UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

Case No. 3:14-cv-786-J-34PDB

vs.

LANIER LAW, LLC, et al.,

Defendants.
_____/

O R D E R

THIS CAUSE is brought by the Federal Trade Commission (FTC), pursuant to its authority under section 5 of the Federal Trade Commission Act (FTC Act), 15 U.S.C. § 45, against Defendants Lanier Law LLC, Fortress Law Group LLC, Surety Law Group LLP (Surety), Liberty & Trust Law Group of Florida LLC (Liberty & Trust), Fortress Law Group, PC (Fortress DC), Redstone Law Group, LLC (Redstone DC), Michael W. Lanier, Rogelio Robles and Edward William Rennick III (Defendants).[1] The FTC alleges that Defendants violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the Mortgage Assistance Relief Services Rule (MARS Rule), 16 C.F.R. Part 322, recodified as Mortgage Assistance Relief Services (Regulation O), 12 C.F.R. Part 1015 (Regulation O), and the Telemarketing Sales Rule (TSR), 16 C.F.R. Part 310, in connection with the marketing and sale of mortgage assistance relief services. See generally Plaintiff Federal Trade Commission's Amended Complaint for Permanent Injunction and Other Equitable Relief (Doc. 91; Amended

[1] Defendants Surety, Redstone DC, and Rennick reached a settlement with the FTC. Those parties filed a Joint Motion of Plaintiff and Defendants Edward Rennick III, Surety Law Group LLP, and Redstone Law Group LLC to Approve and File the Stipulated Order for Permanent Injunction and Monetary Judgment (Doc. 230) on November 10, 2015, which the Court will address by separate order.

materials." Rule 56(c)(1)(A).[4] An issue is genuine when the evidence is such that a reasonable jury could return a verdict in favor of the nonmovant. See Mize v. Jefferson City Bd. of Educ., 93 F.3d 739, 742 (11th Cir. 1996) (quoting Hairston v. Gainesville Sun Publ'g Co., 9 F.3d 913, 919 (11th Cir. 1993)). "[A] mere scintilla of evidence in support of the non-moving party's position is insufficient to defeat a motion for summary judgment." Kesinger ex rel. Estate of Kesinger v. Herrington, 381 F.3d 1243, 1247 (11th Cir. 2004) (citing Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252 (1986)).

The party seeking summary judgment bears the initial burden of demonstrating to the court, by reference to the record, that there are no genuine issues of material fact to be determined at trial. See Clark v. Coats & Clark, Inc., 929 F.2d 604, 608 (11th Cir. 1991). "When a moving party has discharged its burden, the non-moving party must then go beyond the pleadings, and by its own affidavits, or by depositions, answers to interrogatories, and admissions on file, designate specific facts showing that there is a genuine issue for trial." Jeffery v. Sarasota White Sox, Inc., 64 F.3d 590, 593-94 (11th Cir. 1995) (internal citations and quotation marks omitted). Substantive law determines the materiality of facts, and "[o]nly disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment." Anderson, 477 U.S. at 248. In determining whether summary judgment is appropriate, a court "must

[4] Rule 56 was revised in 2010 "to improve the procedures for presenting and deciding summary-judgment motions." Rule 56 advisory committee's note 2010 Amendments.

> The standard for granting summary judgment remains unchanged. The language of subdivision (a) continues to require that there be no genuine dispute as to any material fact and that the movant be entitled to judgment as a matter of law. The amendments will not affect continuing development of the decisioents

declarations, stipulations (including those made for purposes of the motion only) missions, interrogatory answers, or other materials." See Rule 56(c)(1)(A) (emphasis ded). To rely on a declaration, the Rule requires that it: "be made on personal owledge, set out facts that would be admissible in evidence, and show that the affiant or clarant is competent to testify on the matters stated." Rule 56(c)(4). In the declarations omitted by the FTC, the declarants state that they are over 18 years of age, have sonal knowledge of the facts stated, and would testify to those facts if called. See, e.g., C Motion, Exs. 1A, 1B, 2-25, 300-338. Moreover, each declaration is signed under nalty of perjury pursuant to 28 U.S.C. § 1746. Id. As such, to the extent the declarations ntain testimony that would be admissible in Court if the declarant were called to testify, Court may appropriately consider these declarations in resolving the instant Motions. e Rule 56(c)(1)(A), (c)(4); McMillian v. Johnson, 88 F.3d 1573,

Lanier also challenges the credibility of the FTC investigators who filed declarations in support of the FTC Motion. See Lanier Response at 20-21. "Generally, judicial credibility determinations are not proper at the summary judgment stage of the proceedings." Young v. Rios, 390 F. App'x 982, 983 (11th Cir. 2010). However, upon review, Lanier's credibility challenge does little to undermine the testimony of the investigators and instead reflects Lanier's fundamental misunderstanding of the difference between a legal and a factual question. See Lanier Response at 20. Moreover, to the extent Lanier takes issue with the way the FTC divided the investigatory tasks among the investigators and the attorneys, he fails to explain how this is relevant to the matter of credibility. Notably, the testimony of the FTC investigators is largely supported by extensive documentary evidence, the authenticity of which Lanier does not challenge. Thus, in the absence of any specific argument regarding a particular aspect of an investigator's testimony, the Court finds that Lanier's general credibility attack is insufficient under the circumstances to create an issue of fact. See Curl v. Int'l Bus. Machs. Corp., 517 F.2d 212, 214 (5th Cir. 1975) ("[T]he opposing party may not merely recite the incantation, 'Credibility,' and have a trial on the hope that a jury may disbelieve factually uncontested proof." (internal quotation omitted)).[6]

[6] In Bonner v. City of Prichard, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

III. Background[7]

A. The Participants

Defendant Michael W. Lanier is an attorney, licensed to practice law in the State of Florida. See Lanier Response at 6. In approximately 2011, Lanier established Lanier Law, LLC, which operated under various names, including "The Law Offices of Michael W. Lanier," "Fortress Law Group," "Redstone Law Group," and "Vanguard Law Group"

[7] Because this case is before the Court on cross-motions for summary judgment, the Court will, when addressing the merits of either party's motion, view the facts presented in the light most favorable to the party opposing summary judgment. The Court will so note its perspective when appropriate. The facts recited in this section are either undisputed, or any disagreement has been indicated. See T-Mobile South LLC v. City of Jacksonville, Fla., 564 F. Supp. 2d 1337, 1340 (M.D. Fla. 2008).

The Court notes that the Fortress Defendants do not submit any evidence with their Response. See generally Fortress Response. These Defendants previously submitted evidence during the preliminary injunction stage of the proceedings. See Defendants Surety Law Group, LLP, Redstone D.C., Fortress D.C., Robles and Rennick's Response to FTC's Renewed Motion for Preliminary Injunction (Doc. 103; D.C. Entities Prelim. Inj. Resp.); Notice of Filing (Doc. 112). Because the Fortress Defendants do not cite to that evidence in their Response, the Court need not consider it. See Rule 56(c). Nonetheless, the Court discussed that evidence at length during the preliminary injunction hearing on February 19, 2015, see Minute Entry (Doc. 118), and incorporates herein by reference the transcript of that hearing, specifically with respect to the Court's summary of the undisputed evidence. See Telephonic Continuation of Preliminary Injunction Hearing (Doc. 122; Feb. 19 Tr.) at 14-33. Likewise, the Lanier Defendants also submitted evidence in response to the FTC's request for a preliminary injunction. See Declarations (Docs. 24-26, 46). The Court incorporates its discussion of that evidence during the August 1, 2014 preliminary injunction hearing. See Continuation of Preliminary Injunction Hearing (Doc. 62; Aug. 1 Tr.) at 6-9, 16-17.

In addition, because Lanier responded to the FTC Motion in the form of an affidavit, his Response contains both legal argument and assertions of fact. To the extent Lanier intends for his legal arguments to constitute evidence in opposition to the FTC Motion, he is mistaken. See Avirgan v. Hull, 932 F.2d 1572, 1577 (11th Cir. 1991) ("A nonmoving party, opposing a motion for summary judgment supported by affidavits cannot meet the burden of coming forth with relevant competent evidence by simply relying on legal conclusions . . . . The evidence presented cannot consist of conclusory allegations or legal conclusions." (internal citation omitted)). Likewise, the general denials and conclusory factual assertions included in the Lanier Response, although sworn, are nonetheless insufficient on summary judgment to create an issue of fact in the face of specific evidence to the contrary. See Leigh v. Warner Bros., Inc., 212 F.3d 1210, 1217 (11th Cir. 2000) ("[O]ne who resists summary judgment must meet the movant's affidavits with opposing affidavits setting forth specific facts to show why there is an issue for trial." (emphasis added) (internal quotation omitted)); Evers v. Gen. Motors Corp., 770 F.2d 984, 986 (11th Cir. 1985) ("This court has consistently held that conclusory allegations without specific supporting facts have no probative value."); Broadway v. City of Montgomery, Ala., 530 F.2d 657, 660 (5th Cir. 1976) ("The affidavit constitutes nothing more than a recital of unsupported allegations, conclusory in nature. As such it is insufficient to avoid summary judgment." (internal footnote omitted)); see also Hall v. Sunjoy Indus. Grp., Inc., 764 F. Supp. 2d 1297, 1304 (M.D. Fla. 2011) ("'[U]nsubstantiated, conclusory allegations are insufficient to survive summary judgment' when contradicted by the record." (quoting Kloha v. Duda, 246 F. Supp. 2d 1237, 1242 (M.D. Fla. 2003))).

