

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**GUO YING WANG, and
YING DI ZHENG,**

Plaintiff,

- against -

**7 RIVINGTON ST., LLC,
MAROLDA PROPERTIES, INC.,
LAW OFFICES OF SANTO GOLINO,
LARRY MAROLDA,
CHRISTOPHER FANELLI, AND
LOUIS MARINOS,**

Defendants.

Case No. 14-CV-4083-AKH-DF

COMPLAINT AND JURY DEMAND

Plaintiffs Guo Ying Wang (“Plaintiff” or “Mr. Wang”) and Ying Di Zheng (“Plaintiff” or Ms. Zheng”), by their attorneys MFY Legal Services (“MFY”), as and for their complaint against the Defendants 7 Rivington Street, LLC (“7 Rivington”), Marolda Properties, Inc. (“Marolda Properties”), the Law Offices of Santo Golino (“Santo Golino”), Larry Marolda, Christopher Fanelli, and Louis Marinos, allege, upon information and belief, as follows.

1. This is an action for actual and statutory damages, and injunctive relief, based on violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. (“FDCPA”), N.Y. Gen. Bus. Law § 349 (N.Y. G.B.L. § 349), N.Y. Gen. Bus. Law § 349-c (N.Y. G.B.L. § 349-c), N.Y.C. Admin. Code § 27-2004 (a)(48)(i),(ii)(d) (“Tenant Harassment Law”), and N.Y. Judiciary Law § 487, for sending false and misleading rent demands to Plaintiffs, and filing repeated false and misleading petitions in housing court for nonpayment of rent with the intent to harass Plaintiffs.

JURISDICTION AND VENUE

2. The Court has jurisdiction over Plaintiffs’ federal claims pursuant to 28 U.S.C. §

1331 and 15 U.S.C. § 1692k(d), and supplemental jurisdiction over the state and local law claims pursuant to 28 U.S.C. § 1367.

3. Venue in this District is proper pursuant to 28 U.S.C. § 1391(b) because all or a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

PARTIES

4. Plaintiff Guo Ying Wang (“Plaintiff” or “Mr. Wang”) is an adult individual residing in the City, County, and State of New York.

5. Plaintiff Wang is a “consumer” under the definition of 15 U.S.C. § 1692e(3).

6. Plaintiff Ying Di Zheng (“Plaintiff” or “Ms. Zheng”) is an adult individual residing in the City, County, and State of New York.

7. Plaintiff Zheng is a “consumer” under the definition of 15 U.S.C. § 1692e(3).

8. Defendant Santo Golino is a law firm that maintains its principal place of business at 46 Trinity Place, New York, NY 10006. A principal business of Santo Golino is to collect debts allegedly in default, and it regularly attempts to collect such debts.

9. Santo Golino is a “debt collector” as that term is defined under § 15 U.S.C. 1692a(6).

10. Louis Marinos is, upon information and belief, an attorney duly admitted to practice law in New York State and is an attorney at Santo Golino. Mr. Marinos retains his principal place of business at the Santo Golino office.

11. Louis Marinos collect debts allegedly in default, and he regularly attempts to collect such debts.

12. Louis Marinos is a debt collector as that term is defined under 15 U.S.C. § 1692a(6).

13. Defendant 7 Rivington St., LLC (“7 Rivington”), a New York Limited Liability Corporation, is the owner and holder of title of the subject building. Its address, as listed on the multiple dwelling registration on file with the New York City Department of Housing Preservation and Development (“HPD”), is 46 Trinity Place, New York, NY 10006.

14. Defendant Marolda Properties, Inc. (“Marolda Properties”), located at 46 Trinity Place, Floor 3, New York, NY 10006, is listed as the Managing Agent on the multiple dwelling registration of the subject building.

15. Larry Marolda is registered with HPD as the Head Officer and Managing Agent of the subject building. Mr. Marolda retains his principal place of business at the Marolda Properties’ office.

16. Christopher Fanelli is registered with HPD as an Officer of 7 Rivington Street. Mr. Fanelli retains his principal place of business at the Marolda Properties’ office.

