

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

BUREAU OF CONSUMER FINANCIAL  
PROTECTION,

Plaintiff,

v.

PROGREXION MARKETING, INC., et al.,

Defendants.

Case No. 2:19-CV-00298-BSJ

**JOHN C. HEATH, ATTORNEY AT LAW, PC D/B/A LEXINGTON LAW'S  
ANSWER TO AMENDED COMPLAINT AND JURY DEMAND**

Defendant John C. Heath, Attorney at Law, PC<sup>1</sup> d/b/a Lexington Law (“Lexington Law” or “Defendant”), through undersigned counsel, hereby answers and otherwise responds to the Amended Complaint (ECF No. 457) filed by Plaintiff, Bureau of Consumer Financial Protection (“Plaintiff” or “CFPB”).

**INTRODUCTION**

In the CFPB’s December 2019 report on quarterly consumer credit trends, it acknowledged that “[i]naccurate credit reports can prevent consumers from getting credit that they need” and “can also create costs for lenders, who benefit from accurate assessments of

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<sup>1</sup> Incorrectly named in the Amended Complaint as John C. Heath, Attorney at Law, PLLC.

risk when conducting underwriting and pricing.”<sup>2</sup> According to a Congressionally-mandated study by the Federal Trade Commission, one in five consumers have “a potentially material error” on his or her credit report, which could prevent him or her from obtaining a car loan, insurance, a home, or even a job.<sup>3</sup> These errors and unverified entries arise because of identity theft, incorrect reporting by credit providers and data furnishers, or other life circumstances, such as divorce, military service, or medical debt.<sup>4</sup> The CFPB received over 710,000 complaints from consumers about credit or consumer reporting in 2021 alone—representing over 70% of all consumer complaints about consumer products and services.<sup>5</sup> Congress has taken notice because these errors materially and negatively impact consumers’ finances and lives—as the House Financial Services Committee Chair observed in 2019: “credit reports are routinely filled with errors that are difficult for consumers to correct . . . [and which] directly

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<sup>2</sup> See *Quarterly Consumer Credit Trends: Public records, credit scores, and credit performance*, CFPB 2 (Dec. 2019), [https://files.consumerfinance.gov/f/documents/cfpb\\_quarterly-consumer-credit-trends\\_public-records-credit-scores-performance\\_2019-12.pdf](https://files.consumerfinance.gov/f/documents/cfpb_quarterly-consumer-credit-trends_public-records-credit-scores-performance_2019-12.pdf).

<sup>3</sup> Statement of Commissioner Brill on the Federal Trade Commission’s Sixth and Final Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003 (Jan. 21, 2015), <https://www.ftc.gov/public-statements/2015/01/statement-commissioner-brill-federal-trade-commissions-sixth-final-report>.

<sup>4</sup> See *What are common credit report errors that I should look for on my credit report?*, CFPB (June 8, 2017), <https://www.consumerfinance.gov/ask-cfpb/what-are-common-credit-report-errors-that-i-should-look-for-on-my-credit-report-en-313/>.

<sup>5</sup> *Consumer Response Annual Report*, CFPB at 11 (Mar., 2022), [https://files.consumerfinance.gov/f/documents/cfpb\\_2021-consumer-response-annual-report\\_2022-03.pdf](https://files.consumerfinance.gov/f/documents/cfpb_2021-consumer-response-annual-report_2022-03.pdf).

impact” credit and employment opportunities.<sup>6</sup> These errors often originate with the over 10,000 companies (such as credit card companies, department stores, and debt collectors) that furnish data about consumers’ accounts and tradelines—over 1.3 billion accounts and tradelines monthly. And consumers are not party to the communications between these data furnishers and the major three credit reporting agencies.

Credit report errors can be difficult to correct. Many consumers do not have the time, knowledge, ability, or perseverance necessary to enforce their right to a fair, accurate, and substantiated credit report. In addition, many consumers are uncertain as to their legal rights or prefer to have assistance from a law firm when enforcing their rights. For these and other reasons, hundreds of thousands of consumers have turned to Defendant for assistance.

Lexington Law is a law firm in Salt Lake City. For over twenty years it has offered ethical and effective credit repair services to its clients. During this time, Lexington Law pioneered legal strategies that increased the effectiveness of case outcomes. Lexington Law has educated consumer clients around the country on how to read, interpret, and understand what affects their credit report and credit score, helped clients challenge and seek correction of inaccurate, unsubstantiated, and unfair information reported in their credit history, and advised clients on how to manage their credit profile.

When a client retains Lexington Law for credit repair services, the firm acquires the TransUnion credit report associated with that client and loads it into a client-facing internet

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<sup>6</sup> Press Release, *Waters Hold Credit Bureaus Accountable*, (Feb. 26, 2019), <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=402368>.

portal. Clients use the portal, and the guidance provided by Lexington Law, to identify and prioritize any creditor entries on the report that they question and the basis for their challenge—such as the account is an “unrecognized collection,” “isn’t mine,” or is impacted by divorce. Depending on the client’s instructions, Lexington Law generates letters to send to the relevant data furnisher regarding certain entries. The firm also communicates with the credit reporting agencies themselves. At the same time, Lexington Law provides other assistance to its clients, such as robust educational assistance so that clients can learn to understand and manage their own credit profile. Depending on what happens during the course of the representation, Lexington Law provides other services to its credit repair clients, such as advice about the results of the furnisher’s response to correspondence questioning report entries, advocacy, and the like.