(collectively, Lanier Law).[8] See FTC Motion, Ex. 200: Deposition of Michael W. Lanier (Doc. 269; Lanier Dep.) at 14-15.[9] Under these various names, Lanier offered mortgage assistance relief services, such as foreclosure defense and loan modifications, to consumers nationwide who were in danger of losing their homes. See Declaration of Michael W. Lanier (Doc. 25; Lanier Decl.) ¶ 5.[10] Lanier contracted with a company called Pinnacle Legal Services (Pinnacle), owned by Defendant Rogelio Robles, Defendant Edward W. Rennick III, and Willem Young, to provide legal staffing for Lanier Law.[11] See Lanier Dep. at 20; see also FTC Motion, Ex. 201: Deposition of Rogelio Robles (Doc. 270; Robles Dep.) at 55-56.[12] Pinnacle also provided legal staffing for Lanier's operations as Redstone and Vanguard. See Lanier Dep. at 67. Another company, Fortress Legal Services, owned by Robles, provided legal staffing for the work Lanier did as Fortress Law

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Group. See id. at 67-68; see also Robles Dep. at 92. As such, according to Lanier, he was the only employee of Lanier Law, see Lanier Dep. at 164, and the individuals working in his office, answering the phone, and managing his case files were employees of the staffing companies, id. at 63-65. Lanier Law paid Pinnacle and Fortress Legal Services for the hours these employees worked at the firm. Id. at 68.

Robles owned another business called the Department of Loss Mitigation and

Florida, and owned by Young, to print and mail flyers, including a flyer titled Economic Stimulus Mortgage Notification. See Robles

Liggins Decl., Atts. M, N; FTC Motion, Ex. 28: Declaration of Roberto C. Menjivar (Menjivar Decl.), Att. L. Pursuant to its equity and partnership agreement, Surety was a partnership of Pablo Santiago, Jr., Esq., an attorney licensed in the District of Columbia (D.C.), as well as Rennick, Robles, and Young. See Menjivar Decl., Att. K.[17] Robles and Tina Greene, a member of the D.C. Bar, entered into a partnership agreement forming Fortress DC. See Liggins Decl., Att. N; Robles Dep., Ex. 115. Redstone DC's members were Rennick, Lanier, Robles, Young, and John James Kane Jr. See Menjivar Decl., Att. M. However, Lanier held only a six percent interest in Redstone DC, id., which he later abandoned. See Lanier Decl. at 6 n.2; Rennick Dep. at 29.[18] Robles, Rennick, Lanier and Young decided to open the DC Entities after they "figured out that there was a way that a nonattorney could own a law firm out of DC . . . ." See Robles Dep. at 32.[19] Although these businesses were formed in D.C. and had D.C. addresses, their D.C. offices were merely "virtual offices" to which mail could be delivered, but was then forwarded to Jacksonville, Florida. See

[17] On January 16, 2013, the partners amended the partnership agreement to remove Pablo Santiago, and replace him with John James Kane, Jr., Esq. See Menjivar Decl., Att. K.

[18] In his Response, Lanier asserts that the FTC Motion indicates that he was only a partner in Redstone DC for nineteen days, and he thereafter adopts that as fact. See Lanier Response at 8, 18-19. The Court does not interpret the cited paragraphs of the FTC Motion in the same way. See FTC Motion ¶¶ 51-53 (asserting that Lanier signed an operating agreement with Redstone DC on September 19, 2012, and that Lanier transferred Lanier Law's client files to the DC Entities on October 8, 2012). As such, the Court rejects Lanier's mischaracterization of the evidence and relies on Lanier's previous Declaration in which he stated that he was a member of Redstone DC for no more than three months. See Lanier Decl. at 6 n.2.

[19] Lanier denies that he had any involvement in the formation of the DC Entities. See Lanier Response at 10-11. However, as set forth below, Lanier concedes that he transferred his foreclosure defense cases to Redstone DC and Fortress DC, Redstone DC used the same Pinnacle computer server to access the files of Lanier's former clients, the same Pinnacle employees who had worked for Lanier thereafter worked for Redstone DC and Surety DC, Lanier allowed the principals of the DC Entities to "take over" his merchant payment processing portals, and Lanier continued to manage the of-counsel attorney network on behalf of Surety and Redstone DC. See Lanier Response at 10-12; Supplemental Declaration of Michael W. Lanier (Doc. 46; Lanier Supp. Decl.) ¶¶ 9-12.

Rennick Dep. at 33; Kane Dep. at 19-20; FTC Motion, Ex. 204: Deposition of Tina Greene (Doc. 273; Greene Dep.) at 56.[20]

In August and October of 2012, respectively, Lanier stopped accepting new clients for Lanier Law d/b/a Redstone, and Lanier Law d/b/a Fortress. See Lanier Decl. ¶¶ 11, 12. Lanier maintains that in October of 2012, he transferred his law practice to the DC Entities. See Lanier Dep. at 68-69. Specifically, on October 8, 2012, Lanier sold the "Foreclosure Defense; Loss Mitigation; Debt Management and Debt Defense Litigation," areas of his law practice to Redstone DC, and transferred "all of Lanier's existing cases, consenting clients, and fees from Lanier to Redstone." See Menjivar Decl., Att. O.[21] Lanier also transferred his foreclosure defense clients to Fortress DC. See Lanier Response at 8. At that time, Pinnacle stopped working for Lanier and transitioned to the DC Entities, see Lanier Dep. at 68-69; Rennick Dep. at 48-49, such that the Pinnacle employees who had previously serviced clients of Lanier Law continued their involvement with those clients on behalf of the respective DC Entity. See Lanier Dep. at 24. Likewise, the employees of DOLMF working on behalf of Lanier Law transitioned to working for Fortress DC. See Robles Dep. at 43. Lanier left in place his "Moneygram portal" and "Merchant Account portal," by which

[20] Surety's D.C. address is listed on consumer agreements as 2101 L Street NW, Suite 800. See FTC Motion, Ex. 335, Att. A. Surety also had a Processing & Enrollment Center at 6821 Southpoint Drive, North, Suite 125. See id., Att. B; see also Rennick Dep. at 62. The virtual office for Fortress DC was 1629 K Street

consumers could submit payments, and allowed the DC Entities to "take over" those accounts to "accommodate[]" the "reasonable requests" of his "friends," the principals of those Entities. See Lanier Response at 12; Supplemental Declaration of Michael W. Lanier (Doc. 46; Lanier Supp. Decl.) ¶ 10. In addition, according to Lanier, he continued to recruit and maintain the of-counsel network for Reds

Randle formed a new partnership called Ameritrust Law Group, which also has a virtual office in D.C., with all mail forwarded to a Florida location. See Kane Dep. at 22, 35-36.[23]

B. The Lawyers

Lanier Law and the DC Entities utilized a substantially similar business model. These companies operated as "law firms" in two ways: (1) they entered into agreements with attorneys throughout the United States to act as "of counsel" attorneys for the firms, see Lanier Response at 7; Lanier Decl. ¶ 5; Rennick Dep. at 128-30; FTC Motion, Exs. 400-406, and (2) each law firm was formed with one attorney as a member or partner, see Lanier Response at 7; Menjivar Decl., Atts. K, M; Robles Dep., Ex. 115. With respect to the "of counsel" attorney network, Lanier found and hired these attorneys, both for Lanier Law and later, for Redstone DC and Surety. See FTC Motion, Exs. 400-06; see also Supp. Lanier Decl. ¶ 9. Some of the "of counsel" attorneys who began their relationship with Lanier Law, subsequently transitioned to working for Redstone DC, Fortress DC and/or Surety. See FTC Motion, Exs. 401-04, 406. The principals of Lanier Law and the DC Entities associated "of counsel" attorneys in other states so that these businesses could expand their operations to those states. See Rennick Dep. at 129-30 ("We absolutely knew that if we were going to have a client in another state, we needed to have an attorney. . . . We needed an attorney in that state to be able to provide foreclosure defense services."). As such, the client agreements that Lanier Law and the DC Entities provided to consumers refer to the law firm retaining "outside counsel" or working with "counsel local to Client," to provide the consumer with legal representation. See, e.g., FTC Motion, Ex. 321, Att. D

[23] Ameritrust's D.C. office is located at 20 F Street, 7th Floor, and its registered agent is listed as Rennick with an address at 4110 Southpoint Blvd. See FTC Motion, Ex. 30, Att. A.

(2014 Redstone Application for Foreclosure Defense Services); Ex. 323, Att. A (2013 Fortress Application); Ex. 335,

Firm will receive initial communications from such clients, draft and tender appropriate documents in order to 'sign up' such clients. That document will be from the firm and signed by [lawyer-member of firm, e.g., Kane, Lanier, Santiago] or another firm partner and co-signed by electronic signature of associated [relevant state] counsel.

The Firm will then refer the client to Lawyer for Limited Scope Representation pursuant to his own local Bar's Rules and Ethics Opinions. The Firm may, if Lawyer agrees, suggest drafts correspondence [sic] and documents on Lawyer's letterhead and for Lawyer's signature, as soon as Lawyer has reviewed, revised, and approved the final draft of such. Facsimile signatures may be used for final drafts approved by Lawyer, so that the Firm can assemble and deliver such approved final drafts to appropriate parties, including the client who may file pleadings, etc., with the court.