FACTS

17. Mr. Wang, and his mother, Ms. Zheng, are tenants of the premises known as 7 Rivington Street, Apartment #6, where they have lived for over 15 years. Plaintiffs have lived in the subject building for over 25 years. Plaintiffs are both low-income seniors who speak virtually no English.

18. Plaintiffs’ tenancy in the apartment is governed by, and is subject to, the New York City Rent and Evictions Regulations (the “New York City Rent Control Law”).

19. Ms. Zheng is 82 years old and has been a senior as defined under New York City Rent Control Law, 9 NYCRR 2202.20, since at least 2001.

20. Mr. Wang is 61 years old.

21. Plaintiffs' apartment is one of more than 600 apartments in more than 30 buildings in Manhattan managed by Marolda Properties, Inc. and owned by entities owned or operated by Larry Marolda and his close associates.

22. Upon information and belief, Plaintiffs' apartment is one of only two remaining rent-stabilized units in the 16-unit property at 7 Rivington Street.

23. Since at least 2001, Plaintiffs have been the beneficiaries of a Senior Citizens Rent Increase Exemption ("SCRIE"), which is currently administered by the New York City Department for the Finance ("NYC DOF") and was previously administered by the Department for the Aging ("NYC DFTA") until 2009.

24. Under the SCRIE program, an eligible tenant is only liable for a portion of the rent-regulated rent, and the City provides the landlord a property tax abatement credit in an amount equal to the remaining portion of the rent-regulated rent.

25. Pursuant to the relevant SCRIE provisions of the Rent Control Law, "no increase in maximum rent . . . shall be collectible from a tenant to whom there has been issued a currently valid rent exemption order pursuant to this subdivision" N.Y.C. Admin. Code § 26-405(m)(1).

26. Each year that Plaintiffs have received SCRIE, the NYC DFTA or NYC DOF have issued an order setting forth Plaintiffs' share of the monthly rent for the apartment, and Marolda Properties has received the full amount of tax abatement credits to which it is entitled.

27. Marolda Properties, Larry Marolda, Christopher Fanelli, and 7 Rivington have long had actual notice of Plaintiffs' participation in the SCRIE program as well as the maximum

amount of monthly rent Plaintiffs are obligated to pay for the apartment as a result of the SCRIE award.

28. Pursuant to the most recent order of the NYC DOF, dated January 16, 2013, the legal rent for the subject premises is \$894.76 and Plaintiffs' share of that amount, as a result of the SCRIE award, is \$600.

29. Before a landlord can maintain a summary proceeding based on nonpayment of rent, it must either: (1) send the tenant a rent demand, or (2) serve the tenant with a three-day notice. N.Y. Real Prop. Acts. Law § 711(2).

30. The rent demand, at a minimum, should clearly give notice to the tenant of the particular period for which the rent payment is allegedly in default and of the approximate good-faith sum of rent due for each such period.

31. On June 10, 2013, Santo Golino served Plaintiffs with a rent demand for \$2,469.59 on behalf of 7 Rivington. The rent demand alleged that Plaintiffs owed their portion of the rent (\$600) for each of March, April, May, and June 2013, plus a \$69.59 carryover balance from February.

32. This rent demand was signed by Louis Marinos.

33. The rent demand further advised Plaintiffs that if they failed to pay the amount due, an eviction proceeding would be commenced against them.

34. Plaintiffs asked Jessica Wang, the English-speaking daughter of Mr. Wang and granddaughter of Ms. Zheng, to translate the rent demand for them.

35. Upon hearing the rent demand translated, Ms. Zheng became emotionally distraught. She was worried that she and Mr. Wang would lose their home, and she had difficulty eating and sleeping as a result.

36. Ms. Zheng also takes medication for her high blood pressure. But upon receiving the rent demand, her blood pressure was even higher than usual.

37. On June 27, 2013, Mr. Wang, with help from Jessica Wang, sent a letter to Santo Golino, by certified mail return receipt requested, disputing the debt, and attached seven pages of money order receipts, certified mail receipts, and return receipts showing that their share of the rent had been paid and received for each of the months in question. This letter was received by Santo Golino on July 3, 2013.

