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8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

9 **IN AND FOR THE COUNTY OF MARICOPA**

10 RICHARD L. KEEFER and VICKI L.
KEEFER, husband and wife; HUNMI
11 PAK, a married man; E. DWAYNE
WALLS, a married man; and PANABCO,
12 a partnership;

13 Plaintiffs,

14 vs.

15 GENEX CAPITAL CORPORATION, a
Delaware corporation; GENEX
16 STRATEGIES, INC., a Canadian
corporation; ROGER PROCTOR and
17 JANE DOE PROCTOR, husband and
wife; HAPPY STATE BANK & TRUST
18 COMPANY, d/b/a/ GOLDSTAR TRUST
COMPANY, a Texas corporation;
19 SECURITY TITLE AGENCY, INC., an
Arizona corporation.

20 Defendants.

Case No.: CV2020-013796

FIRST AMENDED COMPLAINT

Jury Trial Demanded

**(Eligible for Commercial Court Rule
8.1(b)(8), (12))**

(Qualified for Tier 3, Ariz. R. Civ. P. 26.2)

(Assigned to the Hon. Daniel Martin)

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2 Plaintiffs Richard L. Keefer and Vicki L. Keefer, husband and wife (collectively, the
3 “Keefers”), HunMi Pak, a married man (“Pak”), E. Dwayne Walls, a married man (“Walls”),
4 and PANABCO, a partnership (“PANABCO”) (collectively, “Plaintiffs”), for their First
5 Amended Complaint against Defendants Genex Capital Corporation (“Genex”), Genex
6 Strategies, Inc. (“GSI”), Roger Proctor and Jane Doe Proctor, husband and wife, and Happy
7 State Bank & Trust Company d/b/a/ GoldStar Trust Company (“Goldstar”), Security Title
8 Agency, Inc. (“Security Title”) (collectively, “Defendants”), state and allege as follows:

9 **PARTIES AND JURISDICTION**

- 10 1. Plaintiffs Richard and Vicki Keefer are a married couple residing in Oceanside,
11 California.
- 12 2. Plaintiff HunMi Pak is a married man residing in Santa Barbara, California.
- 13 3. Plaintiff E. Dwayne Walls is a married man residing in Bennington, Kansas.
- 14 4. Plaintiff PANABCO is a partnership, with its principal place of business in
15 Ohio.
- 16 5. Defendant Genex is, and was at all times material hereto, a Delaware
17 corporation with its principal place of business in Dover, Delaware.
- 18 6. Defendant Genex is registered to do business in Arizona.
- 19 7. Defendant Genex is, and was at all times material hereto, authorized to and
20 regularly, continually, and systematically conducting business in Arizona.
- 21 8. Defendant GSI is, and was at all times material hereto, a Canadian corporation
22 with its principal place of business in Canada.
- 23 9. Upon information and belief, GSI is, and was at all times material hereto
24 regularly, continually, and systematically conducting business in Arizona.
- 25 10. Upon information and belief, Roger Proctor and Jane Doe Proctor are a married
26 couple residing in Vancouver, British Columbia, Canada.
- 27 11. The martial community of Roger Proctor and Jane Doe Proctor is liable for the
28 actions of Roger Proctor alleged herein because his actions were taken for and on behalf of

1 the Proctor marital community.

2 12. Defendant Goldstar is, and was at all times material hereto, a Texas corporation
3 with its principal place of business in Canyon, Texas.

4 13. Goldstar is registered to do business in Arizona.

5 14. Goldstar is, and was at all times material hereto, authorized to and regularly,
6 continually, and systematically conducting business in Arizona.

7 15. Goldstar is a necessary party to this action because, at certain times material
8 hereto, it was acting as Genex's servicing agent with respect to certain structured settlement
9 payments at issue in this action, and the communications between Goldstar and Genex, as
10 well as Goldstar's related (in)action, are material to the factual basis of Plaintiffs' claims.

11 16. Goldstar is a necessary party to be bound by the injunctive relief sought by
12 Plaintiffs.

13 17. Security Title is, and was at all times material hereto, an Arizona corporation
14 with its principal place of business in Maricopa County, Arizona.

15 18. Security Title is a necessary party to this action because, at certain times
16 material hereto, it was acting as Genex's servicing agent with respect to certain structured
17 settlement payments at issue in this action, and the communications between Security Title
18 and Genex, as well as Security Title's related (in)action, are material to the factual basis of
19 Plaintiffs' claims.

20 19. Security Title is a necessary party to allow Plaintiffs to secure the injunctive
21 relief sought in this action.

22 20. Defendants caused events to occur in Arizona that form the basis of Plaintiffs'
23 claims.

24 21. This Court has jurisdiction pursuant to Article VI, Section 14 of the Arizona
25 Constitution and A.R.S. §§ 12-123, 12-1801, and 12-1831.

26 22. Venue is proper before this Court pursuant to A.R.S. § 12-401.

27 23. This action is qualified for Tier 3 under Ariz. R. Civ. P. 26.2.

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1 **GENERAL ALLEGATIONS**

2 **I. STRUCTURED SETTLEMENT ANNUITY PAYMENT RIGHTS**

3 24. A structured settlement annuity is a type of annuity contract that provides for
4 the periodic payment of cash to annuitants/payees (“Payees”) as compensation for personal
5 injuries or sickness as established by a settlement or judgment, usually arising from a tort
6 claim.

7 25. The structured settlement payment rights at issue in this case arise out of tort
8 claims whereby injured parties agreed to the settlement of an injury claim by accepting
9 deferred, structured settlement payments over time from annuity insurers pursuant to an
10 annuity policy.

11 26. The underlying settlement agreement typically obligates the settlement obligor
12 or annuity issuer (or its assignee) to pay a monetary settlement amount, portions of which are
13 to be funded over time, in amounts and on dates specified in the settlement agreement. The
14 settlement obligor causes the annuity policy to be issued by the annuity issuer.

15 27. Some of these Payees may later wish to convert their structured settlement into
16 an immediate lump sum of cash by selling, assigning, and transferring all or some of their
17 future structured settlement payments to a third party investor.

18 28. In 2001, as part of the Victims of Terrorism Tax Relief Act, Congress passed
19 federal law allowing for the voluntary sale of structured settlement payments on the condition
20 that contracting parties receive a qualified order in advance of the transfer, in accordance with
21 a state’s applicable transfer status. 26 U.S. § 5891 *et seq.*

22 29. Court approval is typically required to allow Payees to sell and assign their
23 structured settlement payments under applicable state law.

24 30. Businesses that purchase structured settlement payments directly from Payees
25 in the secondary market are often referred to as “transfer companies” or “structured settlement
26 factoring companies.”

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1 **II. GENEX**

2 **A. Genex sells structured settlement payments to Investors**

3 31. Genex is in the business of purchasing from Payees and reassigning to third-
4 party investors (“Investors”) future structured settlement payments due under structured
5 settlement annuities.

6 32. Genex also brokers the further sale and re-assignment of structured settlement
7 future payment rights in the secondary market to Investors.

8 33. In exchange for brokering such re-assignments, Genex receives commissions
9 and/or other compensation.

10 34. Although Genex is identified in court orders approving the transfer of
11 structured settlement payment rights as the designated assignee, typically, Genex does not
12 actually receive these payments.

13 35. Rather, after receiving court approval as the designated assignee of the
14 assigned structured settlement payments, Genex assigns the rights to receive the structured
15 settlement payments to Investors. These subsequent assignments to Investors do not require
16 court approval.

17 36. For the structured settlement payment rights at issue in this action, Genex
18 retained Security Title as its servicing agent to receive and account for the structured
19 settlement payments directly from the annuity issuer, and to disburse these payments to
20 Investors, including Plaintiffs.

21 37. For the structured settlement payment rights at issue in this action, the court
22 orders approving the original assignments direct and instruct the annuity issuer to remit the
23 assigned structured settlement payments directly to Security Title.