If and when pleadings, including, but not limited to, Petitions for Temporary Restraining Order, etc., become appropriate, such may be preliminarily drafted by the Firm, based upon the availability to the firm of the underlying documents and details. The Firm will email, or otherwise expeditiously transfer the proposed pleading to Lawyer **in order that (s)he may exercise his/her independent judgment on the content and form**

> 8. There was actually not a lot to do. Much of what was done was performed by the firms' employees in Jacksonville, Florida.

See FTC Motion, Ex. 404: Declaration of Chanda Roby (Roby Decl.) ¶¶ 6-8, 16, Att. A. In the nearly two years that Roby worked for these firms, she does not recall ever contacting any client or potential client, and no client or potential client ever contacted her. Id. ¶ 10. She maintains that neither Lanier nor anyone else from the firms requested that she "call consumers after they signed up as

maintains that "[t]here was nothing of substance that [he] did," he was given no instruction, and it "seemed to [him] that they were just paying [him] to have an of counsel designation."

Declaration of Deron Tucker (Tucker Decl.) ¶ 7. However, Tucker "assured them that [he] did not represent them," and was particularly concerned by the fact that, in some cases, the calls were from consumers whose files he had not even reviewed. Id. Troublingly, Taylor and Dale recount that their names and signatures were used on documents without their authorization.[24] See Taylor Decl. ¶ 14 ("A few months before I was terminated, I complained that Lanier and Surety had used my name on a document that I had not reviewed."); Dale Decl. ¶ 10 ("Although my signature appears on certain correspondence, I never physically signed or authorized that my signature be placed on any such correspondence."); see also FTC Motion, Ex. 300: Second Supplemental Declaration of Michael S. Liggins (2nd Supp. Liggins Decl.), Att. PP.[25]

Each "law firm" entity also had a licensed attorney as a member or partner. Specifically, Lanier "was at all times a sole practitioner" with respect to Lanier Law and Liberty & Trust, see Lanier Response at 7, Tina Greene, an attorney licensed in the D.C., was the attorney member of Fortress DC, Surety was formed in partnership with Pablo Santiago, Jr., Esq., who was later replaced by John James Kane, Jr., Esq., and Redstone

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[24] Additionally, Neil Braslow, an "of counsel" attorney for Redstone, resigned after he heard from another attorney "that there was a paralegal with Redstone who was saying that [Braslow] had reviewed her work, but [Braslow] had no knowledge of what had been produced." See FTC Motion, Ex. 400 ¶ 11. However, the Court does not consider this evidence in determining whether summary judgment is appropriate as it appears to include inadmissible hearsay and the FTC has made no showing that it can reduce the evidence to an admissible form.

[25] Specifically, Attachment PP is a November 11, 2013 email from Alexis Wrenn to Michael Lanier asking for advice on how to respond to an email from Andrew Taylor. See 2nd Supp. Liggins Decl. ¶ 20.n., Att. PP. Taylor emailed Alexis Wrenn and Michael Lanier to complain about the use of his signature on a letter to a lender without his permission. Id. Wrenn's message to Lanier appears to suggest that this was a standard practice. Specifically, Wrenn wrote to Lanier, in pertinent part: "I'm at a loss for a response to this. . . . I've reviewed everything with him, as I have with every attorney we work with, and no one balks the way that he does. In the Interim, his name and respective signature have been removed from our qwr's." See id. Wrenn explained in an earlier email to Taylor that a "qwr," shorthand for a "Qualified Written Request," is "a letter that is sent out to the lenders to assist in obtaining information regarding each client's particular loan to assist us when working the file." Id.

was formed with Kane as its attorney member. See Menjivar Decl., Atts. K (Surety Partnership Agreement), M (Redstone DC Operating Agreement); Robles Dep., Ex. 115 (Fortress DC Partnership Agreement). However, Kane and Greene were paid a salary and were contractually excluded from receiving any profits of the foreclosure defense or debt management aspects of the firm's business. See Fortress DC Partnership Agreement ¶ 7 ("Ms. Greene will be a non-equity partner, also known as salaried and not share in the profits of any foreclosure defense, loss mitigation, loan modification, debt management or some bankruptcy cases brought in through the firm."); Redstone DC Operating Agreement ¶ 3.06(a) ("Mr. Kane will also be paid 10% of the net fees earned from any new business of the firm which in any month are in excess over his salary of $4,000, but not including, and all exclusive of, debt management services and foreclosure defense matters."); Menjivar Decl., Att. K (amendment to the Surety Partnership Agreement replacing Santiago with Kane and providing that "Kane will have no initial salary, and will participate financially in the fees generated in areas other than, and to the exclusion of, foreclosure defense, loss mitigation, and debt management, to the extent of 10% of the net fees generated therein"). Moreover, Kane and Greene both maintain that they had no involvement in the debt mitigation or foreclosure defense aspects of the business. See Kane Dep. at 31-32, 49, 81, 106; Greene Dep. at 37, 43, 53-54, 81.

Although Greene did provide legal services to clients that were referred to her from Fortress, those services pertained to "bankruptcies or issue[s] with probate or issue[s] with taxes or something like that . . . ." See Greene Dep. at 53. While Greene's relationship with the client "typically started off" with the client trying to save their home from foreclosure, the legal services Greene provided were always something other than foreclosure defense.

Id. at 39-40, 53-54. Greene states that she "never worked in foreclosure defense." Id. at 54. According to Greene, "[i]f they wanted to go through bankruptcy then I would help with their bankruptcy. If they had some other issue that was ancillary to their foreclosure, I would handle that." Id. Indeed, Greene does not view foreclosure defense and loan modifications as "legal work," and testifies that: "I didn't handle loan modifications or foreclosure defense. I just handle legal work. When I say legal work, I'm saying things where you would need a JD and a license in that jurisdiction in order to perform." Id. at 81. Aside from those consumers to whom Greene provided bankruptcy counsel, she kept no records on Fortress DC clients. Id. at 59-61, 67-68, 83-85. She handled none of the client funds for Fortress DC, and she neither trained nor supervised the Jacksonville employees of Fortress DC. See Greene Dep. at 42, 44, 58, 67-68. Greene does recall talking to Pam Thomas and Robles periodically when a legal question would arise regarding one of the Fortress DC clients, such as a bankruptcy question or an insurance dispute. Id. at 15-17. Greene also states that she frequently talked to attorneys, independently retained by a Fortress client, concerning that client's situation or his or her bankruptcy options. See id. at 14-15, 23, 26, 37-38. Notably, Greene maintains that if she spoke to a client who needed legal assistance in a state where Greene herself was not licensed, Greene would advise that client to secure an attorney and Greene would communicate with that outside attorney. Id. at 15, 23-26, 47. Although Greene was aware that Fortress DC had an "of counsel" attorney network, she did not understand that Fortress DC had agreements with those attorneys, and "would have been against it given the fact that [she] wanted each and every client to be able to secure their own attorneys." Id. at 28-29, 46. Indeed, Greene expressed to Robles her opposition to any scenario where Fortress DC obtained attorneys on behalf

they were at with the whole process of their debt, and at that point they would determine where that lead would go to." See Robles Dep. at 44. Liberty & Trust operated with its own employees and did not directly make use of the third-party staffing companies, see Lanier Dep. at 164, although its employees largely came from Redstone DC or had some connection to Rennick. Id. at 141-43. Consumers would call after receiving a letter or flyer in the mail, ostensibly from one of the "staffing" agencies, or after finding one of the Law Firms on the internet. See, e.g., FTC Motion, Ex. 13 (FURF for Surety), Ex. 19 (Surety website), Ex. 312 (DOLMF for Lanier Law); Ex. 321 (Safepoint for Redstone DC), Ex. 328 (Fortress DC website), Ex. 332 (Fortress DC). Liberty & Trust also obtained clients through the use of solicitation letters. See Lanier Dep. at 167-69, Ex. 152; FTC Motion, Ex. 315 ¶ 3, Ex. 325 ¶ 3. Other consumers hired Lanier Law or the DC Entities after someone employed by a law firm or one of the "staffing" agencies contacted the consumer by telephone. See FTC Motion, Ex. 3 ¶ 4 (Fortress DC); Ex. 14 ¶ 4 (FURF with a referral to Fortress DC); Ex. 15 ¶ 3 (Redstone DC); Ex. 21 ¶¶ 3-4 (DOLMF with a referral to Lanier as Fortress); Ex. 26 ¶ 3 (DOLMF with a referral to Lanier Law); Ex. 308 ¶ 4 (Redstone DC); Ex. 323 ¶ 6 (Fortress DC); Ex. 326 ¶ 5 (Fortress DC); Ex. 327 ¶ 6 (Redstone DC); Ex. 329 ¶¶ 6-7 (FURF with a referral to Fortress DC); Ex. 335 ¶¶ 3-4 (Surety); see also Guilty Plea (admitting that individuals working for DOLMF contacted consumers). Four of these consumers assert that they received the calls at a telephone number registered on the National Do-Not-Call List. See FTC Motion, Ex. 21 ¶¶ 3-4 (DOLMF recommending Lanier

Principal Interest Payments, Loan Payment Reduction, Debt Reduction, Budget Counseling, Delinquent Mortgage Payment Assistance and the New Home Savers Advantage Program." Id.[28] Although the third paragraph of the Flyer does inform the reader that the organization "is independent of all government agencies and departments," it also states that "[t]hese programs may require the use of Government Insured Funds." Id.