38. On July 3, 2013, Santo Golino filed a nonpayment petition against Plaintiffs in New York City Housing Court on behalf of 7 Rivington. This petition alleged \$1,290.45 in unpaid rent (\$1,117.14 less than in the rent demand), alleging specifically and incorrectly that Plaintiffs had failed to pay their share of the rent in June (\$600) and July (\$600) and owed \$90.45 from May 2013. The petition sought a judgment for these monies as well as a judgment of possession of Plaintiffs' rent stabilized apartment.

39. Plaintiffs retained MFY for representation in the nonpayment case. At the first appearance for the case, Santo Golino gave MFY a copy of the rent ledger generated from 7 Rivington and Marolda Properties' records, and the case was adjourned.

40. Upon inspection, the ledger provided by Santo Golino did not correlate with the breakdown of charges in either the rent demand or the nonpayment petition. The ledger showed that Plaintiffs had paid the full portion of their rent for February, March, April, June, and July 2013. The ledger also represented, inaccurately, that Plaintiffs missed their May 2013 payment, as alleged in the demand letter (but not in the complaint), even though Plaintiffs had timely paid their rent for May. (Later, Santo Golino conceded that the May 2013 rent had been paid.) But

the ledger entry for May still did not correlate with Santo Golino's allegation in the nonpayment petition, which alleged that Plaintiffs owed a balance of \$90.45 for May 2013.

41. Instead of supporting the allegations in the rent demand and nonpayment petition, the ledger incorrectly stated that the landlord had received a lower amount of SCRIE tax abatement credits than it actually received for the period of 2008 through 2010. This discrepancy accounted for nearly the entire alleged arrears owed by Plaintiff. The rest of the arrears were made up of accounting mistakes, like the missing May 2013 rent, and counting certain tax abatement credits received by 7 Rivington as charges to the tenants rather than as credits.

42. In both the rent demand and nonpayment petition, it appears that Santo Golino simply added up the erroneous tax abatement credit arrears and accounting mistakes, divided these alleged arrears by Plaintiffs' monthly portion of the rent (\$600), and then alleged that Plaintiffs owed their portion of the rent for the resulting number of most recent months.

43. This discrepancy regarding the amount of the tax abatement credits Marolda Properties and 7 Rivington received could have been easily resolved if Santo Golino had simply reviewed Marolda Properties' SCRIE records (or sent an email to the NYC DOF requesting said records) and compared them to Marolda Properties' rent ledger, which would have showed that Marolda Properties and 7 Rivington actually received the correct amount of tax abatement credits during those years.

44. Additionally, the ledger, on its face, in no way supports the assertions made in the rent demand or petition that Santo Golino served on Plaintiffs and filed in housing court, which unequivocally say that Plaintiffs had been derelict in paying *their* portion of the rent.

45. Had Santo Golino reviewed the ledger prior to sending the rent demand or filing the petition, it would have known not to allege that Plaintiffs were delinquent in paying *their*

portion of the rent, but rather that its client had not received the proper amount of tax abatement credits.

46. At the next court appearance, on October 9, 2013, MFY explained to Santo Golino that the rent demanded was incorrect in that it did not reflect, *inter alia*, the actual tax abatement credits that Marolda Properties had received.

47. On October 25, 2013, Santo Golino e-mailed MFY regarding the nonpayment case. In the e-mail, Santo Golino again claimed that Plaintiffs' purported ledger balance was proper, because it claimed that Plaintiffs had failed to send renewal leases to the SCRIE administrator for the periods of January 2007 through December 2008, and January 2009 through December 2010.

48. If Santo Golino's claims were true, this would mean that the landlord did not receive the full tax abatement to which it was entitled, because the abatement given would have been based on the previous year's (lower) rent. However, certified records obtained from NYC DOF show that Marolda Properties received the full amount of the tax abatement credits based on the proper rent after adjustments dated April 20, 2007 and March 31, 2010 were applied. Therefore, Santo Golino's statement was incorrect and contradicted by readily available records.

49. Santo Golino could have easily accessed the SCRIE records by simply sending an e-mail to the NYC DOF and asking for the records, or by asking Marolda Properties to check its records.