24 **B. Genex’s Investor Assignment Agreement**

25 38. The operative document by which Genex assigns and transfers structured
26 settlement payment rights to Investors is a one-page document titled “Assignment of Sales
27 and Assignment Agreement” (hereinafter “Investor Assignment Agreement”).

28 39. Each Investor Assignment Agreement confirms that the Investor has paid good

1 and valuable consideration, “the receipt and sufficiency of which is hereby irrevocably
2 acknowledged,” in exchange for the assignment of the structured settlement payment rights.

3 40. Each Investor Assignment Agreement is signed and dated by Proctor on
4 Genex’s behalf.

5 41. Each Investor Assignment Agreement provides for the assignment of “all of
6 [Genex’s] right and interest it may have” in specific structured settlement payments.

7 **III. THE KEEFERS’ STRUCTURED SETTLEMENT PAYMENTS**

8 **A. The Keefers purchase structured settlement payments from Genex.**

9 42. New England Annuity Associates (“NEAA”) is a business whose commercial
10 practices include locating Investors who purchase annuities and structured settlement
11 payments in the secondary market.

12 43. With NEAA’s assistance, the Keefers purchased several structured settlement
13 payment streams from Genex, both through their Individual Retirement Accounts and in their
14 individual capacities.

15 44. Each purchase by the Keefers was evidenced by an Investor Assignment
16 Agreement signed by Genex’s principal and CEO, Roger Proctor (“Proctor”).

17 45. Specifically, the Keefers purchased from Genex the following structured
18 settlement payments (collectively, the “Keefer Assigned Payments”):

19 ANNUITANT	20 DATE ASSIGNED TO KEEFERS	MONTHLY PAYMENT AMOUNT	PAYMENT DATES
Judith Power	Dec. 12, 2012	\$6,369.05	July 1, 2018 – June 1, 2022 (48 mo.)
Charles Martin	Nov. 26, 2012	\$700.00	Aug. 22, 2016 – July 22, 2031 (180 mo.)
Leesa Perdun (NQ)	Jan. 21, 2013	\$588.00	Feb. 22, 2013 – June 22, 2022 (124 mo.) ¹

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27 ¹ The Perdun (NQ) Assigned Payments also include \$30,000.00, \$40,000.00, and \$50,000.00
28 lump sum installments due on October 18, 2014, 2019, & 2024, respectively.

ANNUITANT	DATE ASSIGNED TO KEEFERS	MONTHLY PAYMENT AMOUNT	PAYMENT DATES
Leesa Perdun (IRA)	Jan. 21, 2013	\$588.00	July 22, 2022 – Dec. 22, 2043 (258 mo.)
Leigh Laura Duran	Sep. 12, 2012	\$1,449.48	Aug. 1, 2021 – July 1, 2031 (120 mo.)
Samuel Harrington	Dec. 21, 2012	N/A	\$565,000 lump sum Oct. 22, 2024
Justin Dacus	Oct. 19, 2012	\$450.00	Dec. 5, 2012 – Sept. 5, 2032 (238 mo.)
David McAdory	Jan. 7, 2013	\$312.50 -- \$1,563.53 ²	Jan 7, 2013 – April 7, 2035 (267 mo.)
Santos H. Tolentino	Nov. 12, 2012	\$1,000 -- \$4,000 ³	Dec. 1, 2012 – Nov. 1, 2027 (180 mo.)
Kyle Bender	Dec. 17, 2012	N/A	\$47,160.57 on April 11, 2021 ⁴

46. Genex unequivocally sold and assigned to the Keefers all of its rights and interests in the Keefer Assigned Payments.

47. The Keefers paid good and valuable consideration to Genex to obtain the rights to receive the Keefer Assignment Payments.

48. Each of the above-described Keefer Assigned Payments have a corresponding court order approving the transfer of the related structured settlement payment to Genex and an Investor Assignment Agreement signed by Proctor on Genex's behalf.

49. Each court order associated with the Keefer Assigned Payments directs the annuity issuer to remit the Keefer Assigned Payments to "Genex Capital Corporation c/o Security Title Agency, LLC."

50. In connection with each Investor Assignment Agreement, Genex instructed

² The McAdory Assigned Payments include one-hundred and ten (110) \$312.50 installments and one-hundred and fifty-seven (157) \$1,563.53 installments.

³ The Tolentino Assigned Payments included twelve (12) \$1,000 installments, forty-eight (48) \$2,000 installments, sixty (60) \$3,000 installments, and sixty (60) \$4,000 installments.

⁴ The Bender Assigned Payments also include two lump sum payments previously received on April 11, 2013 and April 11, 2016.

1 Security Title, upon receipt, to disburse the Keefer Assigned Payments directly to the
2 Keepers.

3 **B. The Keepers assigned certain Keefer Assigned Payments to NEAA.**

4 51. On or about January 21, 2013, Mr. Keefer individually and via his Individual
5 Retirement Account, Richard L. Keefer IRA, purchased all of Genex's rights and interests in
6 a portion of the structured settlement payments originally owned by Leesa Perdun pursuant
7 to an Investor Assignment Agreement signed by Proctor on Genex's behalf (collectively, the
8 "Perdun Payments").

9 52. Mr. Keefer, in a non-qualified personal capacity, purchased all rights
10 and interests in the monthly payment installments of the Perdun Payments through June 22,
11 2022, plus three lump sum installments occurring in October 2014, 2019, and 2024
12 (collectively, the "Perdun (NQ) Payments").

13 53. At the same time, and via separate assignment agreement, Mr. Keefer, through
14 Richard L. Keefer IRA, purchased all rights and interest in the monthly payment installments
15 of the Perdun Payments beginning on July 22, 2022 and continuing through and including
16 December 22, 2043 (collectively, the "Perdun (IRA) Payments").

17 54. On or about September 12, 2019, Mr. Keefer executed an "Assignment of Sale
18 and Assignment Agreement" to effectuate the sale and reassignment of the Perdun (IRA)
19 Payments to NEAA.

20 55. Mr. Keefer never sold or reassigned the Perdun (NQ) Payments to
21 NEAA or any third-party, and therefore continues to own and hold all legal rights and
22 interest in the Perdun (NQ) Payments.

23 56. On or about October 16, 2012, Mrs. Keefer via her Individual
24 Retirement Account, Vicki L. Keefer IRA, purchased all of Genex's rights and interests in a
25 portion of the structured settlement payments that were originally owned by Leigh Laura
26 Duran pursuant to an Investor Assignment Agreement signed by Proctor on Genex's behalf
27 (collectively, the "Duran Payments").

28 57. On or about September 12, 2019, Mrs. Keefer executed an "Assignment of Sale

1 and Assignment Agreement” to effectuate the sale and reassignment of the Duran Payments
2 to NEAA.

3 58. NEAA subsequently re-assigned the Perdun (IRA) Payments and Duran
4 Payments to new Investors on the secondary market.

5 59. Upon information and belief, NEAA sent the appropriate documentation to
6 Security Title, informing Security Title of the Keepers’ reassignments of the Perdun (IRA)
7 Payments and Duran Payments to NEAA, and instructing Security Title to forward the
8 reassigned structured settlement payments to the new assignees of the Perdun (IRA) Payments
9 and Duran Payments.

10 60. Upon information and belief, Security Title acknowledged receipt of the
11 appropriate documentation from NEAA evidencing the reassignments of the Perdun (IRA)
12 Payments and the Duran Payments from the Keepers to NEAA, and from NEAA to new third-
13 party Investors.

14 61. Upon information and belief, until approximately February 2020, Security Title
15 honored these reassignments by remitting the Perdun (IRA) Payments to the new third-party
16 investor(s) without delay or objection.