The record contains various copies of the Economic Stimulus Flyer which identify the sender as DOLMF, see FTC Motion, Exs. 311, 312, 317, FURF, id., Exs. 13, 17, Safepoint, id., Exs. 25, 324, or simply "Processing & Enrolment Center," id., Ex. 18. The consumers who received the Flyer from DOLMF, upon calling the number listed, were referred to a Lanier Law entity. Id., Exs. 311, 312, 317. Consumers who called the number after receiving a Flyer from Safepoint Financial Relief either reached a Redstone DC representative or were referred to Redstone DC by someone working for Safepoint. Id., Exs. 25, 324. In addition, those calling in response to a FURF Flyer were referred to Surety Law Group, id., Ex. 13, or Lanier Law d/b/a as Fortress Law Group, id., Ex. 17. As to the

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[28] Later versions of the Flyer omit reference to the "Non Profit Housing Counseling Organization," and urge consumers to "complete the registration process by reviewing your savings options such as . . . ." See 2nd Supp. Liggins Decl. ¶ 19, Att. BB. Some of the Economic Stimulus Flyers in the record also contain fine print disclaimers reading: "Information was obtained from public record sources. Products or services has not been approved or endorsed by any government agency and this offer is not being made by any agency of the government. This is not a notice from your Lender. Do not delay, this situation requires swift action." See FTC Motion, Ex. 324, Att. A. Still other versions of the Flyer included additional language in the disclaimer stating that Redstone Law Group or Surety Law Group:

> is a District of Columbia law firm, the attorney member of which is licensed to practice only in the District of Columbia. However, Redstone [or Surety] has working arrangements with experienced and competent lawyers and law firms in many other states, so that prospective clients can be referred, at no additional cost to the client, to appropriate lawyers in the state where their claim arose. Those lawyers in the prospective clients' states usually assume primary responsibility for each client's case, and may be assisted by Redstone [or Surety] counsel, with the client's consent, all in accordance with District of Columbia and the forum state Bars' rules.

See 2nd Supp. Liggins Decl. ¶ 19, Att. BB at 2; FTC Motion, Ex. 18, Att. A.

Economic Stimulus Flyer sent from the "Processing & Enrolment Center," the fine print of this Flyer references Surety Law Group, but when the consumer called he was told he had reached Redstone Law Group. See id., Ex. 18. Consumers received these Flyers from early 2012 until late 2013. See id., Exs. 17, 25, 317, 324. The FTC also submits copies of this same Flyer, provided in discovery or found in its search of Defendants' premises, which include references to DOLMF, F

would first speak to an employee of one of the "staffing" agencies, either DOLMF, FURF, or Safepoint, who would tell the consumer that one of the Law Firms would be able to help the consumer obtain a loan modification. See, e.g., FTC Motion, Ex. 7 ¶ 3 (FURF for Fortress DC); Ex. 13 ¶ 3 (FURF for Surety); Ex. 333 ¶ 4 (Safepoint for Redstone DC); Ex. 337 ¶ 3 (DOLMF for Lanier Law). Other consumers spoke directly to representatives of a Law Firm. See, e.g., id., Ex. 9 ¶ 4 (paralegal at Redstone DC); Ex. 22 ¶ 4 (Lanier Law as Fortress representative); Ex. 24 ¶ 4 (Lanier Law representative); Ex. 325 ¶¶ 3-4 (Liberty & Trust representative); Ex. 335 ¶ 5 (Surety representative). Sometimes the third-party representatives would enroll the consumers and provide them with a Law Firm's paperwork, other consumers were referred to "case managers" who would complete the enrollment process. See, e.g., id. Ex. 4 ¶¶ 3-6 (Safepoint refers to Redstone DC case manager); Ex. 333 ¶¶ 3, 6 (Safepoint enrolls consumer for Redstone DC); Ex. 337 ¶¶ 3-4 (DOLMF enrolls consumer Lanier Law). In these introductory conversations, either the initial contact person or the case manager, would tell the consumer that the Law Firm could obtain a loan modification for the consumer with significantly lower payments and a lower interest rate. See, e.g., id., Ex. 7 ¶ 3 (FURF for Fortress DC); Ex. 9 ¶ 5 (Redstone DC); Ex. 13 ¶ 3 (FURF for Surety); Ex. 325 ¶ 4 (Liberty & Trust); Ex. 337 ¶¶ 3, 5 (DOLMF for Lanier Law). Sometimes, the representative would specifically state the amount of the anticipated reduced mortgage payment, see, e.g., id., Ex. 322 ¶ 5 (Fortress DC); Ex. 329 ¶ 9 (FURF for Fortress DC); Ex. 333 ¶ 4 (Safepoint for Redstone DC), and/or that the interest rate would be lowered to 2 or 3%, id., Ex. 3 ¶ 4 (Fortress); Ex. 8 ¶ 4 (Lanier Law); Ex. 335 ¶ 6 (Surety). Many consumers were told that the Law Firm could get the consumer a reduction in principal, removal of fees, or amounts past due wiped away. See, e.g., id.,

"approved" or that they "qualified" for programs designed to keep them in their homes. See, e.g., id., Ex. 7, Att. A (letter from Lanier as Fortress congratulating consumer on being approved for the "Homeowner Retention Program" and "Homeowner Bailout Program); Ex. 17 ¶ 6, Att. C (same letter from Fortress); Ex. 21 ¶ 10, Att. B (same letter from Lanier as Fortress); Ex. 317, Att. B (substantially similar letter from Lanier Law); Ex. 25 ¶ 5, Att. B (email from Safepoint that consumer's enrollment application in Redstone DC's "Foreclosure Defense Program" was approved); Ex. 312, ¶ 5 (letter from DOLMF recommending Lanier Law and congratulating

homes. See, e.g., id., Ex. 20 ¶¶ 6-7 (FURF for Fortress DC); Ex. 327 ¶¶ 6-11 (Redstone DC); Ex. 312 ¶ 6 (Lanier Law); Ex. 311 ¶ 4 (Lanier Law as Fortress).

e.g., id., Ex. 306 ¶ 4 (Lanier Law); Ex. 327 ¶¶ 9-10 (Redstone DC)[32]; Ex. 313 ¶ 7 (Fortress DC); see also id., Ex. 332 ¶ 11 (consumer

date, deed in lieu of foreclosure, or cash-for-keys negotiation.[)] The modification process may vary depend

version of the Fortress DC agreement modifies the "Scope of Representation" to state that Fortress DC is providing "limited scope representation" and explains that "Local counsel provides the representation, not Fortress Law Group. Fortress Law Group provides the non-lawyer support, but does not practice law outside D.C." See id., Ex. 323 at 6. The Fortress DC agreements include a description of services similar to that specified in the Lanier Law agreement, including the same "audit review" and negotiation process. Id., Ex. 322 at 7, Ex. 323 at 7. They list similar "typical negotiation outcomes" and caution that "The process may take a few weeks to several months to complete and receive a foreclosure defense offer or until we are notified that a foreclosure defense will not be offered. Please note that your lender may deny your loan restructure several times before we achieve a final result." Id. These agreements also contain the same "Please note" disclaimers as the Lanier Law contract specifying that the attorney has made no guarantees concerning the outcome, as well as a disclaimer stating: "We never at any time recommend that homeowners miss their scheduled mortgage payments." Id. With respect to fees, these agreements instruct the consumer that "[i]f you cancel our services at any time during the negotiating process, we will have the right to keep any fees paid to the law firm for services and time allocated to your case." Id., Ex. 322 at 8, Ex. 323 at 7, 9. The Fortress DC agreements go further than the Lanier Law retainer and emphasize that "The Fees noted below are intended as a pure retainer and are fully earned and non-refundable upon engagement of the firm." Id., Ex. 322 at 8, Ex. 323 at 8. The Fortress DC client agreements do mention the use of a trust account in a statement that: "You shall pay into trust to Fortress Law Group (the "Retainer") to be billed against for negotiating your mortgage." Id., Ex. 322 at 8; see also id., Ex. 323 at 8 ("You shall pay into trust to Fortress

Law Group the retainer that includes your locally licensed counsel's fee to be billed against for negotiating your mortgage.").

The Redstone DC and Surety agreements are largely identical to the structure and content of the Lanier Law and Fortress DC agreements. See id., Ex. 321, Att. D, Ex. 335, Att. A. They begin with an introductory letter titled "Application for Foreclosure Defense Services" which explains that Redstone DC, or Surety, has "successfully worked with lenders across the country in reducing interest rates, fixing adjustable rate mortgages, reallocating mortgage arrears, postponing foreclosure sale dates and other foreclosure defense services." See id., Ex. 321 at 14; Ex. 335 at 6. The letter states that Redstone DC or Surety "makes no promises or guarantees on interest rate or loan terms, but will work diligently on your behalf to negotiate and obtain the best possible offer from your lender." Id. Substantially similar letters accompany some copies of the Fortress DC agreements in the record. See, e.g., id., Ex. 323 at 5. The Redstone DC and Surety

any offers obtained. Id., Ex. 325 at 9. It also includes the same cautionary language about discontinuing mortgage payments. Id. The description of services omits any reference to an audit and describes the negotiation process as: "Negotiating with lender's representative regarding any potential foreclosure defense offer. The loss mitigation application may take a few weeks to several months to complete and receive a decision. Please note that your lender may deny your loan restructure several times before we exhaust every available avenue." Id. As in the Surety and Redstone DC agreements, the description of services includes the disclaimer that the law firm "does not make any promises on specific rate or terms of any loan restructure offer." Id. The "Service/Retainer Agreement" form references payment "into our trust account" as a monthly retainer "to be billed against for the above work," and still advises consumers that "[i]f you cancel our services during the negotiation process, we have the right to retain any amounts already earned towards services." Id., Ex. 325 at 10.