Lexington Law is able to provide these services at low monthly costs because it uses innovative technological solutions. Consumers are not charged for credit repair services until after those services have been provided.

The credit repair services provided to consumers by Lexington Law serve as an important and meaningful check on furnishers and the credit reporting agencies. Lexington Law has helped hundreds of thousands of consumers take charge of their credit by helping them understand the credit reporting system and ensuring that system results in reporting that is verifiable, fair, accurate, and relevant. For example, in 2016, Lexington Law helped customers remove millions of negative credit report items from their credit reports.

In this suit, the CFPB and its current Director seek to unfairly attack Lexington Law's business model based on a novel interpretation of law that would ultimately deprive consumers of critical access to credit repair services, and threaten the entire credit repair industry. Specifically, the CFPB seeks to weaponize the Federal Trade Commission's Advance Fee Provision of the Telemarketing Sales Rule, 16 C.F.R. §310.4(a)(2) (the "AFP"), a regulation written by the FTC over 25 years ago ostensibly to protect against a breed of credit repair companies who promised unattainable success without providing any service. The rule generally regulates telemarketers who make broad and unattainable guarantees that they will remove derogatory items on a credit report permanently, simply by questioning the entries. The restrictions the rule places on what the FTC called "bogus" companies include that they must wait more than six months to be paid and then can only be paid if their overblown promises of success came true, as demonstrated on a credit report. 16 C.F.R. § 310.4(a). The rule is so onerous that its real purpose is to keep those companies out of business entirely.

The rule has almost never been used, as it was immediately made obsolete when Congress passed the Credit Repair Organizations Act (15 U.S.C. § 1679 et seq.) ("CROA"), which provides the fundamental guidelines for how credit repair companies can charge consumers. CROA allows credit repair organizations to charge clients on a current basis, once services are performed, and be paid on a current basis, like any service provider. 15 U.S.C. § 1679b(b). And CROA dictates contract requirements which contain none of the sort of restrictions the AFP previously required. *Id.* § 1679d. Notably, the CFPB makes no claim that Defendant violated CROA, the sole federal statute that

specifically and directly regulates credit repair. Defendant only charges for credit repair services after services have been provided.

Nor did Defendant violate the TSR's 25-year old AFP. It promises no results, so has no obligation to wait 6 months before billing.

No credit repair organization could stay in business were it to be forced to wait six months before billing to be paid for *any* service it provides. To the extent the CFPB is suggesting that the rule applies that broadly, it has offered no explanation—to this Court, to Defendant, or to the public—of how any legitimate credit repair business could comply with each component of the rule and stay in business. It is no answer for the CFPB to claim that somehow credit repair providers using telesales to reach injured consumers can be singled out for such an onerous and unprecedented treatment, for that method of communicating is far and away the industry norm—as the CFPB doubtless knows—such that this suit undermines all credit repair. The needs of consumers, and their right to push back against improper credit reporting and shoddy recordkeeping by furnishers and/or credit bureau companies, underscore the fundamental reason why the CFPB's claim against Defendant's billing practices should be rejected.

The CFPB attempts to punish Defendant for making truthful, non-misleading statements about the credit repair services offered by Lexington Law. *See, e.g.,* Am. Complaint, ¶¶ 112-117. Similarly, its prayed-for prohibition would prevent consumers from using their phones to access truthful and accurate financial and credit-related information.

As shown in its Additional Defenses and Answer, Lexington Law vehemently denies the Amended Complaint's allegations of wrongdoing and denies any liability and that Plaintiff should take any relief from this case.

### **Demand for Jury Trial**

Defendant demands a jury trial as to all issues so triable.

### **ADDITIONAL DEFENSES**

By setting forth these defenses, Defendant does not assume the burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to Plaintiff. Nothing stated herein is intended or shall be construed as an admission that any particular issue or subject matter is relevant to Plaintiff's allegations.

### **First Defense**

Plaintiff's claims and recovery under Count I are barred, or limited, because the subject conduct is permitted under the Credit Repair Organizations Act, 15 U.S.C. §§ 1679 et seq. ("CROA"). As such, CROA—a federal law, enacted after the so-called Advance Fee Provision of the Telemarketing Sales Rule, 16 C.F.R. §310.4(a)(2) (the "AFP"), on which Count I is based—preempted and overrode the AFP, preserved for Defendant the right and permission to provide its services and collect payment in the manner it did, and provided for consumers the right and permission to access credit repair services and pay for them as they agreed to do so.

### **Second Defense**

Plaintiff's claims and recovery under Count I are barred, or limited, to the extent Count I seeks to impose liability on Defendant for acts or omissions taken in good faith, with a

reasonable basis in fact and/or law. Defendant reasonably interpreted applicable law, including the Credit Repair Organizations Act, to allow credit repair service providers to charge consumers for services when rendered.