50. Moreover, even if Marolda Properties and 7 Rivington did not receive the proper amount of tax abatement credits for Plaintiffs' apartment, 7 Rivington still would not be entitled to initiate a summary eviction proceeding against Plaintiffs for rental arrears arising from a shortfall of tax abatement credits.

51. Instead, 7 Rivington would only be able to raise such claims in a plenary action where it could implead NYC DOF and its contention could properly be addressed without the inequitable threat of eviction hovering over Defendants.

52. This is because the SCRIE program is structured so that a larger element of responsibility is entrusted to the landlord who would be in a better position to exercise business judgment than a senior citizen subsisting largely on a small fixed income. Therefore, it is primarily the responsibility of the landlord to ensure that it receives the proper amount of tax abatement credits.

53. On November 6, 2013, MFY e-mailed Santo Golino documents from SCRIE showing that Marolda Properties and 7 Rivington had in fact received the full amount of tax abatement credits for the periods in question.

54. At the following court appearance, November 8, 2013, Santo Golino represented to MFY that Plaintiffs still owed back rent, despite having been previously informed by MFY that the ledger failed to account for SCRIE abatements received by the landlord but not credited to Plaintiffs' balance. At this court date, Santo Golino contended, for the first time, that Plaintiffs were incorrectly double-credited by the landlord for 11 months of SCRIE payments from 2007 to early 2008, totaling \$631.07. However, the ledger provided to MFY by Santo Golino only included entries from April 11, 2008 to September 1, 2013, and thus the \$631.07 charge remained unsubstantiated.

55. At the November 8, 2013 court appearance, Santo Golino refused to discontinue the case with prejudice unless Plaintiffs signed a stipulation stating that the landlord was willing to "waive" the alleged arrears of \$631.07, which appears as a charge on the ledger dating all the way back to April 17, 2008. Plaintiffs declined to do so, for fear that signing such a stipulation

would amount to an admission that the unsubstantiated arrears were valid. After appearing before the judge, the parties agreed to discontinue the case without prejudice.

56. Defendants 7 Rivington and Marolda Properties have sued Plaintiffs in nonpayment proceedings under similar circumstances twice before, in 2007 and 2010.

57. In April 2007, 7 Rivington sued Plaintiffs for \$2,558.98, alleging that they failed to pay the full amount of the rent (both their portion and the amount of the tax abatement credits) for three months. As with the case from 2013, the alleged arrears resulted solely from alleged underpayments of tax abatement credits, and yet the rent demand and the petition both described the debt as unpaid rent, despite the fact that Plaintiffs had duly paid their portion every month.

58. In January 2010, 7 Rivington sued Plaintiffs again, seeking \$2,895.97, including \$685 in rent for three separate months, \$340.97 from another month, and \$500 in legal fees. It is unknown why it alleged that Plaintiffs owed \$685 per month, given that Plaintiffs' rent was already capped at \$600 and the total rent was \$817.95 per month. Again, all of the alleged arrears were from unpaid tax abatement credits from SCRIE, yet the rent demand and petition failed to provide any sort of breakdown of what money Plaintiffs allegedly owed themselves and what money NYC DOF owed in tax abatement credits.

59. As with the 2013 case, both cases misrepresented the character and amount of the debt, were improperly brought as summary eviction proceedings, and wrongly placed the burden of ensuring that Marolda Properties and 7 Rivington received the proper amount of tax abatement credits on limited-English proficient, senior citizens subsisting largely on small fixed incomes, rather than a landlord who would be in a better position to exercise business judgment.

COUNT I

Violations of the Fair Debt Collection Practices Act (Against Defendants Santo Golino and Louis Marinos)

60. Plaintiffs repeat and reallege each and every allegation set forth above as if reasserted and realleged herein.

61. The purpose of the FDCPA is “to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.” 15 U.S.C. § 1692(e).

62. Congress designed the FDCPA to be enforced primarily through private parties – such as Plaintiffs – acting as “private attorneys general.” S. Rep. No. 382, 95th Con., 1st Sess. 5 (“The committee views this legislation as primarily self-enforcing; consumers who have been subject to debt collection abuses will be enforcing compliance”).