17 **C. Genex and Proctor improperly redirect the Keeper Assigned Payments to**
18 **GSI, and erroneously allege the Keepers are in default of a “Receivable**
19 **Purchase Agreement” for assigning the Perdun (IRA) Payments and**
20 **Duran Payments to NEAA.**

21 62. On or about February 3, 2020, without explanation or notice to the Keepers,
22 Genex directed Security Title to remit the structured settlement payments that Genex had
23 previously assigned to the Investors, including the Perdun Payments and Duran Payments,
24 directly to GSI rather than to Investors (including the Keepers) who had already purchased
those payments from Genex.

25 63. Upon information and belief, Proctor had knowledge of Genex’s direction to
26 Security Title to remit the structured settlement payments that Genex had previously assigned
27 to the Investors, including the Perdun Payments and Duran Payments, directly to GSI rather
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1 than to Investors (including the Keepers) who had already purchased those payments from
2 Genex.

3 64. Upon information and belief, Proctor, in his capacity as Genex's CEO, had
4 supervised, managed, and participated in Genex's direction to Security Title to remit the
5 structured settlement payments that Genex had previously assigned to the Investors, including
6 the Perdun Payments and Duran Payments, directly to GSI rather than to Investors (including
7 the Keepers) who had already purchased those payments from Genex.

8 65. Upon information and belief, Security Title remitted Investors' structured
9 settlement payments, including Perdun Payments and Duran Payments, directly to GSI.

10 66. Upon information and belief, GSI accepted Investors' structured settlement
11 payments, including Perdun Payments and Duran Payments, directly from GSI.

12 67. On or after February 24, 2020, Genex sent a notice of default to Richard Keefer
13 and/or his IRA administrator alleging that his re-assignment of the Perdun (IRA) Payments to
14 NEAA violated the terms of a Receivable Purchase Agreement ("RPA") allegedly entered
15 between Mr. Keefer and Genex (the "Perdun Default Letter").

16 68. Genex did not provide a fully executed copy of the RPA with the Perdun
17 Default Letter it sent to Mr. Keefer.

18 69. The Perdun Default Letter purported to give Mr. Keefer twenty (20) days to
19 cure the alleged default by reversing the reassignment of the Perdun Payments.

20 70. Solely to avoid a dispute, and despite no legal obligation to do so, the Keepers
21 and NEAA immediately began the process of revoking the reassignments of the Perdun
22 (IRA) Payments and Duran Payments.

23 71. NEAA's counsel informed Genex's counsel, via e-mails dated March 4 and
24 March 6, 2020 (9 and 11 days, respectively, after Genex sent its Perdun Default Letter), that
25 the revocation process was underway to return ownership of the Perdun (IRA) Payments and
26 Duran Payments to the Keepers.

27 72. Mr. Keefer and NEAA signed and countersigned a Mutual Retroactive
28 Revocation of Assignment regarding the Perdun (IRA) Payments on March 3 and March 5,

1 2020, respectively.

2 73. On or about March 25, 2020, Mr. Keefer returned to NEAA the funds he
3 received in consideration for his reassignment of the Perdun (IRA) Payments to NEAA.

4 74. Mrs. Keefer and NEAA signed and countersigned a Mutual Retroactive
5 Revocation of Assignment regarding the Duran Payments on March 3 and March 5, 2020,
6 respectively.

7 75. On or about April 3, 2020, Genex sent a notice of default to Vicki Keefer
8 and/or her IRA administrator, alleging the reassignment of the Duran Payments to NEAA
9 violated the terms of an RPA allegedly entered between Vicki Keefer and Genex (the “Duran
10 Default Letter”).

11 76. Genex did not provide a fully executed copy of the RPA with the Duran
12 Default Letter sent to Mrs. Keefer.

13 77. The Duran Default Letter purported to give Mrs. Keefer twenty (20) days to
14 cure the alleged default by reversing the reassignment of the Duran Payments.

15 78. Upon information and belief, on or about April 8, 2020, NEAA’s counsel sent
16 Genex’s and Security Title’s counsel all of the necessary documents evidencing the
17 revocation of the Keefers’ reassignment of the Perdun (IRA) Payments and Duran Payments
18 to NEAA.

19 79. On or about April 20, 2020, Mrs. Keefer returned to NEAA the funds she
20 received in consideration for her reassignment of the Duran Payments to NEAA.

21 80. Despite never reassigning the Perdun (NQ) Payments to NEAA or any third-
22 party, despite signing and providing Genex with the Mutual Retroactive Revocation of
23 Assignments relating to the Perdun (IRA) Payments, and despite demand on Genex, Mr.
24 Keefer has not received the scheduled Perdun (NQ) Payments due in February and May
25 through October of 2020.

26 81. Despite signing and providing Genex with the Mutual Retroactive Revocation
27 of Assignments relating to the Perdun (IRA) Payments, and despite demand on Genex, it is
28 unclear whether Mr. Keefer or his IRA will receive the scheduled Perdun (IRA) Payments

1 beginning in July 2022.

2 82. Despite signing and providing Genex with the Mutual Retroactive Revocation
3 of Assignments relating to the Duran Payments, and despite demand on Genex, it is unclear
4 whether Mrs. Keefer or her IRA will receive the scheduled Duran Payments beginning in
5 August 2021.

6 **D. Certain of the Keefer Assigned Payments, which the Keefers never**
7 **reassigned to NEAA or any third-party Investor, cease.**

8 83. Aside from the Perdun (IRA) Payments and Duran Payments, the Keefers
9 never reassigned any of the eight other Keefer Assigned Payments they purchased from
10 Genex (collectively, the “Non-Assigned Keefer Payments”).

11 84. The Keefers continue to own and hold all legal rights and interest in the Non-
12 Assigned Keefer Payments.

13 85. Genex has never provided a notice of default relating to any of the Non-
14 Assigned Keefer Payments.

15 86. The Keefers have not received certain of the Non-Assigned Keefer Payments
16 since February 2020, which total at least \$32,456.48.

17 87. Upon information and belief, Genex and Proctor have actively interfered with,
18 prevented, and/or redirected the payments due and owing to the Keefers’ pursuant to the
19 terms of the Non-Assigned Keefer Payments.

20 **IV. PAK’S STRUCTURED SETTLEMENT PAYMENTS**

21 **A. The Paks purchase structured settlement payments from Genex.**

22 88. With NEAA’s assistance, Mr. Pak purchased a structured settlement payment
23 stream from Genex.

24 89. On or about March 10, 2013, Mr. Pak and his wife, Kelleen M. Pak, as joint
25 tenants with right of survivorship (collectively, the “Paks”), purchased all of Genex’s rights
26 and interests in a portion of the structured settlement payments originally owned by Rose
27 Marie Diaz as guardian *ad litem* of Maria Diaz and Mirna Diaz pursuant to an Investor
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1 Assignment Agreement signed by Proctor on Genex’s behalf (collectively, the “Diaz
2 Payments”), specifically including a \$200,000.00 lump sum payment on November 30, 2031
3 and a \$225,000.00 lump sum payment on November 30, 2036.

4 90. Genex unequivocally sold and assigned to the Paks all of its rights and interests
5 in the Diaz Payments due under the annuity policies described in the corresponding Investor
6 Assignment Agreements and/or related transactional documents (the “Pak Assigned
7 Payments”).

8 91. The Paks paid good and valuable consideration to Genex to obtain the rights to
9 receive the Pak Assigned Payments, as recognized by Genex in its corresponding Investor
10 Assignment Agreement.

11 92. The above-described Pak Assigned Payments have a corresponding court order
12 approving the transfer of the related structured settlement payment to Genex and an Investor
13 Assignment Agreement signed by Proctor on Genex’s behalf.

14 93. The court order associated with the Pak Assigned Payments directs the annuity
15 issuer to remit the Pak Assigned Payments to “Genex Capital Corporation c/o Security Title
16 Agency, LLC.”

17 94. In connection with the corresponding Investor Assignment Agreement, Genex
18 instructed Security Title, upon receipt, to disburse the Pak Assigned Payments directly to the
19 Paks.