E. The Results

Many of the consumers report that once they began paying a Law Firm, they stopped hearing from them, their calls were not answered or returned, they were transferred to new case managers, and it became difficult to communicate with anyone at the Firm. See, e.g., id., Ex. 305 ¶ 8 (Lanier Law); Ex. 309 ¶ 20, 22, 27-31 (Redstone DC); Ex. 312 ¶¶ 9-10 (Lanier Law); Ex. 322 ¶ 10 (Fortress DC); Ex. 327 ¶ 16-18 (Redstone DC); Ex. 334 ¶ 10 (Lanier Law as Fortress); Ex. 335 ¶ 11 (Surety); Ex. 337 ¶¶ 8-10 (Lanier Law). A number of consumers recall that they were asked to send the same documents and forms over and over again. See, e.g., id., Ex. 309 ¶¶ 29-30, 32 (Redstone DC); Ex. 328 ¶ 8 (consumer states that he spent over $100 faxing paperwork to Fortress DC); Ex. 334 ¶ 8

(obtained loan modification through legal aid group after Redstone DC failed); Ex. 313 ¶ 20 (obtained loan modification with a different law group after Fortress DC failed); Ex. 318 ¶ 24 (obtained loan modification on her own after Redstone DC failed); Ex. 323 ¶ 11 (obtained loan modification with another company after Fortress DC failed). In his Response, Lanier maintains that records, "obtained by the FTC either at the immediate access or through discovery show that thousands of modifications were obtained in the course of these law firms' defending the underlying foreclosures." See Response at 6. However, Lanier does not specifically cite to any records supporting this contention. Id. Moreover, his assertion that "modifications were obtained," does not indicate whether these were modifications that substantially reduced the consumer's mortgage payment and interest rate, in keeping with the representations made to consumers. Notably, neither Lanier Law nor the DC Entities present evidence of any consumer who received a loan modification substantially reducing their monthly payment or who otherwise was satisfied with Defendants' services.[33]

[33] Lanier responds to the declarations of two Liberty & Trust consumers by recounting the work Liberty & Trust performed for those consumers. See Lanier Response at 23-26; see also FTC Motion, Exs. 315, 325. Lanier attaches to his Response "the case notes which my office staff kept in the regular course of business, with software that I provided, at the time the described events occurred." See id. at 23-25, Ex. 3 (Doc. 254-3). However, the case notes do not refute that a Liberty & Trust representative made initial representations to these consumers about the firm's ability to obtain a loan modification and prevent foreclosure. Indeed, Lanier does not deny that the statements were made, but relies on the disclaimers in the Liberty & Trust client agreement to argue that these consumers were not misled. See Lanier Response at 22-23, 25. Moreover, even if the case notes demonstrate that Liberty & Trust performed some work on behalf of the consumer, for the reasons discussed at the August 1, 2014 Hearing, the work performed for these consumers is irrelevant. See Aug. 1 Tr. at 17 ("[W]hat matters is not what [Defendants] did for [the consumers], what matters is whether they violated the law in initially obtaining the representation."). It bears noting that one of these Liberty & Trust client reports that Lanier asked her to submit a false affidavit to a bankruptcy court after that court issued an order to show cause against Lanier. See FTC Motion, Ex. 315 ¶¶ 9-10, Att. D. Remarkably, Lanier does not deny or otherwise respond to that portion of the consumer's declaration.

According to many of the consumers, the Law Firms never provided them with any accounting, statement or invoice detailing the services provided for the money paid. See id., Ex. 306 ¶ 6 (Lanier Law); Ex. 313 ¶ 13 (Fortress DC); Ex. 314 ¶ 12 (Liberty & Trust); Ex. 326 ¶ 18 (requested but never received accounting from Fortress DC); Ex. 335 ¶ 13 (Surety). Consumers also report that they were never told where the money was going, or whether it would be placed into a trust account. See, e.g., id., Ex. 305 ¶ 7 (Lanier Law); Ex. 307 ¶ 11 (Redstone DC); Ex. 308 ¶ 8 (Redstone DC); Ex. 337 ¶ 7 (Lanier Law). Several consumers asked for refunds and were ignored, denied, or refunded only a small portion of the money they paid. See, e.g., Ex. 305 ¶ 10 (Lanier Law refunded $900 of $3300 fee after consumer lost home in foreclosure); Ex. 306 ¶ 11 (Lanier Law told consumer that they do not give refunds); Ex. 309 ¶¶ 36-41 (Redstone DC); Ex. 313 ¶ 17 (Fortress DC); Ex. 335 ¶ 15 (Surety).

IV. Lanier Motion

In the Lanier Motion, Lanier appears to seek partial summary judgment not as to any one claim but as to the allegations in paragraphs 19, 24, 27, and 29 of the Amended Complaint which assert that consumers were promised that an attorney would represent them in seeking a loan modification or defending against foreclosure, but consumers did not actually receive any legal representation. See Lanier Motion at 6. Although unclear,

summary judgment to the extent the FTC suggests that Lanier is responsible for the lack of adequate legal representation. Id. at 2, 6. However, based on the evidence set forth above, this argument is without merit.

To the extent consumers were led to believe that an attorney would assist them in

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The FTC presents ample undisputed evidence that Lanier Law, Redstone DC, Fortress DC, Surety, Liberty & Trust, as well as several third-party entities such as DOLMF, FURF, Safepoint, and Pinnacle, operated as a common enterprise. First, as to common control, Robles had an ownership interest in DOLMF, Pinnacle, Redstone DC, Fortress DC and Surety. Robles also served as the Operating Manger of Lanier Law, and concedes that he was in "control" of FURF as it was staffed by DOLMF. Rennick and Young both had ownership interests in Pinnacle, Redstone DC and Surety, and Young also owned Avanti Media which provided the Flyers used by FURF, DOLMF, Safepoint, and Surety to obtain business for both Lanier Law and the DC Entities. Lanier owns Lanier Law as well as Liberty & Trust, and briefly shared an ownership interest in Redstone DC. Lanier also utilized Pinnacle and DOLMF to provide staffing and enrollment services for Lanier Law, and conceded his supervisory authority over those entities to the Florida Bar. Although Lanier did not have a contractual ownership interest in the DC Entities, he managed the of-counsel attorney network for at least Redstone DC and Surety. In addition, emails in the record indicate that Rennick, Robles, Lanier and Young were all involved in the control and operations of the DC Entities, as well as Liberty & Trust. See Menjivar Decl., Att. U; FTC Motion, Ex. 29: Declaration of Evan Castillo (2nd Castillo Decl.), Atts. K, L O, R; see also 2nd Supp. Liggins Decl., Att. KK (February 2014 email correspondence between Lanier and Jones regarding an issue with a Minnesota client in which Lanier mentions a meeting of the "partners," after which "we will give further direction concerning our response" and later states "for the record we have and have never had any other" Minnesota clients (emphasis added)). For example, several emails show coordination between Robles, Lanier, Rennick, Young and Jones regarding how to respond to various

consumer complaints. See 2nd Supp. Liggins Decl., Att. FF (January 2014 email chain involving Lanier, Robles, Jones and Alexis Wrenn of Surety regarding a consumer complaint against Lanier); Att. GG (March 2014 email chain between Jones, Lanier, Robles and Pamela Thomas regarding a New Jersey investigation into a consumer complaint about Fortress DC); Att. RR (October 2013 email chain with Young, Jones, Robles, Rennick, Lanier discussing a Connecticut investigation of a consumer complaint); Att. TT (September 2013 email chain with Young, Jones, Rennick, Robles, and Lanier regarding a subpoena from the Maryland Commissioner of Financial Regulation).

With respect to common officers and employees, because Pinnacle and DOLMF provided staffing for Lanier Law, FURF, and the DC Entities, these entities all have numerous employees in common. In the offices of Surety, Redstone DC, and Pinnacle, FTC investigators found documents listing companies and contact information for Pinnacle, Redstone DC, Surety, and Lanier Law, as well as an "Extension List" naming Chris Carvajal (Safepoint), Marshal Wills (Liberty & Trust case analyst), Wrenn (Redstone DC & Surety office manager), Rennick, and Michael Lanier. See Menjivar Decl. ¶ 10, Atts. E, F; Lanier Dep. at 142. Another document found at that location lists the names and contact information for Redstone DC, Surety, Safepoint, Liberty & Trust, and Ameritrust. See Menjivar Decl., Att. I. Many of the "of counsel" attorneys also report that they signed agreements with several of the Law Firms, moving from Lanier Law to the DC Entities. See, e.g., Dale Decl. ¶ 5; FTC Motion, Ex. 403 ¶ 4 (assertin

Decl., Att. DD (list of “Attorney Network Addresses” with of-counsel attorneys for “Lanier/Surety/Fortress/Redstone”).