63. Plaintiff Mr. Wang is a “consumer” as defined by 15 U.S.C. § 1692a(3) because he was alleged to owe a debt.

64. Plaintiff Ms. Zheng is a “consumer” as defined by 15 U.S.C. § 1692a(3) because she was alleged to owe a debt.

65. The obligation alleged to be owed by Plaintiffs is a “debt” as defined by 15 U.S.C. § 1692a(5) because it was allegedly incurred primarily for family, personal or household purposes.

66. Defendant Santo Golino is a “debt collector” as defined in 15 U.S.C. § 1692a(6), because one of its principal purposes is the collection of debts and/or it regularly attempts to collect debts, directly or indirectly. Upon information and belief, Defendant Santo Golino sends out hundreds of rent demands and has filed numerous lawsuits against consumers who allegedly

owe rental debts.

67. Defendant Louis Marinos is a “debt collector” as defined in 15 U.S.C. § 1692a(6). Upon information and belief, Defendant Louis Marinos signs hundreds of rent demands and has filed numerous lawsuits against consumers who allegedly owe rental debts.

68. The actions of Defendants Santo Golino and Louis Marinos enumerated in the above statement of facts constitute attempts to collect a debt, or were taken in connection with attempts to collect a debt, within the meaning of the FDCPA.

69. Defendants Santo Golino and Louis Marinos materially violated the following sections of the FDCPA: 15 USC §§ 1692d, 1692e, and 1692f. Defendants violated the FDCPA by taking the following actions in an attempt to collect a debt or in connection with an attempt to collect a debt:

- A. By issuing the June 2013 rent demand that demanded payment of rent that was not in fact due and owing, Defendants Santo Golino and Louis Marinos:
- (1) engaged in conduct the natural consequence of which is to harass, oppress or abuse a person in connection with the collection of a debt;
 - (2) used false, deceptive or misleading representations or means;
 - (3) misrepresented the character, amount or legal status of the debt;
 - (4) misrepresented the services rendered or compensation which may be lawfully received;
 - (5) threatened to take and actually did take an action prohibited by law, or which is not intended to be taken, for the purpose of coercing Plaintiffs to pay the alleged debt; and
 - (6) used unfair or unconscionable means.

B. By initiating the July 2013 summary proceeding, which had no legal basis and demanded payment of rent that was not in fact due and owing, Defendants Santo Golino and Louis Marino:

- (1) engaged in conduct the natural consequence of which is to harass, oppress or abuse a person in connection with the collection of a debt;
- (2) used false, deceptive or misleading representations or means;
- (3) misrepresented the character, amount or legal status of the debt;
- (4) misrepresented the services rendered or compensation which may be lawfully received;
- (5) threatened to take and actually did take an action prohibited by law, or which is not intended to be taken, for the purpose of coercing Plaintiffs to pay the alleged debt; and
- (6) used unfair or unconscionable means.

70. As a result of the above violations of the FDCPA, Plaintiffs suffered damages in the form of mailing costs, travel costs to housing court, and emotional distress caused by their fear of losing their home of 25 years, and are entitled to a judgment against Defendants for their actual and statutory damages in an amount to be determined by the trier of fact, as well as an award of their reasonable attorney's fees and costs pursuant to the FDCPA.

COUNT II

Violations of New York General Business Law Section 349, et seq. **(Against All Defendants)**

71. Plaintiffs repeat and reallege each and every allegation set forth above as if reasserted and realleged herein.

72. N.Y. G.B.L. § 349(a) prohibits “deceptive acts or practices in the conduct of any

business, trade, or commerce, or in the furnishing of any service in this state”

73. An individual “injured by reason of any violation of this section may bring an action in his own name to enjoin such unlawful act or practice, an action to recover his actual damages or fifty dollars, whichever is greater, or both such action.” N.Y. G.B.L. § 349(h).