20 **B. The Paks assigned the Pak Assigned Payments to NEAA.**

21 95. On or about November 26, 2019, the Paks executed an “Assignment of Sale
22 and Assignment Agreement” to effectuate the sale and reassignment of the Diaz Payments to
23 NEAA.

24 96. Upon information and belief, NEAA did not subsequently reassign the Diaz
25 Payments to new Investors on the secondary market.

26 97. Upon information and belief, NEAA sent the appropriate documentation to
27 Security Title, informing Security Title of the Paks’ reassignment of the Diaz Payments to
28 NEAA, and instructing Security Title to forward the reassigned structured settlement

1 payments to NEAA.

2 98. Upon information and belief, Security Title acknowledged receipt of the
3 appropriate documentation from NEAA evidencing the reassignments of the Diaz Payments
4 from the Paks to NEAA.

5 **C. Upon information and belief, Genex erroneously alleges that the Paks are**
6 **in default of a “Receivable Purchase Agreement” for assigning the Diaz**
7 **Payments to NEAA.**

8 99. Genex never sent a notice of default to the Paks alleging that his re-assignment
9 of the Diaz Payments to NEAA violated the terms of a Receivable Purchase Agreement
10 (“RPA”) allegedly entered between the Paks and Genex.

11 100. Mr. Pak does not recall receiving or executing a copy of a “Receivable
12 Purchase Agreement.”

13 101. To date, Genex has not provided a fully executed copy of the RPA to Mr. Pak
14 despite his request.

15 102. Solely to avoid a dispute, and despite no legal obligation to do so, the Paks and
16 NEAA immediately began the process of revoking the reassignments of the Diaz Payments.

17 103. The Paks and NEAA signed and countersigned a Mutual Retroactive
18 Revocation of Assignment regarding the Diaz Payments on April 20, 2020.

19 104. In exchange for NEAA’s return and reassignment of the Diaz Payments to the
20 Paks, Mr. Pak agreed to reimburse NEAA the amount NEAA paid the Paks for the Diaz
21 Payments.

22 105. On or about April 21, 2020, a NEAA representative sent Security Title the
23 Mutual Retroactive Revocation of Assignment evidencing the revocation of the Paks’
24 reassignment of the Diaz Payments to NEAA.

25 106. The Diaz Payments were among the structured settlement payment streams
26 purchased by Investors that Genex instructed be remitted to GSI, rather than the Paks, via
27 Genex’s February 3, 2020 letter to Security Title.

28 107. Upon information and belief, despite signing and providing Security Title with

1 the Mutual Retroactive Revocation of Assignments relating to the Diaz Payments, and
2 despite demand on Genex, Genex unlawfully remarketed, resold, and reassigned the Diaz
3 Payments to a third-party investor.

4 108. The Paks continue to own and hold all legal rights and interest in the Diaz
5 Payments.

6 **V. WALLS'S STRUCTURED SETTLEMENT PAYMENTS**

7 **A. Walls purchases structured settlement payments from Genex's assignee,**
8 **Thompson.**

9 109. On or about March 2, 2011, Sarah Holden Thompson ("Thompson") purchased
10 all of Genex's right title and interest in a portion of structured settlement payment streams
11 originally owned by Sergio Mier.

12 110. Among the rights Ms. Thompson purchased were the rights to receive a
13 \$75,000.00 lump sum payment on August 30, 2015 and another lump sum payment in the
14 amount of \$111,082.98 on August 30, 2020 (collectively, the "Mier Payments").

15 111. On or about October 10, 2013, pursuant to an Assignment of Sale and
16 Assignment Agreement, Mr. Walls purchased the Mier Payments from Ms. Thompson or her
17 estate.

18 112. Mr. Walls paid good and valuable consideration to Thompson to obtain her
19 rights in the Mier Payments, which rights are recognized by Genex in its Investor
20 Assignment Agreement with Thompson.

21 113. Genex's retained servicing agent for the Mier Payments, Security Title Agency
22 ("Security Title"), received notice of Thompson's reassignment of the Mier Payments to Mr.
23 Walls.

24 114. Mr. Walls received the \$75,000.00 lump sum Mier Payment due and owing to
25 him on or about August 30, 2015.

26 115. Mr. Walls was entitled to payment of the second lump sum Mier Payment, in
27 the amount of \$111,082.98, on August 30, 2020 (the "Outstanding Mier Payment").

28 116. To date, Mr. Walls has not received the Outstanding Mier Payment.

117. Mr. Walls continues to own and hold all legal rights and interest in the

1 Outstanding Mier Payment.

2 **B. Genex improperly directs Security Title to withhold the Outstanding Mier**
3 **Payment from Walls, without notice or consent from Walls.**

4 118. Unbeknownst to Mr. Walls, from April 2020 to August 2020, Security Title
5 and Genex communicated about Mr. Walls's right to receive the Outstanding Mier Payment.

6 119. Specifically, by e-mail dated April 7, 2020, Connie Osborne, Assistant
7 Manager/Client Liaison at Security Title, inquired as to whether Genex objected to Security
8 Title's payment of the Outstanding Mier Payment to Mr. Walls.

9 120. Linda Holland, a Genex representative, responded to Ms. Osborne's April 7,
10 2020 e-mail inquiry as follows: "*This one is different[.]* We were advised, [sic] Sarah
11 [Holden Thompson] went in a nursing home in 2015. It maybe [sic] ok . . If it isn't we will
12 send a letter." (emphasis added).

13 121. On August 20, 2020, Ms. Osborne again sought confirmation from Ms.
14 Holland that Genex approved of Ms. Thompson's assignment of the Mier Payments to Mr.
15 Walls, and thus that Security Title could pay the Outstanding Mier Payment which was due
16 to Mr. Walls on August 30, 2020.

17 122. Ms. Holland requested Ms. Osborne to "hold it [(the Outstanding Mier
18 Payment)] until I find out...."

19 123. Ms. Osborne, on Security Title's behalf, agreed to withhold the Outstanding
20 Meir Payment from Mr. Walls at Genex's direction.

21 124. Security Title's Seller Finance document reflects receipt of \$112,667.67 on or
22 about September 11, 2020 in the "Sergio Mier" account, which amount remains in escrow
23 and which, upon information and belief, constitute all or a substantial portion of the
24 Outstanding Mier Payment owed to Mr. Walls.

25 125. To date, Mr. Walls has not received any written or verbal communication
26 directly from Genex or Security Title explaining the delay in payment of the Outstanding
27 Meir Payment, or whether and when he may receive such payment.

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1 **VI. PANABCO'S STRUCTURED SETTLEMENT PAYMENTS**

2 **A. PANABCO purchases structured settlement payments from Genex's**
3 **assignee, Gibbons IRA.**

4 126. On or about June 7, 2011, Michael D. Gibbons Traditional IRA ("Gibbons
5 IRA") purchased all of Genex's right title and interest in a portion of a structured settlement
6 payment stream originally owned by Rosendo Almaraz Jr.

7 127. Among the rights Gibbons purchased were the rights to receive monthly
8 Payments of \$2,175.86 that began on February 8, 2019 continue through January 8, 2025 (the
9 "Almaraz Payments").

10 128. On or about December 19, 2013, pursuant to a subsequent Assignment of Sale
11 and Assignment Agreement signed by Gibbons IRA, PANABCO purchased the right to
12 receive the Almaraz Payments from Gibbons IRA.

13 129. PANABCO paid good and valuable consideration to Gibbons IRA to obtain its
14 rights in the Almaraz Payments, which rights are recognized by Genex in its Investor
15 Assignment Agreement with Gibbons IRA.

16 130. On or about December 19, 2013, Genex's retained servicing agent for the
17 Almaraz Payments, Security Title, received notice of Gibbons IRA's reassignment of the
18 Almaraz Payments to PANABCO.

19 131. Between February 2019 and March 2020, PANABCO received each monthly
20 installment due and owing to it without issue.