### **Third Defense**

Plaintiff's claims and recovery are barred or limited, in whole or in part, by the terms of the applicable statute of limitations. Plaintiff knew, or with reasonable diligence would have known, the facts supporting its claims more than 3 years before entering a tolling agreement with Defendant on March 8, 2019 and subsequently filing its initial Complaint. Prior to March 8, 2016, among other things, Plaintiff had already reviewed many consumer complaints (which it later parroted in its pleadings), interviewed insiders and consumers about the events at issue, engaged in undercover phone calls and emails to Progrexion and the hotswaps posing as consumers, taken days of sworn testimony of Defendant, and compelled discovery from Defendant and third parties.

### **Fourth Defense**

Plaintiff's claims and recovery are barred or limited, in whole or in part, by equitable doctrines due to the CFPB's unreasonable and prejudicial delay. Defendant's billing practices have been known to Plaintiff and its predecessor agency since at least 1997, but Plaintiff did not publicly signal its new interpretation of the AFP until it brought this action in 2019. For example, it never before has sought to enforce the AFP against any company that was not expressly promising results that could be reflected on a credit report.



### **Fifth Defense**

Plaintiff's claims and recovery for injunctions, restitution, rescission, reformation, disgorgement or other forms of equitable relief are barred or limited, in whole or in part, by equitable doctrines, including but not limited to unclean hands, estoppel, availability of legal remedies, and inequitable windfall. Defendant's billing practices have been known to Plaintiff and its predecessor agency since at least 1997, but Plaintiff did not signal its new interpretation of the AFP until it brought this action in 2019. Further, consumers understood the terms of their agreements with Lexington Law, agreed to pay the bills rendered pursuant to those agreements, and received valuable credit repair services.

### **Sixth Defense**

Defendant reserves all rights it has with respect to the imposition of civil monetary penalties or other monetary remedies that would result in a violation of the First, Fifth, Sixth, and/or Eighth Amendments to the United States Constitution.

### **Seventh Defense**

Plaintiff's claims and recovery are barred or limited, in whole or in part, because they unlawfully infringe on the regulatory authority of the Utah State Bar (and other state bars), expressed through rules governing the lawyers' conduct with respect to billing and advertising, and the AFP was enacted, and in this lawsuit is proposed to be applied, without consideration for such authority. Under the so-called clear statement doctrine, developed as a feature of federal administrative law, the regulation of the practice of law is traditionally the province of

the states and only subject to federal agency regulatory authority if such authority is granted through clear and unambiguous language.

#### **Eighth Defense**

Plaintiff's claims and recovery on Count I are barred or limited, in whole or in part, under the doctrine of primary jurisdiction, on the ground that the FTC is the proper forum to consider the interpretation of the AFP in the first instance.

#### **Ninth Defense**

Plaintiff's claims and recovery are barred or limited, in whole or in part, under the "practice of law" exclusion, which provides that "the Bureau may not exercise any supervisory or enforcement authority with respect to an activity engaged in by an attorney as part of the practice of law under the laws of a State in which the attorney is licensed to practice law." 12 U.S.C. § 5517(e).

#### **Tenth Defense**

Plaintiff's claims and recovery are barred or limited, in whole or in part, to the extent the clients on behalf of whom Plaintiff seeks to obtain customer-focused relief understood and agreed to the terms of the legal representation, voluntarily paid for delivered legal services, and/or consented to or expressly authorized the alleged conduct.

#### **Eleventh Defense**

Plaintiff's claims and recovery are barred or limited, in whole or in part, to the extent Plaintiff seeks to disrupt, substantially change, and undo existing lawyer-client relationships, as beyond the authority of Plaintiff, an interference with the practice of law and consumers'

protected rights to choose and rely upon counsel of their choice, contrary to existing contracts, highly inequitable, and itself the cause of substantial consumer injury.

#### **Twelfth Defense**

Plaintiff's claims and recovery for restitution, refunds, and/or disgorgement are barred, in whole or in part, on the ground and to the extent that Defendant was not unjustly enriched. Consumers did not suffer any injury as a result of any conduct alleged in the Amended Complaint, and Defendant received no payments exceeding the amounts it was owed pursuant to valid contracts.

#### **Thirteenth Defense**

Lexington Law hereby asserts and relies upon every defense by one or more of its co-defendants to the extent such defense is applicable to Lexington Law or would provide a defense to PGX Holdings, Inc., Progrexion Marketing, Inc., Progrexion Teleservices, Inc., eFolks, LLC, or CreditRepair.com, Inc. (collectively, the "Progrexion Defendants") such that Lexington Law could not be liable.

#### **Reservation of Rights**

Defendant hereby gives notice that it intends to rely upon such other and further defenses as may become available or apparent during pre-trial proceedings in this case and hereby reserves all rights to amend its answer, if necessary, to assert such defenses.