74. Defendants violated N.Y. G.B.L. § 349 by using deceptive acts and practices in the conduct of their businesses:

- A. Defendants Santo Golino and Louis Marinos mailed Plaintiffs a rent demand that contained false, misleading, and deceptive statements regarding the character, amount, or legal status of the alleged debt; the repercussions to Plaintiffs of not paying the alleged debt; and Defendants’ intentions should Plaintiffs fail to pay the alleged debt;
- B. Defendants 7 Rivington, Marolda Properties, Larry Marolda, and Christopher Fanelli brought multiple nonpayment summary eviction proceedings against Plaintiffs for nonpayment of rent, despite the fact that Plaintiffs always paid their portion of rent on time; and
- C. Defendants 7 Rivington, Marolda Properties, Larry Marolda, and Christopher Fanelli brought multiple nonpayment summary eviction proceedings against Plaintiffs despite the fact they had no legal basis for doing so.

75. Defendants’ conduct has a broad impact on consumers at large. It potentially impacts the thousands of consumers in the State of New York who, on information and belief, live in buildings owned and operated by 7 Rivington and Marolda Properties or are prosecuted in court by Santo Golino or its affiliates.

76. Defendants committed the above-described acts willfully and/or knowingly.

77. Defendants' wrongful and deceptive acts have caused injury and damages to Plaintiffs, and unless enjoined will cause further irreparable injury.

78. As a direct and proximate result of those violations of N.Y. G.B.L. § 349, Plaintiffs have suffered damages in the form of travel costs to housing court, postage for sending letters via certified mail, return receipt requested, and emotional distress caused by their fear of losing their home of 25 years, and are entitled to injunctive relief, and to recover actual and treble damages, costs and attorney's fees.

COUNT III

Violations of New York General Business Law Section 349-c, et seq. **(Against All Defendants)**

79. Plaintiffs repeat and reallege each and every allegation set forth above as if reasserted and realleged herein.

80. N.Y. G.B.L. § 349-c provides for an additional civil penalty for damages or a civil penalty imposed pursuant to N.Y. G.B.L. § 349.

81. "Any person or entity who engages in any conduct prohibited by [N.Y. G.B.L. § 349] and whose conduct is perpetrated against one or more elderly persons, may be liable for an additional civil penalty not to exceed ten thousand dollars, if the factors in paragraph (b) of this subdivision are present." N.Y. G.B.L. § 349-c (2)(a).

82. In determining whether to impose a supplemental civil penalty pursuant to paragraph (a) of this subdivision, and the amount of any such penalty, the court shall consider, in addition to other appropriate factors, the extent to which the following factors are present:

- (1) Whether the defendant knew that the defendant's conduct was directed to one or more elderly persons or whether the defendant's conduct was in willful disregard of the rights of an elderly person;

(2) . . . whether one or more elderly persons were substantially more vulnerable to the defendant's conduct because of age, poor health, infirmity, impaired understanding, restricted mobility, or disability, and actually suffered physical, emotional, or economic damage resulting from the defendant's conduct. N.Y. G.B.L. § 349-c (2)(b).

83. In the case at bar, all of the Defendants were aware, or at a minimum, should have been aware, that Ms. Zheng is elderly, as she has been the beneficiary of SCRIE since at least 2001, and has been living at 7 Rivington Street since approximately 1988.

84. Ms. Zheng is 82 years old, speaks no English, and lives on a fixed income. She also suffers from high blood pressure and has difficulty with her mobility.

85. As a result of the actions taken by Defendants, as described in Count II of this Complaint, Ms. Zheng has suffered physical and emotional damage as result of the Defendants conduct, including an inability to eat or sleep, anxiety about losing her home, and an increase in blood pressure, and therefore an additional civil penalty not to exceed ten thousand dollars should be imposed upon Defendants.

COUNT IV

Violations of the NYC Admin. Code § 27-2004 (a)(48)(i),(ii)(d) (“Tenant Harassment Law”) (Against Defendants 7 Rivington, Marolda Properties, Larry Marolda, and Christopher Fanelli)

86. Plaintiffs repeat and reallege each and every allegation set forth above as if reasserted and realleged herein.

87. NYC Admin. Code § 27-2004 (d) states that “the owner of a dwelling shall not harass any tenants or persons lawfully entitled to occupancy of such dwelling as set forth in paragraph 40 of subdivision a of section 27-2004 of this chapter.”