21 132. PANABCO was entitled to additional monthly installments due in April 2020
22 and thereafter (the "Outstanding Almaraz Payments").

23 133. To date, PANABCO has not received the Outstanding Almaraz Payments.

24 134. PANABCO continues to own and hold all legal rights and interest in the
25 Outstanding Almaraz Payments.

26 **B. Genex improperly directs Security Title to withhold the Almaraz**
27 **Payments from PANABCO, without notice to or consent from PANABCO.**

28 135. On or after February 24, 2020, Genex sent a notice of default letter to Gibbons
IRA, alleging the reassignment of the Almaraz Payments between Gibbons IRA and

1 PANABCO violated an RPA purportedly executed by Gibbons IRA and Genex.

2 136. Upon information and belief, Michael D. Gibbons died prior to February 24,
3 2020 and thus did not receive Genex's notice of default letter.

4 137. PANABCO is unaware of whether a representative of the Estate of Michael D.
5 Gibbons received Genex's notice of default letter.

6 138. Genex has not sent a notice of default letter to PANABCO regarding the
7 reassignment of the Almaraz Payments, or otherwise communicated with PANABCO
8 regarding the same.

9 139. Upon information and belief, Security Title has placed a hold on disbursement
10 of the Outstanding Almaraz Payments at Genex's direction.

11 140. To date, PANABCO has not received any written or verbal communication
12 directly from Genex or Security Title explaining the delay in payment of the Outstanding
13 Almaraz Payments, or whether and when it may receive such payments.

14 **VII. GENEX WRONGFULLY DIVERTS, CONVERTS, RE-SELLS, AND/OR**
15 **REASSIGNS PLAINTIFFS' ASSIGNED PAYMENTS**

16 141. Upon information and belief, prior to or immediately after the Keepers
17 delivered their Mutual Retroactive Revocation of Assignments to Genex, Genex instructed
18 Security Title to cease making the Perdun Payments, Duran Payments, and Non-Assigned
19 Keefer Payments to the Keepers.

20 142. Upon information and belief, prior to or immediately after the Paks delivered
21 their Mutual Retroactive Revocation of Assignment to Security Title, Genex instructed
22 Security Title to withhold the Diaz Payments from the Paks.

23 143. Genex instructed Security Title to withhold the Outstanding Meir Payment
24 from Walls.

25 144. Upon information and belief, prior to or immediately after sending its notice of
26 default to Gibbons IRA, if any, Genex instructed Security Title to cease making the Almaraz
27 Payments to PANABCO.
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1 145. Upon information and belief, after directing Security Title to stop the payments
2 from reaching the Plaintiffs, Genex thereafter started marketing and advertising for sale on its
3 weekly “Deal Sheets” some or all of the same structured settlement payment rights described
4 herein.

5 146. Upon information and belief, Genex subsequently sold and reassigned the
6 structured settlement payment rights which belong to and are owned by the Keepers,
7 including but not limited to the Perdun Payments, Duran Payments, and Non-Assigned
8 Keeper Payments (hereinafter, the “Converted Keeper Payments”) to third-party Investors.

9 147. Upon information and belief, Genex subsequently sold and reassigned the Diaz
10 Payments which belong to and are owned by the Paks (the “Converted Pak Payments”) to
11 third-party Investors.

12 148. Upon information and belief, Genex subsequently sold and reassigned the
13 Almaraz Payments which belong to and are owned by PANABCO (the “Converted
14 PANABCO Payments”) to third-party Investors.

15 149. Upon information and belief, Genex received the proceeds from the sale and
16 reassignment of the Converted Keeper Payments, Converted Pak Payments, and Converted
17 PANABCO Payments (collectively, the “Converted Payment Streams”) from the third-party
18 Investors.

19 150. Genex has not turned over or paid any portion of the purchase price or proceeds
20 it received from the new Investors for the Converted Payment Streams to the Keepers, the
21 Paks, or PANABCO.

22 151. Genex did not notify the Keepers, the Paks, or PANABCO that Genex planned
23 to convert their future structured settlement payment rights, treat those payment rights as its
24 own, re-sell them to new third-party Investors, and keep any or all of the proceeds of its sale
25 of the Converted Payments.

26 152. Upon information and belief, Genex effectuated the purported sale and
27 reassignment of the Converted Payment Streams by notifying the annuity issuers named in
28 each of the state court approval orders to re-direct and remit the Converted Payment Streams

1 provided for each court order to Goldstar, rather than to Security Title.

2 153. Upon information and belief, Genex retained Goldstar as its new servicing
3 agent to receive, account for, and disburse the Converted Payment Streams.

4 154. Upon information and belief, Genex did not obtain court approval for the
5 substitution of Goldstar for Security Title.

6 155. Upon information and belief, Genex has directed Goldstar to issue the Perdun
7 Payments to new Investors going forward, rather than to Mr. Keefer and/or his IRA.

8 156. Upon information and belief, Genex has directed Goldstar to issue the Duran
9 Payments to new Investors going forward, rather than to Mrs. Keefer and/or her IRA.

10 157. Upon information and belief, Genex has directed Goldstar to issue some or all
11 of the Non-Assigned Keefer Payments to new Investors going forward, rather than the
12 Keefers.

13 158. Upon information and belief, Genex has directed Goldstar to issue the Diaz
14 Payments to new Investors going forward, rather than to the Paks.

15 159. Upon information and belief, Genex has directed Goldstar to issue the Almaraz
16 Payments to new Investors going forward, rather than to PANABCO.

17 160. Although Genex may have signed documents purporting to transfer, sell, and
18 re-assign the Converted Payments to new third-party Investors, and then accepted payment
19 from those third-party Investors, Genex did so without right, title, or interest in the Converted
20 Payment Streams.

21 161. Genex did not have the authority, right, or permission to sell and re-assign the
22 Converted Payments which belong to and are owned by the Keefers, the Paks, and
23 PANABCO.

24 162. Genex did not and does not have the authority, right, or permission from the
25 Keefers, the Paks, or PANABCO to keep all or any of the proceeds of the sale of the
26 Converted Payment Streams.

27 163. Genex did not and does not have the authority, right, or permission from Mr.
28 Walls to withhold, or direct Security Title to withhold, the Outstanding Mier Payment from

1 Mr. Walls.

2 164. Upon information and belief, Proctor, in his capacity as Genex's CEO, had
3 personal knowledge of Genex's misconduct described herein.

4 165. Upon information and belief, Proctor, in his capacity as Genex's CEO,
5 supervised, managed, directed, and participated in and benefited from Genex's misconduct
6 described herein.

7 **COUNT ONE**
8 **(Breach of Contract)**
9 (The Keefers and Mr. Pak v. Genex)

10 166. Plaintiffs incorporate the allegations contained in paragraphs 1 through 165
11 as if fully set forth herein.

12 167. The Investor Assignment Agreements relating to the Perdun Payments, Duran
13 Payments, and Non-Assigned Keefer Payments are valid, binding, and enforceable contracts
14 between the Keefers and Genex.

15 168. The Investor Assignment Agreement relating to the Diaz Payments is a binding
16 and enforceable contract between the Paks and Genex.

17 169. Having transferred all of its rights and interests in the Perdun Payments, Duran
18 Payments, and Non-Assigned Keefer Payments, Genex has breached the Investor
19 Assignment Agreements with the Keefers by taking deliberate action to divert such
20 structured settlement payments away from the Keefers and to third-party Investors.

21 170. Having transferred all of its rights and interests in the Diaz Payments, Genex
22 has breached the Investor Assignment Agreement with the Paks by taking deliberate action to
23 divert the Diaz Payments away from the Paks and to third-party Investors.

24 171. Genex's wrongful diversion of these payments constitutes a breach of the
25 Investor Assignment Agreements.

26 172. Genex's breach of the Investor Assignment Agreements has damaged the
27 Keefers and the Mr. Pak in an amount to be proven at trial.