Defendant reserves the right to pursue, on appeal, the following defenses previously addressed by the Court, specifically that (1) Plaintiff fails to state a claim upon which relief can be granted; (2) Plaintiff fails to meet the pleading requirements for a claim of fraud

pursuant to Rule 9(b); (3) that Plaintiff's claims and recovery are barred or limited by laches; (4) that Plaintiff's claims and recovery in Count I are barred or limited by the Due Process Clause and/or the Administrative Procedure Act; (5) that the AFP is unenforceable on its face and as applied to Defendant; (6) that Plaintiff's claims and recovery are barred by Articles I and II of the United States Constitution; (7) that Plaintiff's claims and recovery are barred or limited by the applicable statute of limitations, effective July 7, 2017, because Plaintiff was not constitutionally authorized to bring this action when it purported to do so; and (8) that Plaintiff's claims and recovery in Count I are barred or limited by the freedom of speech protections of the First Amendment.<sup>7</sup>

**ANSWERS TO NUMBERED PARAGRAPHS**

As laid out in this Answer, Defendant Lexington Law denies the Amended Complaint's allegations because it did not engage in any wrongful conduct in violation of the Telemarketing Sales Rule or otherwise. All responses are based solely on the knowledge and information of Lexington Law. Unless otherwise stated, Lexington Law does not purport to admit or characterize the conduct of another person or entity. Defendant denies all allegations to the extent they are found in the headings, subheadings, footnotes, prayer for relief, or any other text not appearing in a numbered paragraph. Except as expressly admitted herein, all allegations in the Amended Complaint are denied.

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<sup>7</sup> At the June 30, 2022 Pretrial Conference, the Court issued a ruling dismissing the defenses listed in this paragraph as (4)-(8).

1. The allegations in Paragraph 1 are introductory and therefore require no response.

2. Regarding Paragraph 2, Defendant admits that Lexington Law provides credit repair services and that it markets its services through various media. Defendant also admits that, on information and belief, certain individuals who retain Lexington Law seek help understanding their credit reports and challenging inaccurate, unsubstantiated, or unfair items on those reports that negatively affect credit scores and access to credit products. Those individuals pay varying amounts based on what level of services they choose and how long they receive the services. Allegations related to CreditRpair.com are not directed at Lexington Law and therefore do not require a response. Defendant denies that the Progexion Defendants operate Lexington Law and denies all other allegations contained in Paragraph 2.

3. The allegations contained in the first two sentences of Paragraph 3 are introductory and non-specific and therefore do not require a response. The remainder of the allegations in Paragraph 3 relate to Counts 2-5 and are not directed at Lexington Law and therefore do not require a response.

4. The allegations in Paragraph 4 set forth legal conclusions to which no answer is required. To the extent an answer is required, Defendant denies the allegations in Paragraph 4.

5. Paragraph 5 consists of Plaintiff's characterization of the intent of its purported claims, to which no answer is required. To the extent a response is required, Defendant denies the allegations in Paragraph 5.

6. Defendant admits that this Court has subject matter jurisdiction.

7. Defendant admits that venue is proper in this district.

8. The allegations in Paragraph 8 set forth legal conclusions to which no answer is required. To the extent an answer is required, Defendant denies that Plaintiff has the authority it claims in Paragraph 8 because its organic statute is unconstitutional.

9. The allegations in sentences 1, 2, and 5 of Paragraph 9 are not directed at Lexington Law and therefore require no response. Defendant admits that Lexington Law contracts with Progrexion entities for telemarketing and telesales services and use of proprietary software but denies Plaintiff's characterization of the referenced software.

10. The allegations in sentences 1, 4, and 5 of Paragraph 10 are not directed at Lexington Law and therefore require no response. With respect to sentence 2, Defendant admits that Progrexion Marketing provides marketing services to Lexington Law pursuant to a contractual agreement. Sentence 3 of Paragraph 10 is too vague for Defendant to form a response, and therefore the allegations in Sentence 3 are denied as to Lexington Law. The allegations regarding CreditRepair.com are not directed at Lexington Law and therefore do not require a response.

11. The allegations in sentences 1, 3, and 4 of Paragraph 11 are not directed at Lexington Law and therefore do not require a response. Defendant denies the allegations in sentence 2.

12. The allegations in sentences 1, 3, and 4 of Paragraph 12 are not directed at Lexington Law and therefore do not require a response. Defendant denies the allegations in sentence 2 as to Lexington Law.

13. The allegations in Paragraph 13 are not directed at Lexington Law and therefore do not require a response.

14. Defendant admits the allegations in sentences 1, 4, and 5 of Paragraph 14. Sentences 2 and 6 appear to reference specific contractual agreements between Lexington Law and the Progexion Defendants, which are the best evidence of those arrangements. To the extent a response is required, Defendant admits that the contractual agreements exist but denies Plaintiff's characterization of them. Defendant denies the allegations in sentences 3 and 7 of Paragraph 14, except that Defendant admits that it is a law firm performing legal services.

15. Defendant admits the allegations in Paragraph 15, except for the allegation that Lexington Law offers products or services as defined by the referenced statute—such allegation is a legal conclusion that does not require a response.

16. The allegations in Paragraph 16 are not directed at Lexington Law and therefore do not require a response.

17. The allegations in Paragraph 17 are not directed at Lexington Law and therefore do not require a response.

18. The allegations in Paragraph 18 are not directed at Lexington Law and therefore do not require a response.

19. The allegations in Paragraph 19 are not directed at Lexington Law and therefore do not require a response.

20. Paragraph 20 sets forth legal conclusions that do not require a response.

21. The allegations in Paragraph 21 are not directed at Lexington Law and therefore

do not require a response.