Pursuant to the email records, a Pinnacle

at 141. Notably, on March 3, 2014, Spencer received an email from Lanier at a Liberty & Trust address, but both before and after that time Spencer received emails from Wrenn at a Redstone email address. See 2nd Castillo Decl., Atts. J-L. On March 31, 2014, Spencer, at her Liberty & Trust email address, was copied on an email from a Redstone DC employee asking for assistance on a client matter, see id., Att. M, and on April 11, 2014, Spencer received an email at her Redstone address from another Redstone employee about the handling of a client letter, id., Att. N. Lanier does not deny the overlap in employees, but maintains that these employees never worked for more than one Defendant at a time. See Lanier Response at 13. According to Lanier, he "never knowingly employed anyone who was simultaneously employed by another law firm." Id. However, in light of Lanier's reliance on staffing agencies such as Pinnacle and DOLMF, his statement that he never "employed" individuals working on behalf of another entity, does not rebut the evidence that Pinnacle and DOLMF employees worked for several different entities at a time.

These entities also shared offices and office buildings. During the search of Defendants' premises, FTC investigators found that Surety Law Group, Redstone Law Group, and Pinnacle Legal Services were operating out of several offices located on the first floor of Southpoint I at 6821 Southpoint Drive North, Jacksonville, Florida. See 2nd Castillo Decl. ¶ 4. FTC investigators also found documents referencing Liberty & Trust and Lanier in the Surety, Redstone, and Pinnacle offices. See Menjivar Decl. ¶ 10. Within the same office complex, and next to Southpoint I, Michael Lanier had an office in Southpoint II, 4110 Southpoint Blvd., Jacksonville, Florida, which operated as the office of Liberty & Trust. Id. ¶¶ 3, 6. In addition, an address list found during the investigation of these

premises lists an “E&P Center” for Safepoint at the 6821 Southpoint Drive North address, and a “Processing Center” for Ameritrust at the 4110 Southpoint Blvd. address. See 2nd Castillo Decl., Att. A. Moreover, the records of the D.C. Department of Consumer Regulatory Affairs list the business address for both Surety and Fortress DC as 1629 K

Fortress DC utilized a similar "HRP/HBP Acceptance" or "HRP/HBP Approval" letter to solicit consumers to retain their services. See FTC Motion, Ex. 7, Att. A; Ex. 17, Att. C. Lanier Law and the DC Entities also utilized virtually identical "of-counsel" agreements, and Lanier Law, the DC Entities, and Liberty & Trust used client agreements which were substantially similar in both content and appearance. Moreover, unrebutted evidence demonstrates the transfer of funds between these entities. For example, bank records for Lanier Law d/b/a Redstone and Lanier Law d/b/a Fortress accounts reflect deposits into these accounts for several months after Lanier supposedly stopped accepting new clients and transferred his business to the DC Entities. See FTC Motion, Ex. 27: Declaration of Evan Castillo (Doc. 39-2; 1st Castillo Decl.) ¶¶ 4-5 (asserting that deposits for Redstone appear in a Lanier d/b/a Redstone bank account until August 8, 2013, and that deposits for Fortress appear in a Lanier d/b/a Fortress bank account until November 4, 2013); Lanier Dep. at 68-69 (stating that he transferred his practice to the D.C. law firms in October 2012); Lanier Decl. ¶¶ 11-12 (stating that Lanier d/b/a Redstone, and Lanier d/b/a Fortress stopped accepting new clients in August 2012 and October 2012 respectively). The FTC also examined bank records belonging to Fortress DC, with Robles as the authorized signatory, which showed significant transfers to Surety as well as DOLMF. See 1st Castillo Decl. ¶¶ 7-10. Bank records also reveal numerous transfers of funds between Redstone DC bank accounts and Surety bank accounts, transfers between Redstone DC and Ameritrust, transfers from Pinnacle to Redstone DC, as well as transfers to Surety from Fortress DC, and from Surety to DOLMF and Pinnacle. See Menjivar Decl., Att. PP (Redstone DC bank account statements from June 1, 2014, to June 30, 2014), Att. QQ (Surety bank account statements from June 1, 2014, to June 30, 2014).

As such, the FTC presents sufficient evidence as to each factor considered in the common enterprise analysis to establish that Lanier Law, the DC Entities, and Liberty & Trust, as well as third-parties DOLMF, FURF, Pinnacle, Safepoint, Ameritrust, Vanguard, and others, were operating as a single common enterprise controlled primarily by Rennick, Robles, Lanier and Young. Moreover, looking at "the pattern and frame-work of the whole enterprise," see Direct Benefits Grp., LLC, 2013 WL 3771322, at *18, these entities operated together, as a maze of interrelated companies, to solicit consumers through a mail campaign (Avanti Media), answer calls and enroll consumers using similar sales tactics and client agreements (FURF, DOLMF, Safepoint), and provide consumers with some level of foreclosure defense services (Pinnacle and the Law Firms). Likewise, Lanier Law and the DC Entities utilized the same model to structure themselves as law firms through the use of "of counsel" attorney agreements and nominal attorney members.

Lanier maintains that he had no part in any common enterprise primarily because he did not intend to form a common enterprise with the DC Entities, and because he was not a principal or authorized representative of any of the DC Entities. See Lanier Response at 7-13. However, even accepting Lanier's representations as true, the intent of the principals is not one of the factors courts consider in conducting a common enterprise analysis, and Lanier presents no authority for the proposition that intent is necessary. Indeed, a common enterprise may exist even when businesses are structured as separate corporate entities. See Direct Benefits Grp., LLC, 2013 WL 3771322, at *18. Regardless of whether Lanier had any official relationship to the DC Entities, he concedes that he transferred Lanier Law's foreclosure defense operations to the DC Entities after the Florida Bar began its investigation, he does not dispute that he continued to manage the of-counsel

attorney network for Redstone DC and Surety, he allowed those entities, managed by his "friends," to use his merchant account portals to process consumer payments, and he continued to be actively involved in thei

under the circumstances, and (3) the representation was material." See F.T.C. v. Tashman, 318 F.3d 1273, 1277 (11th Cir. 2003) (citing World Travel Vacation Brokers, 861 F.2d at 1029). "A representation is material if likely relied upon by a reasonable prospective purchaser." Wash. Data Res., 856 F. Supp. 2d at 1272. "An express claim used to induce the purchase of a service is presumed material." Id. at 1273. "Rather than an isolated word, phrase, or sentence, the representation's 'net impression' controls." Id. Moreover, a "tendency to deceive" is all that is required, such that proof of actual consumer deception is unnecessary. Id. Additionally, "consumer interpretation informs whether a communication was deceptive." Id.

Plainly, members of the common enterprise made numerous misrepresentations to consumers. Even setting aside those statements which a Defendant with personal knowledge specifically denied, the consumer declarations are replete with evidence of promises and guarantees regarding substantial modifications to a consumer's loan, including reductions in the payment, interest

the impression that a non-profit organization has determined that he is eligible for government assistance with his mortgage, and the consumer need only complete a registration process to receive this assistance. As such, everything about this Flyer is deceptive and misleading. Members of the common enterprise also convinced consumers to use their services by telling them they had been accepted into a special "program," for example, some consumers received a letter titled "HRP/HBP Approval" which congratulated the consumer on being "approved for the Homeowner Retention Program

asked for “proof that they had done the review so that I could see that they found nothing. But they put me off and never sent me anything.”).

The Court has no difficulty concluding that these promises and guarantees, used to induce consumers to retain a Law Firm’s services, were material and misleading. Indeed, although actual deception is not required, the FTC presents ample evidence that consumers were convinced that the Law Firms, through the use of audits or otherwise, would succeed in obtaining a loan modification, and that the modification would substantially reduce their payments and interest rates. However, after paying a Law Firm thousands of dollars, often in lieu of paying their lender, consumers were denied loan modifications or were given modifications on terms far different than the ones they were promised. In his Response, Lanier states “here under oath that, to the best of my knowledge, every one of my clients received adequate representation which met or exceeded the appropriate standard of

is misplaced in light of the misrepresentations that were made to the consumers to induce them to hire Liberty & Trust in the first instance.

to comply with these rules and regulations constitutes an unfair or deceptive act or practice in violation of § 5(a) of the FTC Act. See 12 U.S.C. § 5538(a)(1); 15 U.S.C. § 57a(d)(3). Here, the FTC asserts that Defendants violated the prohibition on advance payments set forth in 12 C.F.R. § 1015.5(a), made material misrepresentations regarding their services in violation of 12 C.F.R. § 1015.3(b)(1), and failed to make certain disclosures in their general communications, as well as in their consumer-specific communications, as required by 12 C.F.R. § 1015.4. The Lanier and Fortress Defendants contend that the FTC is not entitled to summary judgment on these Counts because Defendants are exempt from the requirements of Regulation O pursuant to the exemption for attorneys codified at 12 C.F.R. § 1015.7. See Lanier Response at 6, 14-18; Fortress Response at 1-2. The Lanier Defendants further assert that Regulation O cannot be validly applied to licensed attorneys engaged in the practice of law, and thus, may not be enforced against the Lanier Defendants. See generally Lanier Supplement.