28 173. The Keefers and the Mr. Pak are entitled to recover attorneys' fees and costs

1 incurred herein pursuant to A.R.S. §§ 12-341.01 and 12-341.

2 **COUNT TWO**
3 **(Breach of the Implied Covenant of Good Faith and Fair Dealing)**
4 **(The Keefers and Mr. Pak v. Genex)**

5 174. Plaintiffs incorporate the allegations contained in paragraphs 1 through 173 as
6 if fully set forth herein.

7 175. The Investor Assignment Agreements relating to the Perdun Payments, Duran
8 Payments, and Non-Assigned Keefer Payments include an implied covenant of good faith
9 and fair dealing.

10 176. The Investor Agreement relating to the Diaz Payments include an implied
11 covenant of good faith and fair dealing.

12 177. The Keefers reasonably expected that Genex would adhere to its obligations
13 and duties to ensure Security Title remitted to the Keefers the structured settlement payments
14 which the Keefers purchased from Genex, consistent with the intent and terms of the Investor
15 Assignment Agreements.

16 178. The Paks reasonably expected that Genex would adhere to its obligations and
17 duties to ensure Security Title remitted to the Paks the structured settlement payments which
18 they purchased from Genex, consistent with the intent and terms of the Investor Assignment
19 Agreement.

20 179. By engaging in the actions described herein, Genex has failed to act in good
21 faith and has deliberately and unfairly deprived the Keefers of their expected benefits and
22 reasonable expectations under the Investor Assignment Agreements.

23 180. By engaging in the actions described herein, Genex has failed to act in good
24 faith and has deliberately and unfairly deprived the Paks of their expected benefits and
25 reasonable expectations under the Investor Assignment Agreements.

26 181. Genex intentionally acted to deprive the Keefers of the benefit of their bargain
27 with Genex.

28 182. Genex intentionally acted to deprive the Paks of the benefit of their bargain

1 with Genex.

2 183. Genex, through its misconduct as described herein, has breached the implied
3 covenant of good faith and fair dealing.

4 184. As a direct and proximate result of Genex's breach of the covenant of good
5 faith and fair dealing, the Keefers and the Paks have been damaged in an amount to be
6 proven at trial.

7 185. Upon information and belief, Genex's actions were and are willful, malicious,
8 spiteful, deceitful, wanton, reckless, and carried out with an evil mind entitling the Keefers
9 and Mr. Pak to an award of punitive damages sufficient to deter Genex from engaging in
10 conduct similar to that described herein.

11 186. The Keefers and Mr. Pak are entitled to recover its reasonable attorneys' fees and
12 costs incurred herein pursuant to A.R.S. §§ 12-341.01 and 12-341.

13 **COUNT THREE**
14 **(Unjust Enrichment)**

(The Keefers, Mr. Pak, and PANABCO v. Genex)

15 187. Plaintiffs incorporate the allegations contained in paragraphs 1 through 186
16 as if fully set forth herein.

17 188. Genex has been unjustly enriched by its unlawful and unauthorized sale and
18 reassignment of the Perdun Payments, Duran Payments, and Non-Assigned Keefer Payments
19 to third-party Investors without payment of any compensation to the Keefers.

20 189. Genex has been unjustly enriched by its unlawful and unauthorized sale and
21 reassignment of the Diaz Payments to third-party Investors without payment of any
22 compensation to the Paks.

23 190. Genex has been unjustly enriched by its unlawful and unauthorized sale and
24 reassignment of the Almaraz Payments to third-party Investors without payment of any
25 compensation to PANABCO.

26 191. The Keefers have been impoverished as a consequence of Genex's unlawful
27 and unauthorized sale and reassignment of the Perdun Payments, Duran Payments, and Non-
28

1 Assigned Keefer Payments to third-party Investors.

2 192. The Paks have been impoverished as a consequence of Genex's unlawful and
3 unauthorized sale and reassignment of the Diaz Payments to third-party Investors.

4 193. PANABCO has been impoverished as a consequence of Genex's unlawful and
5 unauthorized sale and reassignment of the Almaraz Payments to third-party Investors.

6 194. There is no justification for Genex's unjust enrichment or the Keefers'
7 resulting impoverishment.

8 195. There is no justification for Genex's unjust enrichment or the Paks resulting
9 impoverishment.

10 196. There is no justification for Genex's unjust enrichment or PANABCO's
11 resulting impoverishment.

12 197. As a direct and proximate result of Genex's unjust enrichment, the Keefers, the
13 Mr. Pak, and PANABCO have been damaged in an amount to be proven at trial.

14 198. If the Investor Assignment Agreements are determined to be invalid or
15 unenforceable contracts, in whole or in part, then there may be no other legal remedy
16 available to the Keefers, Mr. Pak, or PANABCO. To the extent the Keefers, Mr. Pak, or
17 PANABCO are denied a contractual remedy, unjust enrichment is plead in the alternative.

18 **COUNT FOUR**
19 **(Conversion)**

(All Plaintiffs v. Genex, GSI, and Proctor)

20 199. Plaintiffs incorporate the allegations contained in paragraphs 1 through 198 as
21 if fully set forth herein.

22 200. The Keefers rightfully own the Converted Keefer Payments.

23 201. The Paks rightfully own the Converted Pak Payments.

24 202. PANABCO rightfully owns the Converted PANABCO Payments.

25 203. Through its unlawful and unauthorized sale and re-assignment of the Converted
26 Payment Streams to third-party Investors, Genex has intentionally exercised control over the
27 Converted Payment Streams to the exclusion of the Keefers, the Paks, and PANABCO.
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1 204. The Keepers, the Paks, and PANABCO have demanded Genex return control
2 over the Converted Payments to the Keepers, and Genex has failed to do so.

3 205. The Keepers, the Paks, and PANABCO have been damaged by Genex's
4 conduct in the minimum amount of the full value of the Converted Payments that Genex
5 wrongfully took from each of them.

6 206. Upon information and belief, Proctor, in his capacity as Genex's CEO, had
7 personal knowledge of Genex's transfer, sale, and reassignment of the Converted Payments
8 to third-party Investors, without notice to or consent by the Keepers, the Paks, or PANABCO.

9 207. Upon information and belief, Proctor, in his capacity as Genex's CEO,
10 supervised, managed, directed, and participated in and benefitted from Genex's transfer, sale,
11 and reassignment of the Converted Payments to third-party Investors.

12 208. Mr. Walls rightfully owns the Outstanding Mier Payment.

13 209. Through its unlawful and unauthorized direction to Security Title to withhold
14 the Outstanding Mier Payment, Genex has intentionally exercised control over the
15 Outstanding Mier Payment to the exclusion of Mr. Walls.

16 210. Mr. Walls has demanded Genex return control over the Outstanding Mier
17 Payments to Mr. Walls, and Genex has failed to do so.

18 211. Mr. Walls has been damaged by Genex's conduct in the minimum amount of
19 the full value of the Outstanding Mier Payment.

20 212. Upon information and belief, Proctor, in his capacity as Genex's CEO, had
21 personal knowledge of Genex's direction to Security Title to withhold the Outstanding Mier
22 Payment, without notice to or consent by Mr. Walls.

23 213. Upon information and belief, Proctor, in his capacity as Genex's CEO,
24 supervised, managed, directed, and participated in and benefitted from Genex's direction to
25 Security Title to withhold the Outstanding Mier Payment.

26 214. As a result of Genex's, GSI's, and Proctor's intentional misconduct, Plaintiffs
27 are entitled to punitive damages in an amount sufficient to deter Genex, GSI, and Proctor
28 from engaging in conduct similar to that described herein.

COUNT FIVE
(Civil Conspiracy)

(All Plaintiffs v. Genex, GSI, and Proctor)

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215. Plaintiffs incorporate the allegations contained in paragraphs 1 through 214 as if fully set forth herein.