22. The allegations in Paragraph 22 are not directed at Lexington Law and therefore do not require a response.

23. The allegations in Paragraph 23 are not directed at Lexington Law and therefore do not require a response.

24. The allegations in Paragraph 24 are not directed at Lexington Law and therefore do not require a response.

25. The allegations in Paragraph 25 are not directed at Lexington Law and therefore do not require a response.

26. The allegations in Paragraph 26 are not directed at Lexington Law and therefore do not require a response.

27. The allegations in Paragraph 27 are not directed at Lexington Law and therefore do not require a response.

28. Defendant admits on information and belief that Lexington Law has a greater number of clients than many of its competitors. The allegations regarding CreditRepair.com are not directed at Lexington Law and therefore do not require a response.

29. The allegations regarding CreditRepair.com are not directed at Lexington Law and therefore do not require a response. Defendant otherwise denies the allegations in Paragraph 29.

30. Defendant denies the allegations in Paragraph 30.

31. The allegations in Paragraph 31 are not directed at Lexington Law and therefore



do not require a response.

32. The allegations in Paragraph 32 are not directed at Lexington Law and therefore do not require a response.

33. The allegations in Paragraph 33 are not directed at Lexington Law and therefore do not require a response.

34. The allegations in Paragraph 34 are not directed at Lexington Law and therefore do not require a response.

35. The allegations in Paragraph 35 are not directed at Lexington Law and therefore do not require a response.

36. Defendant admits that it has from time to time heard Progrexion employees refer to certain incoming live telephone transfers from third-party affiliates as “hotswaps.” The allegations in Paragraph 36 otherwise are not directed at Lexington Law and therefore do not require a response.

37. The allegations in Paragraph 37 are not directed at Lexington Law and therefore do not require a response.

38. The allegations in Paragraph 38 are not directed at Lexington Law and therefore do not require a response.

39. The allegations in Paragraph 39 are not directed at Lexington Law and therefore do not require a response.

40. The allegations in Paragraph 40 are not directed at Lexington Law and therefore do not require a response.

41. The allegations in Paragraph 41 are not directed at Lexington Law and therefore do not require a response.

42. The allegations in Paragraph 42 are not directed at Lexington Law and therefore do not require a response.

43. The allegations in Paragraph 43 are not directed at Lexington Law and therefore do not require a response.

44. Defendant denies the allegations in Paragraph 44 as they relate to Lexington Law. The allegations regarding CreditRepair.com are not directed at Lexington Law and therefore do not require a response.

45. The allegations in Paragraph 45 are not directed at Lexington Law and therefore do not require a response.

46. Defendant denies the allegations in Paragraph 46 as they relate to Lexington Law. The allegations in Paragraph 46 otherwise are not directed at Lexington Law and therefore do not require a response.

47. The allegations in Paragraph 47 are not directed at Lexington Law and therefore do not require a response.

48. The allegations in Paragraph 48 are not directed at Lexington Law and therefore do not require a response.

49. The allegations in Paragraph 49 are not directed at Lexington Law and therefore do not require a response.

50. The allegations in Paragraph 50 are not directed at Lexington Law and therefore

do not require a response.

51. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 51 with respect to each Hotswap Partner or consumer, and so denies the allegations, except that Defendant admits that Lexington Law provides free credit consultations to consumers. The allegations in Paragraph 51 otherwise are not directed at Lexington Law and therefore do not require a response.

52. The allegations in Paragraph 52 are not directed at Lexington Law and therefore do not require a response.

53. The allegations in Paragraph 53 are not directed at Lexington Law and therefore do not require a response.

54. The allegations in Paragraph 54 are not directed at Lexington Law and therefore do not require a response.

55. The allegations in Paragraph 55 are not directed at Lexington Law and therefore do not require a response.

56. Defendant denies the allegations in Paragraph 56, except Defendant admits that there are particular instances where live transfers involve a free credit repair consultation, a description of the Lexington Law's credit repair services available for purchase, and a discussion of the individual consumer's goals. The allegations in Paragraph 56 otherwise are not directed at Lexington Law and therefore do not require a response.

57. Defendant admits that the language quoted in Paragraph 57 is an incomplete quotation from a Progexion Teleservices script and that there are particular instances where live

transfers proceed as described, but otherwise denies the allegations in Paragraph 57.

58. Defendant admits that the language quoted in Paragraph 58 is an incomplete quotation from a Progrexion Teleservices script and admits that there are particular instances where live transfers proceed as described, but otherwise denies the allegations in Paragraph 58 as they relate to Lexington Law. The allegations in Paragraph 58 otherwise are not directed at Lexington Law and therefore do not require a response.

59. Defendant denies the allegations in Paragraph 59 with respect to consumers who sign up for Lexington Law services. The allegations in Paragraph 59 otherwise are not directed at Lexington Law and therefore do not require a response.

60. The allegations in Paragraph 60 are not directed at Lexington Law and therefore do not require a response. To the extent a response is required, the allegations in Paragraph 60 are denied on information and belief.