Setting aside the issue of the attorney exemption, the Court observes that there is ample undisputed evidence that Defendants did not comply a

(a) Request or receive payment of any fee or other consideration until the consumer has executed a written agreement between the consumer and the consumer's dwelling loan holder or servicer incorporating the offer of mortgage assistance relief the provider obtained from the consumer's dwelling loan holder or servicer.

> font that is two point-type larger than the font size of the required disclosures; and
>
> (ii) In communications disseminated orally or through audible means, wholly or in part, the audio component of the required disclosures must be preceded by the statement "Before using this service, consider the following information."

12 C.F.R. § 1015.4(a)(3). With respect to "all consumer-specific commercial communications," Regulation O requires, in pertinent part, the same disclosures set forth above, as well as the additional disclosures that:

> (1) "You may stop doing business with us at any time. You may accept or reject the offer of mortgage assistance we obtain from your lender [or servicer]. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us (insert amount or method for calculating the amount) for our services." For the purposes of this paragraph (b)(1), the amount "you will have to pay" shall consist of the total amount the consumer must pay to purchase, receive, and use all of the mortgage assistance relief services that are the subject of the sales offer, including, but not limited to, all fees and charges.

12 C.F.R. § 1015.4(b)(1)-(3). These disclosures must be made in the same "clear and prominent manner" that is required for general commercial communications, with the added requirement that in telephone communications the disclosures "must be made at the beginning of the call." See 12 C.F.R. § 1015.4(b)(4). In addition, Regulation O mandates an additional disclosure, in both general and consumer-specific communications, if the MARS provider has represented that the consumer should temporarily or permanently discontinue mortgage payments. Id. § 1015.4(c). In such circumstances, the MARS provider must clearly and prominently state, in close proximity to the representation, that: "'If you stop paying your mortgage, you could lose your home and damage your credit rating.'" Id.

With respect to general communications, the FTC presents evidence regarding the content of the website for Redstone DC. See Liggins Decl., Att. II (Redstone DC website). The website fails to include any disclaimer that Redstone DC "is not associated with the government, and our service is not approved by t

not preceded by the heading “IMPORTANT NOTICE,” and are not made in a “clear and prominent” manner within the meaning of the regulation. Id., Ex. 21,

12 C.F.R. § 1015.7(a). An attorney is also exempt from the Advance Fee Prohibition, if he or she satisfies the above requirements, and:

> (1) Deposits any funds received from the consumer prior to performing legal services in a client trust account; and
>
> (2) Complies with all state laws and regulations, including licensing regulations, applicable to client trust accounts.

See 12 C.F.R. § 1015.7(b). The FTC maintains that Defendants are not exempt because the exemption applies only to individual attorneys, not to law firms, see FTC Motion at 39, and the conduct of the attorneys involved does not fall within the parameters of the exemption, id. at 40-47. The Fortress Defendants contend that there are issues of fact regarding who is entitled to the benefit of the exemption, and whether Defendants were offering mortgage relief services as part of the "practice of law." See Fortress Response at 2-5. In addition, these Defendants contend that "Plaintiff has failed to provide evidence that each attorney failed to comply with state laws and regulation[s] that cover the same type of conduct the rule requires," such that "a genuine issue of material fact exists." Id. at 5. The Lanier Defendants argue that their services fall within the exemption due to the involvement of the "of counsel" attorneys. See Lanier Response at 14. Although those attorneys provided "limited scope representation," the Lanier Defendants maintain that the work they did on behalf of consumers constitutes the "practice of law." Id. at 15-16. According to the Lanier Defendants, any failing in the legal representation provided to a consumer is the fault of the "of-counsel" attorney because he or she "is the only firm

account, these provisions of the Regulation are invalid in that they exceed the rulemaking authority given to the agency under the statute. See Lanier Supplement at 3.

To determine whether the exemption applies, the Court first considers whether the challenged portions of the Regulation are invalid. In support of this argument, Lanier relies on the non-binding decision in Consumer Finance Protection Bureau v. Mortgage Law Group, LLP, ___ F. Supp. 3d ___, 2016 WL 183712 (W.D. Wis. Jan. 14, 2016). In Mortgage Law Group, the court found that the Consumer Finance Protection Bureau (CFPB) "exceeded its rulemaking authority in promulgating subsections (a)(3) and (b) of § 1015.7, related to attorneys' compliance with various state laws and regulations." See Mortg. Law Grp., 2016 WL 183712, at *10. The court observed that when Congress passed the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of 2010, Pub. L. 111-203 § 1097, 124 Stat. 1376 (July 21, 2010) (the Consumer Protection Act), which created the CFPB, it specifically excluded the practice of law from the CFPB's supervisory or enforcement authority. Id. at *5; see 12 U.S.C. § 5517(e)(1) ("[T]he 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."). However, the Consumer Protection Act included a significant "existing authority" exception to this practice of law exclusion which states that the exclusion "shall not be construed so as to limit the authority of the Bureau with respect to any attorney, to the extent that such attorney is otherwise subject to any of the enumerated laws or the authorities transferred under subtitle F or H." See 12 U.S.C. § 5517(e)(3). As relevant here, one of "the authorities transferred under subtitle F" was the authority of the FTC to prescribe rules under certain enumerated consumer laws, defined to include § 626

of the Omnibus Appropriations Act, 2009 (2009 Omnibus Act). See 12 U.S.C. §§ 5481(12)(Q), 5581 (b)(5)(A). Thus, the practice of law exclusion shall not be construed to limit the CFPB's authority to prescribe rules under § 626 of the 2009 Omnibus Act with respect to any attorney, to the extent attorneys were otherwise subject to that law. Cf. Consumer Fin. Prot. Bureau v. Frederick J. Hanna & Assocs., P.C., 114 F. Supp. 3d 1342, 1351 (N.D. Ga. 2015) (stating that the practice of law exclusion does not apply to FDCPA claims pursuant to the § 5517(e)(3) exception because the FDCPA is an enumerated consumer law).

Section 626 of the 2009 Omnibus Act, as amended by the Credit Card Accountability Responsibility and Disclosure Act of 2009, PL 111-24, § 511(a)(1)(B), 123 Stat. 1734, 1763-64 (May 22, 2009), directed the FTC to "initiate a rulemaking proceeding with respect to mortgage loans," and instructed that "[s]uch rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services." See 2009 Omnibus Act, PL 111-8, § 626(a)(1) as amended by Credit Card Act of 2009, PL 111-24, § 511(a)(1)(B). The law states that this grant of authority "shall not be construed to authorize the [FTC] to promulgate a rule with respect to an entity that is not subject to enforcement" of the FTC Act. Id. With limited exceptions, entities subject to enforcement of the FTC Act are "persons, partnerships or corporations," including companies or associations, incorporated or unincorporated. See 15 U.S.C. §§ 44, 45(a)(2). Although the FTC Act does include a list of entities specifically excluded from its purview, this list does not mention attorneys or otherwise refer to the practice of law. See 15 U.S.C. § 45(a)(2). Pursuant to that authority, the FTC promulgated the Mortgage Assistance Relief Services

(MARS) Rule, 16 C.F.R. part 322. The MARS Rule contained the same attorney exemption at issue here. See 16 C.F.R. § 322.7 (eff. Dec. 29, 2010).

In 2010, the Consumer Protection Act amended the language of § 626 of the 2009 Omnibus Act in pertinent part to provide as follows:

> (a)(1) The Bureau of Consumer Financial Protection shall have authority to prescribe rules with respect to mortgage loans in accordance with section 553 of title 5, United States Code. Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services. Any violation of a rule prescribed under this paragraph shall be treated as a violation of a rule prohibiting unfair, deceptive, or abusive acts or practices under the Consumer Financial Protection Act of 2010 and a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. § 57a) regarding unfair or deceptive acts or practices.
>
> (2) The Bureau of Consumer Financial Protection shall enforce the rules issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties, as though all applicable terms and provisions of the Consumer Financial Protection Act of 2010 were incorporated into and made part of this subsection.
>
> (3) Subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall enforce the rules issued under paragraph (1), in the same manner, by the same means, and with the same jurisdiction, as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made part of this section.

See Consumer Protection Act, PL 111-203, § 1097, 124 Stat. at 2102. The Act explicitly provided that "[t]he [CFPB] shall have all powers and duties under the enumerated consumer laws [including § 626] to prescribe rules, issue guidelines, or to conduct studies or issue reports mandated by such laws, that were vested in the Federal Trade Commission on the day before the designated transfer date." 12 U.S.C. § 5581(b)(5)(B)(i). Following this transfer of authority, the CFPB republished the MARS Rules as Regulation O, effective December 30, 2011, and the FTC thereafter rescinded its version of the rules. See 12

C.F.R. § 1015.1; Rescission of Rules, 77 FR 22200-01, 2012 WL 1228063 (Apr. 13, 2012). Because the existing authority exception excepts § 626 of the 2009 Omnibus Act from the practice of law exclusion, the CFPB's authority to prescribe and enforce Regulation O against attorneys is not limited by that exclusion. See 12 U.S.C. § 5517(e)(3).[37] Thus, just as the FTC properly exercised its authority under the 2009 Omnibus Act in promulgating the MARS Rules and attorney exemption, the CFPB had that same authority to reissue those rules as Regulation O.