216. Upon information and belief, Genex and GSI agreed to work together to divert the Keepers' ownership, rights, and interests in the Converted Keeper Payments, which the Keepers had already purchased from Genex for good and valuable consideration, and reassign and sell the Keepers' rights and interests in the Converted Keeper Payments to third-party Investors, thereby depriving the Keepers' of their rights and interests in the Converted Keeper Payments.

217. Upon information and belief, Genex and GSI agreed to work together to divert the Paks' ownership, rights, and interests in the Converted Pak Payments, which the Paks had already purchased from Genex for good and valuable consideration, and reassign and sell the Paks' rights and interests in the Converted Pak Payments to third-party Investors, thereby depriving the Paks of their rights and interests in the Converted Pak Payments.

218. Upon information and belief, Genex and GSI agreed to work together to divert PANABCO's ownership, rights, and interests in the Converted PANABCO Payments, which PANABCO had purchased for good and valuable consideration, and reassign and sell the PANABCO's rights and interests in the Converted PANABCO Payments to third-party Investors, thereby depriving PANABCO of its rights and interests in the Converted PANABCO Payments.

219. Upon information and belief, Genex and GSI agreed to work together to divert Mr. Wall's ownership, rights, and interests in the Outstanding Mier Payment, which the Mr. Walls had purchased for good and valuable consideration, and direct Security Title to withhold the Outstanding Mier Payment from Mr. Walls, thereby depriving Mr. Walls of his rights and interests in the Outstanding Mier Payment.

220. Genex and GSI accomplished such diversion, reassignments, and sales by

1 instructing Security Title and/or Goldstar to make payments to GSI, rather than to the
2 Plaintiffs.

3 221. Genex's and GSI's agreed upon acts constitute conversion of the Plaintiffs'
4 property and are unlawful.

5 222. Upon information and belief, Proctor, in his capacity as Genex's CEO and
6 otherwise, had personal knowledge of Genex's and GSI's agreed upon conversion of the
7 Plaintiffs' property.

8 223. Upon information and belief, Proctor, in his capacity as Genex's CEO and
9 otherwise, supervised, managed, directed, and participated in and benefitted from Genex's
10 and GSI's agreed upon conversion of the Plaintiffs' property.

11 224. Plaintiffs have been damaged by Genex's, GSI's, and Proctor's conspiracy to
12 unlawfully redirect and convert the Converted Payments purchased by and owed to Plaintiffs
13 in an amount to be proven at trial.

14 225. As a result of Genex's, GSI's, and Proctor's intentional misconduct and
15 conspiracy, the Plaintiffs are entitled to punitive damages in an amount sufficient to deter
16 Genex, GSI, and Proctor from engaging in conduct similar to that described herein.

17 **COUNT SIX**

18 **(Aiding and Abetting)**

19 (All Plaintiffs v. GSI and Proctor)

20 226. Plaintiffs incorporate the allegations contained in paragraphs 1 through 225
21 as if fully set forth herein.

22 227. As alleged herein, Genex engaged in tortious conduct for which it is liable to
23 the Plaintiffs.

24 228. GSI knew and understood that Genex's diversion, reassignment, and sale of the
25 Plaintiffs' respective rights to future structured settlement payments via the Converted
26 Payment Streams and Outstanding Mier Payment, without notice to or consent by the
27 Plaintiffs, was unlawful.

28 229. GSI substantially assisted and/or encouraged Genex in breaching its duties

1 owed to the Plaintiffs.

2 230. GSI's aiding and abetting was a proximate cause of Genex's tortious conduct.

3 231. Proctor knew and understood that Genex's diversion, reassignment, and sale of
4 the Plaintiffs' respective rights to future structured settlement payments via the Converted
5 Payment Streams and Outstanding Mier Payment, without notice to or consent by the
6 Plaintiffs, was unlawful.

7 232. Proctor substantially assisted and/or encouraged Genex in breaching its duties
8 owed to the Plaintiffs.

9 233. Proctor's aiding and abetting was a proximate cause of Genex's tortious
10 conduct.

11 234. Plaintiffs have been damaged as a result of Genex's, GSI's, and Proctor's
12 tortious conduct in an amount to be proven at trial.

13 235. As a result of GSI's and Proctor's intentional misconduct, the Plaintiffs are
14 entitled to punitive damages in an amount sufficient to deter GSI from engaging in conduct
15 similar to that described herein.

16 **COUNT SEVEN**

17 **Declaratory Judgment**

18 (The Keefers and Mr. Pak v. Genex)

19 236. Plaintiffs incorporate the allegations contained in paragraphs 1 through 235
20 as if fully set forth herein.

21 237. Under A.R.S. § 12-1831 *et seq.* and Rule 57, *Arizona Rules of Civil Procedure*,
22 this Court may declare the rights and other legal relations of any interested party in a case of
23 actual controversy.

24 238. Genex contends there are RPAs which constitute enforceable contracts between
25 Genex and the Paks.

26 239. Mr. Pak contends the Paks contend did not execute the RPA.

27 240. Genex contends the Paks materially breached the RPA when they reassigned
28 and sold the Diaz Payments to NEAA.

1 241. Genex contends the Keefers materially breached the RPAs when they
2 reassigned and sold the Perdun (IRA) Payments and Duran Payments to NEAA.

3 242. To the extent there are fully executed and enforceable RPAs, the Keefers and
4 Mr. Pak each contend they did not materially breach the RPAs when they reassigned and sold
5 the above-referenced structured settlement payments to NEAA.

6 243. Genex contends the Keefers and the Paks failed to cure alleged material
7 breaches of the RPAs.

8 244. To the extent there are fully executed and enforceable RPAs, the Keefers and
9 Mr. Pak each contend they cured such alleged material breaches of the RPAs.

10 245. Genex contends that because the Keefers and the Paks each failed to cure
11 alleged material breaches of the RPAs, the RPAs empowered Genex to terminate the RPAs
12 and reassign and sell the Duran Payments, Perdun Payments, and the Non-Assigned Keefer
13 Payments to new third-party Investors, without notice to or consent by the Keefers, as well
14 as the Diaz Payments, without notice to or consent by the Paks.

15 246. Regardless of whether the RPA is enforceable against the Keefers or the Paks,
16 the Keefers and Mr. Pak contend that Genex had no legal or equitable right to terminate the
17 RPAs, or reassign and sell the Duran Payments, Perdun Payments, and the Non-Assigned
18 Keefer Payments to new third-party Investors, without notice to or consent by the Keefers,
19 nor the Diaz Payments, without notice to or consent by the Paks.

20 247. Genex contends the new third-party Investors to whom it reassigned and sold
21 the Keefers' rights in the Duran Payments, Perdun Payments, and the Non-Assigned Keefer
22 Payments, and the Paks' rights in the Diaz Payments, own the right to receive such structured
23 settlement payments.

24 248. The Keefers and Mr. Pak contend they own the right to receive the Duran
25 Payments, Perdun Payments, the Non-Assigned Keefer Payments, and the Diaz Payments,
26 and that pursuant to Investor Assignment Agreements between the Keefers and Genex, and
27 the Paks and Genex, Genex has not properly and legally, and cannot properly and legally,
28 terminate the Keefers' or the Paks' rights in such structured settlement payments.

1 249. A ripe, continuing, and justiciable controversy exists between the Keepers and
2 Defendants relating to the Perdun Payments, the Duran Payments, and the Keepers' Non-
3 Assigned Payments, and the Paks and Defendants relating to the Diaz Payments, and their
4 respective rights and obligations under any relevant and enforceable RPA(s) and the relevant
5 Investor Assignment Agreements.

6 250. A declaratory judgment, pursuant to Rule 57, *Arizona Rules of Civil Procedure*,
7 and A.R.S. § 12-1831 *et seq.*, is both necessary and proper to establish the parties' legal
8 rights and obligations arising from or relating to the Perdun Payments, the Duran Payments,
9 the Keepers' Non-Assigned Payments, the Diaz Payments, any relevant and enforceable
10 RPA(s), and the relevant Investor Assignment Agreements.