88. NYC Admin. Code § 27-2004 (a)(48) defines harassment as, *inter alia*:

. . . any act or omission by or on behalf of an owner that (i) causes or is intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy, and (ii) includes one or more of the following . . . (d) commencing repeated baseless or frivolous court proceedings against any person lawfully entitled to occupancy of such dwelling unit . . . (g) other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of such dwelling unit and that cause or is intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy.

89. NYC Admin. Code 27–2115(h) provides a private right of action based on a claim of tenant harassment, and § 27–2115(m)(2) provides for injunctive relief when a court of competent jurisdiction finds that conduct in violation of § 27-2005(d) occurred.

90. Defendants 7 Rivington, Marolda Properties, Larry Marolda, and Christopher Fanelli have harassed Plaintiffs in violation of NYC Admin. Code § 27-2004 (d) by:

- A. Bringing multiple nonpayment summary eviction proceedings against Plaintiffs for nonpayment despite the fact that Plaintiffs have always paid their rent on time, and
- B. Bringing multiple nonpayment summary eviction proceedings against Plaintiffs despite being credibly notified by Plaintiffs, and being in possession of documentation confirming, that the rent had always been paid on time;
- C. Bringing multiple nonpayment summary eviction proceedings against Plaintiffs when the law prohibits bringing such proceedings when the petitioner is seeking tax abatement credits from NYC DOF or NYC DFTA.

91. Defendants 7 Rivington, Marolda Properties, Larry Marolda, and Christopher Fanelli committed the above-described acts with the intent to induce Plaintiffs to either surrender

their rent-regulated tenancy, which is highly commercially valuable, or to waive their right to live in the apartment without paying alleged arrears, which charges were never substantiated.

92. Plaintiffs are entitled to injunctive relief in the form of an order enjoining Defendants 7 Rivington, Marolda Properties, Larry Marolda, and Christopher Fanelli from further violations of NYC Admin. Code § 27-2004(d).

COUNT V

Violations of the N.Y. Judiciary Law § 487 **(Against Defendants Santo Golino and Louis Marinos)**

93. Plaintiffs repeat and reallege each and every allegation set forth above as if reasserted and realleged herein.

94. N.Y. Jud. Law § 487(1) states that:

[a]n attorney or counselor who . . . [i]s guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party . . . [i]s guilty of a misdemeanor, and in addition to the punishment prescribed therefor by the penal law, he forfeits to the party injured treble damages, to be recovered in a civil action.

95. Defendant Santo Golino violated N.Y. Jud. Law § 487(1) by:

- A. Sending Plaintiffs a demand letter when they did not owe any arrears;
- B. Misrepresenting in a demand letter the amount of money Plaintiffs allegedly owed;
- C. Commencing a nonpayment summary eviction proceedings against Plaintiffs when they did not owe any arrears;
- D. Misrepresenting the amount of money Plaintiffs owed in the nonpayment proceeding;
- E. Stating that the alleged arrears was the result of Plaintiffs not paying their portion of the rent, when its client's ledger showed that the alleged arrears were not a result of nonpayment by Plaintiffs; and

F. Bringing a nonpayment summary eviction proceedings against Plaintiffs when the law prohibits bringing such proceedings when the petitioner is seeking recoupment of tax abatement credits from NYC DOF or NYC DFTA.

96. As a result of these violations, Plaintiffs suffered damages in the form of travel costs to housing court, certified mailing costs, and emotional distress.

JURY DEMAND

97. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff seeks

A. A declaration that Defendants have committed the violations of law alleged in this action;

B. An order enjoining and directing Defendant to cease violating NY GBL § 349 and NYC Admin. Code 27-2004(d);

C. Statutory damages pursuant to 15 U.S.C. § 1692k, and N.Y. G.B.L. § 349(h);

D. Treble damages pursuant to N.Y. Jud. Law § 487(1);

E. An order awarding disbursements, costs, and attorney's fees pursuant to 15 U.S.C. § 1692k, and NY GBL § 349;

F. A judgment for actual, statutory, and treble damages;

G. Pre-judgment and post-judgment interest as allowed by law; and

H. Such other relief, in law and in equity, both special and general, to which Plaintiffs may be justly entitled.

Dated: New York, New York
June 5, 2014

Respectfully submitted,

_____/s/_____
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