coat Factory.** On June 4, 2014, CEC issued a press release stating
26 “BURLINGTON COAT FACTORY EXPANDS DEPLOYMENT OF CORRECTIVE

1 EDUCATION COMPANY’S RESTORATIVE JUSTICE EDUCATION PROGRAM.” In
2 relevant part, the release stated:

3
4 Corrective Education Company (CEC), a leading provider of Restorative Justice
5 Education Programs, today announced that Burlington Coat Factory will be
6 expanding the deployment of its restorative justice education program to more of
7 its locations. Burlington Coat Factory, a national off-price apparel, home and baby
8 products retailer, operating more than 500 stores in the United States and Puerto
9 Rico, initially launched the program in four of its high risk locations in January of
10 2014. Intent on monitoring the progress of the program for 90 days, clear and
11 measureable results lead to the decision to expand the solution after 45 days of
12 deployment.

13
14 ‘This is a program that is a win-win for everybody. The Retailer, Law Enforcement
15 and the Offender,’ stated James Connelly, Senior Vice President of Asset
16 Protection for Burlington Stores. ‘I see no reason not to utilize CEC as part of any
17 retailer’s Loss Prevention program.’

18 ...

19
20 ‘Our mission at CEC is to create and deploy alternative ways to deal with offenders
21 that is not only fair to all parties involved, but also protects the rights of the retailers
22 and offenders,’ stated Darrell Huntsman, Founder and CEO of CEC. ‘We are
23 pleased that Burlington Coat Factory has implemented our solution. Our education
24 programs and proprietary intake and management system ensure that retailers
25 receive the justice they deserve while helping their communities by reducing the
26 burden on the criminal justice system and offering offenders the support and tools
27 they need to help change the course of their lives.’

28
39. In August 2014, Burlington Coat Factory and CEC executed a Retail Diversion
Program Agreement for the implementation of the CEC Program in Burlington Coat Factory
stores. A copy of that agreement is attached hereto as Exhibit D. Section 5 of the agreement, titled
“PAYMENT TO RETAILER” provides, in relevant part, that “CEC shall pay Retailer \$40.00
(the ‘Retailer Fee’) per Detainee validly qualified by the Retailer...”

40. **Bloomingtondale’s.** On September 3, 2013, Bloomingtondale’s and CEC executed a Pilot
Agreement for the implementation of the CEC Program in Bloomingtondale’s stores. A copy of that
agreement is attached hereto as Exhibit E. The agreement provides, in relevant part, that

1 “Bloomingdales [*sic*] will be compensated by CEC in the amount of \$40 for processing each
2 ‘qualified individual’ entered into the CEC program...” CEC’s website currently boasts the
3 following endorsement from Chad McIntosh, Bloomingdale’s Vice President of Loss Prevention
4 and Risk Management: “Bloomingdales has seen a significant reduction in the time to process
5 offenders by using the CEC program. Looking at our processing time we have seen a 47% reduction,
6 which allows our detectives to return to the sales floor much quicker. We generally run a 25%
7 recidivism rate. With CEC we have not seen any of the offenders return that have been through
8 the training.”
9
10

11 41. **Abercrombie.** On April 17, 2015, Abercrombie and CEC executed a Pilot
12 Agreement for the implementation of the CEC Program in Abercrombie stores. A copy of that
13 agreement is attached hereto as Exhibit F. The agreement provides in relevant part that
14 “Abercrombie & Fitch will be compensated by CEC in the amount of \$40 for processing each
15 ‘qualified individual’ entered into the CEC system...”
16

17 42. **Kroger.** On July 6, 2015, Kroger and CEC executed a Services Agreement for the
18 implementation of the CEC Program in Kroger stores. A copy of that agreement is attached hereto
19 as Exhibit G. Attachment C to the agreement provides, in relevant part, that “It is anticipated that
20 Kroger will donate the reimbursement of \$40 (the ‘Overhead Recovery’) for processing each
21 Verified Individual.”
22

23 43. **Sportsman’s Warehouse.** In September 2015, Sportsman’s Warehouse and CEC
24 executed a Retail Diversion Program Agreement for the implementation of the CEC Program in
25 Sportsman’s Warehouse stores. A copy of that agreement is attached hereto as Exhibit H. Section
26 5(a) of the agreement, titled “Payment To Retailer” provides, in relevant part, that “CEC shall
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1 reimburse Retailer \$40 ... per each Verified Individual validly processed by Retailer using the
2 Retailer Program...”

3
4 44. **Decathlon** provided funding for the extortion scheme. On February 23, 2015, CEC
5 and Decathlon issued a press release stating, in relevant part, that CEC had “secure[d]
6 (undisclosed) funding from Decathlon Capital Partners”:

7 The funding will accelerate international and domestic growth, product
8 development and customer expansion for CEC, a technology company working
9 with retailers to improve loss prevention with their web-based education platform
10 designed around the Restorative Justice practice. ... By working with Decathlon’s
11 group, CEC will have the ‘flexibility and expertise to grow businesses. Working
12 through Decathlon’s Palo Alto office provides a network with technology experts
13 in software and data security as well as visibility with retailers and government
14 officials,’ reveals Darrell Hunstman, Founder and CEO of CEC.