11 251. The Keepers and Mr. Pak are entitled to their attorneys' fees and costs under
12 A.R.S. §§ 12-341, 12-341.01, 12-1840, and 12-348.

13 **COUNT EIGHT**
14 **(Declaratory Judgment)**
15 (Walls and PANABCO v. Genex)

16 252. Plaintiffs incorporate the allegations contained in paragraphs 1 through 251 as
17 if fully set forth herein.

18 253. Under A.R.S. § 12-1831 *et seq.* and Rule 57, *Arizona Rules of Civil Procedure*,
19 this Court may declare the rights and other legal relations of any interest party in a case of
20 actual controversy.

21 254. Genex contends Thompson and Gibbons IRA materially breached RPAs
22 allegedly executed by Thompson, Gibbons IRA, and Genex, which empowered Genex to
23 terminate the RPAs and reassign and/or receive the Almaraz Payments and Outstanding Mier
24 Payments.

25 255. Regardless of whether the RPAs are enforceable against Thompson or Gibbons
26 IRA, PANABCO and Walls contend that they are neither parties to nor bound by any RPAs
27 with Genex, and Genex had no legal or equitable right to subsequently reassign, sell, or
28 otherwise receive the Almaraz Payments or Outstanding Mier Payment, without notice to or

1 consent by PANABCO or Walls, respectively.

2 256. Genex contends PANABCO does not own and is not entitled to the Almaraz
3 Payments, and Walls does not own and is not entitled to the Outstanding Mier Payments.

4 257. PANABCO contends it owns and is entitled to receive the rights to the
5 Almaraz Payments, and Walls contends he owns and is entitled to receive the Outstanding
6 Mier Payments.

7 258. A ripe, continuing, and justiciable controversy exists between PANABCO and
8 Genex relating to the Almaraz Payments, and Walls and Genex relating to the Outstanding
9 Mier Payment, and their respective rights and obligations with respect to such payments.

10 259. A declaratory judgment, pursuant to Rule 57, *Arizona Rules of Civil Procedure*,
11 and A.R.S. § 12-1831 *et seq.*, is both necessary and proper to establish the parties' legal
12 rights and obligations arising from or relating to the Almaraz Payments and the Outstanding
13 Mier Payments.

14 260. PANABCO and Walls are entitled to their attorneys' fees and costs under
15 A.R.S. §§ 12-341, 12-341.01, 12-1840, and 12-348.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs request that the Court enter Judgment in their favor and
18 against Defendants, jointly and severally, as follows:

19 A. awarding the Plaintiffs compensatory damages of no less than the full value of
20 the Converted Payments at the date payment was wrongfully diverted, and Plaintiffs' rights
21 and interests in the Converted Payments were converted, by Genex and GSI;

22 B. pursuant to A.R.S. § 12-1831 *et seq.* and Rule 57, *Arizona Rules of Civil*
23 *Procedure*, declaring:

- 24 1. there is no enforceable RPA between the Keefers and Genex;
- 25 2. there is no enforceable RPA between the Paks and Genex;
- 26 3. to the extent there are fully executed and enforceable RPAs between the
27 Keefers or the Paks and Genex, the Keefers and the Paks did not
28 materially breach the RPAs when they reassigned and sold any of the

1 Converted Payment Streams.

- 2 4. to the extent there are fully executed and enforceable RPAs between the
3 Keefers or the Paks and Genex, the Keefers and Paks cured such alleged
4 material breaches of the RPAs;
- 5 5. regardless of whether there are fully executed and enforceable RPAs
6 between the Keefers or the Paks and Genex, and regardless of whether
7 the Keefers or Paks materially breached any executed and enforceable
8 RPA, Genex had no legal or equitable right to terminate the RPAs, or
9 reassign and sell the Duran Payments, Perdun Payments, Non-Assigned
10 Keefer Payments, or Diaz Payments to new third-party Investors,
11 without notice to or consent by the Keefers or Paks;
- 12 6. the Keefers own the right to receive the Duran Payments, Perdun
13 Payments, and the Non-Assigned Keefer Payments, the Paks owns the
14 right to receive the Diaz Payments, and, pursuant to Investor
15 Assignment Agreements between the Keefers or the Paks and Genex,
16 Genex has not and cannot terminate the Keefers' or the Paks' rights in
17 these payments;
- 18 7. regardless of whether the RPAs allegedly entered between Thompson
19 and Gibbons IRA and Genex are enforceable, and regardless of whether
20 Thompson or Gibbons IRA materially breached any executed and
21 enforceable RPA, Genex had no legal or equitable right to subsequently
22 reassign, sell, or otherwise receive the Almaraz Payments or
23 Outstanding Mier Payment, without notice to and consent by
24 PANABCO and Walls; and,
- 25 8. PANABCO owns and is entitled to receive the Almaraz Payments, and
26 Walls owns and is entitled to receive the Outstanding Mier Payment.

27 C. pursuant to A.R.S. § 12-1801 *et seq.* and Rule 65, *Arizona Rules of Civil*
28 *Procedure*, ordering:

- 1 1. Genex be enjoined from reselling or reassigning Plaintiffs’ structured
2 settlement payments described herein;
- 3 2. Genex be enjoined from advertising for resale or reassignment
4 Plaintiffs’ structure settlement payments described herein;
- 5 3. Genex be enjoined from seeking to amend court orders related to
6 Plaintiffs’ structured settlement payments described herein or from
7 changing the mailing address for such payments from going to any
8 person or entity other than to Security Title;
- 9 4. GSI be enjoined from receiving or distributing any funds related to
10 Plaintiffs’ structured settlement payments described herein;
- 11 5. Genex be mandated to abide by the terms of the relevant Investor
12 Assignment Agreements between Plaintiffs and Genex;
- 13 6. Goldstar and/or Security Title be mandated to direct all future structured
14 settlement payments described herein to Plaintiffs, as the rightful owners
15 of such payments; and,
- 16 7. Genex, GSI, Proctor, Security Title, and Goldstar be enjoined from
17 engaging in any further conduct that would deprive Plaintiffs of their
18 rights in the structured settlement payments described herein.

19 D. awarding Plaintiffs punitive damages to the extent permitted by law, sufficient
20 to deter Genex, GSI, and Proctor from engaging in the same or similar conduct to that
21 described herein;

22 E. awarding pre-judgment and post-judgment interest on any award of damages at
23 the rate provided under Arizona law, from the date of judgment until paid in full;

24 F. awarding Plaintiffs its attorneys’ fees and costs incurred in this action plus
25 interest thereon, at the maximum rate permitted by Arizona law, from the date of judgment
26 until paid in full pursuant to A.R.S. §§ 12-341, 12-341.01, 12-1840; and,

27 G. in the event judgment is obtained by default, for Plaintiffs’ attorneys’ fees of
28 \$25,000.00 pursuant to Rule 55(b)(1), *Arizona Rules of Civil Procedure*, and for costs

1 expended, plus interest on those sums, at the maximum rate permitted by Arizona law, from
2 the date of Judgment until paid in full;

3 H. the continuing jurisdiction of this Court to review and determine the
4 reasonableness and award of any post-judgment costs and attorneys' fees sought by
5 Plaintiffs, pursuant to Rule 54, *Arizona Rules of Civil Procedure*; and,

6 I. awarding Plaintiffs such other and further relief as this Court deems just and
7 proper under the circumstances.

8 RESPECTFULLY SUBMITTED this 22nd day of December, 2020.

9 **MAY, POTENZA, BARAN & GILLESPIE, P.C.**

10 By: s/Devin Sreecharana

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13 Alexander J. Daniel
14 *Attorneys for Plaintiffs*

15 ORIGINAL of the foregoing efiled with
16 the Court on this 22nd day of December, 2020.

17 COPY of the foregoing emailed on
18 This 22nd day of December, 2020.

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