61. The allegations in Paragraph 61 are not directed at Lexington Law and therefore do not require a response. To the extent a response is required, the allegations in Paragraph 61 are denied on information and belief.

62. The allegations in Paragraph 62 are not directed at Lexington Law and therefore do not require a response. To the extent a response is required, Defendant denies the allegations in Paragraph 62, except Defendant admits on information and belief that third-party lead sources are told they may not condition a consumer's receipt of third-party services or products on signing up for credit repair with Lexington Law.

63. The allegations in Paragraph 63 are not directed at Lexington Law and therefore

do not require a response.

64. The allegations in Paragraph 64 are not directed at Lexington Law and therefore do not require a response.

65. The allegations in Paragraph 65 are not directed at Lexington Law and therefore do not require a response.

66. The allegations in Paragraph 66 are not directed at Lexington Law and therefore do not require a response.

67. The allegations in Paragraph 67 are vague in that they reference unspecified representations given to unspecified recipients on unspecified occasions at unspecified times, and do not explain in what sense the representations “tie” credit repair to “particular products,” making it impossible to affirm or deny the claims. To the extent a response is required, Defendant denies the allegations in Paragraph 67 as they relate to Lexington Law’s services. The allegations in Paragraph 67 otherwise are not directed at Lexington Law and therefore do not require a response.

68. The allegations in Paragraph 68 are not directed at Lexington Law and therefore do not require a response.

69. The allegations in Paragraph 69 are vague, making it impossible to affirm or deny the claims. To the extent a response is required, Defendant denies the allegations in Paragraph 69 as to Lexington Law’s services, except Defendant admits on information and belief that one purpose of Progrexion’s marketing efforts is to increase sales of Lexington Law services. The allegations in paragraph 69 otherwise are not directed at Lexington Law and

therefore do not require a response.

70. The allegations in Paragraph 70 are not directed at Lexington Law and therefore do not require a response.

71. Defendant denies the allegations in Paragraph 71 as they relate to Lexington Law. The allegations in Paragraph 71 otherwise are not directed at Lexington Law and therefore do not require a response.

72. The allegations in Paragraph 153 are not directed at Lexington Law and therefore do not require a response.

73. The allegations in Paragraph 73 are not directed at Lexington Law and therefore do not require a response.

74. Defendant denies the allegations in Paragraph 74.

75. Defendant admits on information and belief that HOPE was in contact with consumers and admits on information and belief that HOPE transferred to Progrexion over 100,000 consumers who signed up for Lexington Law credit repair services during the referenced period.

76. The allegations in Paragraph 76 are not directed at Lexington Law and therefore do not require a response.

77. Paragraph 77 purports to provide a partial quotation of an unidentified person at an unidentified time, making it impossible to affirm or deny the claims. To the extent a response is required, Defendant denies the allegations in Paragraph 77.

78. The allegations in Paragraph 78 are not directed at Lexington Law and therefore

do not require a response.

79. The allegations in Paragraph 79 are not directed at Lexington Law and therefore do not require a response.

80. The allegations in Paragraph 80 are not directed at Lexington Law and therefore do not require a response.

81. The allegations in Paragraph 81 are not directed at Lexington Law and therefore do not require a response.

82. Defendant admits on information and belief that the quotation in the second sentence of Paragraph 82 reflects a quotation without context of language found in an email from a HOPE employee regarding scripting but otherwise denies the allegations in Paragraph 82.

83. Paragraph 83 alleges generalizations about unspecified instances in which unidentified persons spoke with one another, making it impossible to affirm or deny the claims. To the extent a response is required, Defendant denies the allegations in Paragraph 83.

84. The allegations in Paragraph 84 are not directed at Lexington Law and therefore do not require a response.

85. The allegations in Paragraph 85 are not directed at Lexington Law and therefore do not require a response.

86. The allegations in Paragraph 86 are not directed at Lexington Law and therefore do not require a response.

87. The allegations in Paragraph 87 are not directed at Lexington Law and therefore do not require a response.

88. The allegations in Paragraph 88 are not directed at Lexington Law and therefore do not require a response.

89. The allegations in Paragraph 89 are not directed at Lexington Law and therefore do not require a response.

90. The allegations in Paragraph 90 are not directed at Lexington Law and therefore do not require a response.

91. The allegations in Paragraph 91 are not directed at Lexington Law and therefore do not require a response.

92. The allegations in Paragraph 92 are not directed at Lexington Law and therefore do not require a response.

93. The allegations in Paragraph 93 are not directed at Lexington Law and therefore do not require a response.

94. The allegations in Paragraph 94 are not directed at Lexington Law and therefore do not require a response.

95. The allegations in Paragraph 95 are not directed at Lexington Law and therefore do not require a response.

96. The allegations in Paragraph 96 are not directed at Lexington Law and therefore do not require a response.

97. The allegations in Paragraph 97 are not directed at Lexington Law and therefore do not require a response.

98. The allegations in Paragraph 98 are not directed at Lexington Law and therefore



do not require a response.