15 According to Decathlon Partners, having worked with hundreds of growth-focused
16 businesses during the last decade, after ‘coupl[ing] the fundamentals of CEC’s
17 business model and includ[ing] an experienced and outstanding management
18 team,’ Decathlon confidently unveils the ‘ease [in] decision to work with CEC.’
19 [sic]

20 **V. CLASS ALLEGATIONS**

21 45. Plaintiffs bring this action on behalf of themselves and the following Class, pursuant
22 to Rule 23 of the Federal Rules of Civil Procedure:

23 All persons who have made payments to CEC or purportedly incurred an obligation
24 to pay CEC through the CEC Program in the last four years.

25 46. The Class excludes the officers and directors, and current or former employees, as
26 well as immediate family members thereof, of Defendants and their parents, subsidiaries, and
27 affiliates.

28 47. The Class is so numerous that joinder of all members is impracticable.

48. There are questions of fact or law common to the Class. These questions include,
but are not limited to:

- 1 a. Whether the CEC Program is extortion;
- 2 b. Whether Defendants were or are engaged in a pattern of racketeering activity; and
- 3 c. The extent that Class members have been damaged.

4
5 49. Plaintiffs' claims are typical of the Class and Plaintiffs are not subject to any unique
6 defenses.

7 50. Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs'
8 interests do not conflict with the interests of the Class. Plaintiffs have retained competent counsel
9 experienced in class action litigation of this type. Plaintiffs' counsel will fairly and adequately
10 protect the interests of the Class.

11
12 51. Certification is appropriate under Federal Rule of Civil Procedure 23(b)(2) because
13 Defendants have acted on grounds that apply generally to the Class, so that final injunctive relief
14 or corresponding declaratory relief is appropriate respecting the Class as a whole.

15
16 52. Certification is also appropriate under Federal Rule of Civil Procedure 23(b)(3)
17 because questions of law or fact common to the Class predominate over any questions affecting
18 only individual members.

19 53. A class action is superior to other available methods for the fair and efficient
20 adjudication of this controversy. Individual lawsuits are economically infeasible and procedurally
21 impracticable.

22
23 54. Plaintiffs know of no difficulty to be encountered in the management of this case
24 that would preclude its maintenance as a class action.

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1 **VI. CLAIMS ALLEGED AND RELIEF SOUGHT**

2 **COUNT I**
3 **Violation of 18 U.S.C. § 1962, et seq.**

4 55. The foregoing allegations are incorporated herein by reference.

5 56. This Count is against all Defendants.

6 57. CEC is an enterprise engaged in and whose activities affect interstate commerce.

7
8 The “CEC Program Enterprise,” consisting of CEC, the Individual Defendants, the Retail
9 Defendants, and the Other Defendant with whom they implement the CEC Program is an
10 associated-in-fact enterprise engaged in and whose activities affect interstate commerce.
11 Defendants are employed by or associated with CEC and the CEC Program Enterprise
12 (collectively, the “Enterprises”).
13

14 58. Defendants agreed to and did conduct and participate in the conduct of the
15 Enterprises’ affairs through a pattern of racketeering activity and for the unlawful purpose of
16 extorting unlawful payments from Plaintiffs and other Class members, directly and indirectly
17 acquired and maintained interests in and control of the Enterprises, and conspired with each other
18 to do so.
19

20 59. Pursuant to and in furtherance of their extortionate scheme, Defendants committed
21 multiple related acts of extortion in violation of 18 U.S.C. § 1951 and state extortion laws by
22 coercing Plaintiffs and other Class members into making payments to CEC by threatening to report
23 Plaintiffs and other Class members to criminal authorities for alleged shoplifting.
24

25 60. Those acts constitute a pattern of racketeering activity pursuant to 18 U.S.C. §
26 1961(5).
27
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1 61. Defendants have directly and indirectly conducted and participated in the conduct
2 of the Enterprises' affairs through the pattern of racketeering and activity described above, in
3 violation of 18 U.S.C. § 1962.
4

5 62. As a direct and proximate result of Defendants' racketeering activities and
6 violations of 18 U.S.C. § 1962, Plaintiffs and other Class members have been injured in their
7 business and property in that they have paid money to CEC as a result of extortion.
8

Prayer for Relief

9
10 WHEREFORE, Plaintiffs, individually and on behalf of the Class, respectfully request that
11 the Court enter judgment in their favor as follows:

- 12 A. Certify this matter as a class action, appoint Plaintiffs' attorneys as class counsel,
13 and issue notice to the Class;
- 14 B. Enter judgment in favor of Plaintiffs and the Class against Defendants;
- 15 C. Award to Plaintiffs and Class members actual, statutory, treble, and punitive
16 damages;
- 17 D. Award appropriate pre- and post-judgment interest;
- 18 E. Grant an award of reasonable attorneys' fees and other litigation costs reasonably
19 incurred, including expert witness fees;
- 20 F. Grant a trial by jury on all issues so triable; and
- 21 G. Award any and all other relief to which Plaintiffs and the Class may be entitled.
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1 Dated: April 9, 2018

/s/ Joel Fleming
Jason Leviton (*pro hac vice* to be filed)
Joel Fleming (CA Bar No. 281264)
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