Despite this grant of authority, Mortgage Law Group holds that the CFPB was not authorized to regulate attorneys engaged in the practice of law. In that case, the court

the FTC or the CFPB “to act as a

seek to punish violations of the state laws or rules.[38] Regardless, even to the extent Regulation O does govern the practice of law, this is not inherently problematic given that the "federal government, with the United States Supreme Court's approval, has historically regulated some aspects of the practice of law." See Frederick J. Hanna & Assocs., 114 F. Iso debt

Regardless of the role played by the “of counsel” attorneys, the Law Firms cannot qualify for the exemption because they failed to comply with the “state laws and regulations that cover the same type of conduct the rule requires.” See 12 C.F.R.

D. Counts VI & VII – Telemarketing Sales Rule, 16 C.F.R. §§ 310.4, 310.8

In Count VI of the Amended Complaint, the FTC alleges that the Lanier Defendants violated 16 C.F.R. § 310.4(b)(1)(iii)(B) by initiating or causing others to initiate outbound telephone calls to persons whose telephone numbers are on the "do-not-call" registry. See Amended Complaint at 20.[41] In addition, the FTC asserts in Count VII that all Defendants violated 16 C.F.R. § 310.8(a) which provides:

> It is a violation of this Rule for any seller to initiate, or cause any telemarketer to initiate, an outbound telephone call to any person whose telephone number is within a given area code unless such seller, either directly or through another person, first has paid the annual fee, required by § 310.8(c), for access to telephone numbers within that area code that are including in the National Do Not Call Registry . . . .

As outlined above, the FTC presents evidence that members of the common enterprise called consumers to solicit their business on behalf of Defendants. Moreover, the evidence establishes, and Defendants do not deny, that neither Defendants nor any other member of the common enterprise paid the annual fee required to obtain the telephone numbers, within the relevant area codes, listed on the do-n e i - c

1 0 . 8 (c) ,

E. Individual Liability

The FTC seeks to hold Lanier and Robles individually liable for the acts of the corporate entities. To do so, the FTC "must prove that the individual defendant[s] either participated directly or had authority to control the deceptive practice." Wash. Data Res., 856 F. Supp. 2d at 1276. The FTC may establis

had supervisory responsibility over DOLMF and Pinnacle during the time period that those entities worked for him. Although Lanier did not hold an express contractual interest in the DC Entities, the email records establish that Lanier still actively participated in the conduct of those companies and exercised control over their affairs. While Lanier states in a general legal conclusion that he had no "ownership of, authority to control, or participation in" the DC Entities, such a general denial is insufficient to create an issue of material fact in light of the FTC's specific documentary evidence to the contrary. Moreover, the evidence amply establishes that Lanier was aware that consumers were being misled by virtue of the Florida Bar grievance proceedings, see Liggins Decl., Att. LL-NN, consumer complaints to the Better Business Bureau (BBB), see FTC Motion, Ex. 1B ¶¶ 11-15, as well as the inquiries he received from consumer protection departments in various states. See, e.g., 2nd Liggins Supp. Decl., Att. FF-HH; Menjivar Decl., Att. Q, DD. Lanier admits that he was "kept up-to-date" on written and oral complaints from consumers, as well as complaints from the BBB and government agencies. See Lanier Dep. at 144. Accordingly, the Court finds ample evidence to conclude that Lanier had authority to control and actively participated in the affairs of the common enterprise, and was entirely aware of the misrepresentations made to consumers. As such, Lanier is also individually liable for the conduct of the common enterprise. Individual liability for corporate actions is premised on the concept that "one may not enjoy the benefits of fraudulent activity and then insulate one's self from liability by contending that one did not participate directly in the fraudulent practices." Amy Travel Serv., Inc., 875 F.2d at 574 (internal quotation omitted). This is precisely what Lanier attempted to accomplish through the use of a web of inter-related entities, each insulating him from any direct connection to the fraudulent activity.

Nonetheless, the evidence places Lanier and Robles squarely at the center of this deceptive enterprise, and the law holds them individually responsible for its conduct. In light of the foregoing, the Court will grant the FTC Motion as to Lanier and Robles individually as well.

F. Remedy

modification revenue was derived through deceptive and improper solicitations, misleading sales tactics, and impermissible advance fees. Accordingly, the Court finds that disgorgement of those revenues is an appropriate remedy. To calculate the size of the award, the FTC must first "'show that its calculations reasonably approximate[]' the amount of the defendant's unjust gains, after which 'the burden shifts to the defendants to show that those figures [are] inaccurate.'" See F.T.C. v. Verity Int'l, Ltd., 443 F.3d 48, 67 (2d Cir. 2006) (quoting F.T.C. v. Febre, 128 F.3d 530, 535 (7th Cir. 1997)); see also Wash. Data Res., 856 F. Supp. 2d at 1281. Based on the total deposits to Lanier Law and Liberty & Trust bank accounts, the financial statements from Redstone DC and Surety, as well as the answers to interrogatories from Fortress DC, the FTC calculates the amount of Defendants' total net revenues as $13,586,721. See FTC Motion at 53; 2nd Supp. Liggins Decl. ¶¶ 8-9, 16-18, Atts. L-P, V-AA. Defendants offer no argument or evidence to dispute the FTC's calculation. See Fortress Response at 5-6; see generally Lanier Response. The Court has reviewed the FTC's calculation of net revenues and the evidence in support thereof, and in the absence of any evidence or argument to the contrary finds the amount of the FTC's request to be a reasonable approximation of Defendants' net revenues.[43] Accordingly, the Court will enter a restitution award against Defendants and in favor of the FTC in the amount of $13,586,713.

The Court also determines that the FTC's request for a permanent injunction is warranted in this case. The FTC seeks an injunction permanently enjoining the Lanier and Fortress Defendants from "operating in the loan modification/foreclosure defense area,"

[43] The Court found a mathematical error in the FTC's calculation of Redstone DC's net revenue. Pursuant to the Court's calculations, Redstone DC's net revenue was $1,640,321, not $1,640,329, and the Court will adjust the total damage award accordingly.

with a "fencing-in ban as to any secured and unsecured debt relief products and services," and prohibiting these Defendants from making "misrepresentations relating to all financial products and services." See FTC Motion at 53. In "proper" cases, and after "proper" proof, the FTC Act authorizes the court to issue a permanent injunction. See 15 U.S.C. § 53(b). Permanent injunctions may be appropriate, even where a defendant's conduct has ceased, if "'the defendant's past conduct indicates that there is a reasonable likelihood of further violations in the future.'" See F.T.C. v. USA Fin., LLC, 415 F. App'x 970, 975 (11th Cir. 2011) (quoting Sec. Exch. Comm'n v.Caterinicchia, 613 F.2d 102, 105 (5th Cir. 1980)). To determine the likelihood of future violations, courts consider factors such as:

> "the egregiousness of the defendant's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the defendant's assurances against future violations, the defendant's recognition of the wrongful nature of his conduct, and the likelihood that the defendant's occupation will present opportunities for future violations . . . ."

See F.T.C. v. RCA Credit Servs., LLC, No. 8:08-CV-2062-T-27AEP, 2010 WL 2990068, at *5 (M.D. Fla. July 29, 2010) (quoting Sec. Exch. Comm'n v. CarribaAir, Inc., 681 F.2d 1318, 1322 (11th Cir. 1982)). In addition, courts

The FTC has presented substantial uncontroverted evidence of the Lanier and Fortress Defendants' continuous and persistent involvement in deceptive and misleading practices in connection with the sale of mortgage assistance relief services. The myriad misrepresentations, improper solicitations, and other rule violations were egregious and recurrent over several years, despite numerous consumer complaints, as well as investigations and inquiries by state authorities. The Lanier and Fortress Defendants have made no assurances against future violations, and indeed, they continue to deny the wrongful nature of their conduct. These Defendants have given the Court no reason to believe that they will abstain from any further fraudulent practices in the future. Significantly, Defendants have a history of transforming from one business to another in order to continue with their fraudulent practices, thus indicating the likelihood of future violations. See USA Fin., LLC, 415 F. App'x at 975 (finding r4 Tc.19fwilr

ORDERED:

1. Defendant Michael W. Lanier's Motion for Partial Summary Judgment (Doc. 248) is **DENIED**.
2. Plaintiff Federal Trade Commission's Motion and Memorandum for Summary Judgment (Doc. 246) is **GRANTED.**
3. On or before **July 22, 2016**, the FTC shall file a proposed judgment of permanent injunction and monetary damages, and submit a copy of the proposed judgment to the undersigned's chambers email address.
4. Thereafter, upon review of the proposed judgment, the Court will enter final judgment in favor of the FTC and against Defendants Lanier Law LLC, Fortress Law Group LLC, Liberty & Trust Law Group of Florida LLC, Fortress Law Group, PC, Michael W. Lanier and Rogelio Robles.
5. In light of the foregoing, the Final Pretrial Conference set for July 18, 2016, is **CANCELED**, and this case is removed from the August 2016 trial term.
6. Plaintiff's Motions in Limine (Docs. 277-279) filed on July 5, 2016, and Defendant Michael W. Lanier's Motion in Limine (Doc. 280) filed on July 6, 2016, are **DENIED, as moot**.

DONE AND ORDERED in Jacksonville, Florida, this 7th day of July, 2016.

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Copies to:
Counsel of Record
Pro Se Parties