99. The allegations in Paragraph 99 are not directed at Lexington Law and therefore do not require a response.

100. The allegations in Paragraph 100 are not directed at Lexington Law and therefore do not require a response.

101. The allegations in Paragraph 101 are not directed at Lexington Law and therefore do not require a response.

102. The allegations in Paragraph 102 are not directed at Lexington Law and therefore do not require a response.

103. The allegations in Paragraph 103 are not directed at Lexington Law and therefore do not require a response.

104. The allegations in Paragraph 104 are not directed at Lexington Law and therefore do not require a response.

105. The allegations in Paragraph 105 are not directed at Lexington Law and therefore do not require a response.

106. The allegations in Paragraph 106 are not directed at Lexington Law and therefore do not require a response.

107. The allegations in Paragraph 107 are not directed at Lexington Law and therefore do not require a response.

108. Defendant admits that from time to time it corresponds with Plaintiff regarding consumer questions or complaints, and that Paragraph 108 appears to reflect partial, out of

context quotations from some of that correspondence. On information and belief, the consumer referred to in Paragraph 108 cancelled her credit repair service two days after engaging Lexington Law, before she was billed by or paid Lexington Law for credit repair services. Defendant otherwise lacks sufficient information to either confirm or deny the allegations in Paragraph 108 and on that basis denies them.

109. The allegations in Paragraph 109 are not directed at Lexington Law and therefore do not require a response.

110. The allegations contained in Paragraph 110 state a legal conclusion as to which no response is required.

111. Defendant admits that it sends communications to furnishers and consumer reporting agencies on behalf of consumers and at their direction, some of which question information found on the consumers' credit reports. Allegations regarding CreditRepair.com services are not directed at Lexington Law and therefore do not require a response.

112. Defendant admits that Progexion markets Lexington Law as providing, among other products and services, credit repair services that may result in the removal of inaccurate, unfair, and/or unverifiable derogatory information from consumers' credit record and/or the improvement of consumers' credit rating. Defendant denies that any Defendant makes any guarantee or promise regarding the removal of derogatory information from, or a consumer's individual ability to improve, the consumers' credit history, credit record, or credit rating. Allegations regarding the marketing of CreditRepair.com services are not directed at Lexington Law and therefore do not require a response.

113. Defendant admits that the quoted language contained in Paragraph 113 has appeared on a webpage associated with Lexington Law. Defendant denies any characterization of the quoted language, including that any quoted statement represents a promise or guarantee of a specific outcome.

114. Defendant admits that the quoted language contained in Paragraph 114 has appeared in advertisements for Lexington Law. Defendant denies any characterization of the quoted language, including that any quoted statement represents a promise or guarantee of a specific outcome.

115. Defendant admits that the image in Paragraph 115 reflects an online advertisement for Lexington Law.

116. Defendant admits that the image in Paragraph 116 reflects an online advertisement for Lexington Law.

117. Defendant admits that the image in Paragraph 117 reflects an online advertisement for Lexington Law.

118. The allegations in Paragraph 118 are not directed at Lexington Law and therefore do not require a response.

119. The allegations in Paragraph 119 are not directed at Lexington Law and therefore do not require a response.

120. Defendant denies the allegations in Paragraph 120.

121. Defendant denies the allegations in Paragraph 121, except Defendant admits

that some of the quoted portions in Paragraph 121 reflect without context language that appears in a script from 2012.

122. Defendant admits that the quoted text in Paragraph 122 reflects without context language from a call that occurred in May 2016, but otherwise denies the allegations.

123. Paragraph 123 sets forth legal conclusions to which no response is required.

124. Defendant denies the allegations in Paragraph 124, but admits that consumers who elect to enroll may purchase a copy of their credit report from Lexington Law at the time they enroll. The allegations in Paragraph 124 otherwise are not directed at Lexington Law and therefore do not require a response.

125. The allegations in Paragraph 125 are vague because they allege unspecified communications to unspecified consumers by unspecified persons at unspecified times, making it impossible to affirm or deny the claims. To the extent a response is required, Defendant denies the claims.

126. Defendant admits that consumers who enroll in credit repair services with Lexington Law are charged a first credit repair service work fee five to fifteen days after enrollment for services previously provided during their first service interval according to their chosen service level and consistent with their contractual agreement with Lexington Law. The allegations in Paragraph 126 otherwise are not directed at Lexington Law and therefore do not require a response.

127. Defendant admits that consumers who elect to remain enrolled in credit repair services with Lexington Law are charged after the conclusion of each monthly service interval

for services previously provided during that completed service interval according to their chosen service level and consistent with their contractual agreement with Lexington Law so long as they choose to remain enrolled. The allegations in Paragraph 127 otherwise are not directed at Lexington Law and therefore do not require a response.

128. Defendant denies the allegations in Paragraph 128 as no credit repair results have been promised.

129. Defendant admits that consumers who elect to remain enrolled in credit repair services with Lexington Law are charged after the conclusion of each monthly service interval for services previously provided during that completed service interval according to their chosen service level and consistent with their contractual agreement with Lexington Law for so long as they choose to remain enrolled. Consumers agree to review their engagements with Lexington Law monthly, and they may cancel their service at any time, either by phone or in writing. The allegations in Paragraph 129 otherwise are not directed at Lexington Law and therefore do not require a response.

130. Defendant incorporates by reference, as if fully set forth herein, its responses to Paragraphs 1-129.

131. Paragraph 131 sets forth legal conclusions to which no response is required.

132. Paragraph 132 sets forth legal conclusions to which no response is required.

133. Defendant denies the allegations in Paragraph 133.

134. Defendant denies the allegations in Paragraph 134.

135. Paragraph 135 sets forth legal conclusions to which no response is required. To

the extent a response is required, Defendant denies the allegations in Paragraph 135.

136. Defendant incorporates by reference, as if fully set forth herein, its responses to Paragraphs 1-129.

137. The allegations in Paragraph 137 are not directed at Lexington Law and therefore do not require a response.

138. The allegations in Paragraph 138 are not directed at Lexington Law and therefore do not require a response.

139. The allegations in Paragraph 139 are not directed at Lexington Law and therefore do not require a response.

140. The allegations in Paragraph 140 are not directed at Lexington Law and therefore do not require a response.

141. The allegations in Paragraph 141 are not directed at Lexington Law and therefore do not require a response.

142. The allegations in Paragraph 142 are not directed at Lexington Law and therefore do not require a response.

143. The allegations in Paragraph 143 are not directed at Lexington Law and therefore do not require a response.

144. Paragraph 144 sets forth legal conclusions to which no response is required. The allegations in Paragraph 144 are not directed at Lexington Law and therefore do not require a response.

145. Defendant incorporates by reference, as if fully set forth herein, its responses to

Paragraphs 1-129.

146. Paragraph 146 sets forth legal conclusions to which no response is required.

The allegations in Paragraph 146 are not directed at Lexington Law and therefore do not require a response.

147. Paragraph 147 sets forth legal conclusions to which no response is required.

The allegations in Paragraph 147 are not directed at Lexington Law and therefore do not require a response.

148. The allegations in Paragraph 148 are not directed at Lexington Law and therefore do not require a response.

149. The allegations in Paragraph 149 are not directed at Lexington Law and therefore do not require a response.

150. The allegations in Paragraph 150 are not directed at Lexington Law and therefore do not require a response.

151. Paragraph 151 sets forth legal conclusions to which no response is required.

The allegations in Paragraph 151 are not directed at Lexington Law and therefore do not require a response.

152. The allegations in Paragraph 152 are not directed at Lexington Law and

therefore do not require a response.

153. Paragraph 153 sets forth legal conclusions to which no response is required.

The allegations in Paragraph 153 are not directed at Lexington Law and therefore do not require a response.

154. Defendant incorporates by reference, as if fully set forth herein, its responses to Paragraphs 1-129.

155. Paragraph 155 sets forth legal conclusions to which no response is required. The allegations in Paragraph 155 are not directed at Lexington Law and therefore do not require a response.

156. Paragraph 156 sets forth legal conclusions to which no response is required. The allegations in Paragraph 156 are not directed at Lexington Law and therefore do not require a response.

157. Paragraph 157 sets forth legal conclusions to which no response is required. The allegations in Paragraph 157 are not directed at Lexington Law and therefore do not require a response.

158. The allegations in Paragraph 158 are not directed at Lexington Law and therefore do not require a response.

159. Paragraph 159 sets forth legal conclusions to which no response is required. The allegations in Paragraph 159 are not directed at Lexington Law and therefore do not require a response.

160. Paragraph 160 sets forth legal conclusions to which no response is required. The allegations in Paragraph 160 are not directed at Lexington Law and therefore do not require a response.

161. Paragraph 161 sets forth legal conclusions to which no response is required. The allegations in Paragraph 161 are not directed at Lexington Law and therefore do not require



a response.

162. Defendant incorporates by reference, as if fully set forth herein, its responses to Paragraphs 1-129.

163. Paragraph 163 sets forth legal conclusions to which no response is required. The allegations in Paragraph 163 are not directed at Lexington Law and therefore do not require a response.

164. Paragraph 164 sets forth legal conclusions to which no response is required. The allegations in Paragraph 164 are not directed at Lexington Law and therefore do not require a response.

165. The allegations in Paragraph 168 are not directed at Lexington Law and therefore do not require a response.

166. Paragraph 166 sets forth legal conclusions to which no response is required. The allegations in Paragraph 166 are not directed at Lexington Law and therefore do not require a response.

167. Paragraph 167 sets forth legal conclusions to which no response is required. The allegations in Paragraph 167 are not directed at Lexington Law and therefore do not require a response.

168. Paragraph 168 sets forth legal conclusions to which no response is required. The allegations in Paragraph 168 are not directed at Lexington Law and therefore do not require a response.

169. Paragraph 169 sets forth only legal conclusions that do not require a response. To

the extent a response is required, Defendant denies the allegations in Paragraph 169.

170. Defendant denies that Plaintiff is entitled to any of the relief requested in Paragraph 170.

Dated: August 31, 2022

Respectfully submitted,

/s/ Edward J. Bennett

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 31, 2022, I caused a true and correct copy of the foregoing to be filed on the CM/ECF system, which will send notification of such filing to all parties and counsel in this case.

/s/ Emma J. Nino  
Emma J. Nino