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7 CREDIT REPAIR CLOUD, AND DANIEL ROSEN

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9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**  
11 **WESTERN DIVISION**

12 CONSUMER FINANCIAL  
PROTECTION BUREAU,

13 Plaintiff,

14 v.

15 DANIEL A. ROSEN, INC., D/B/A  
16 CREDIT REPAIR CLOUD, AND  
17 DANIEL ROSEN,

18 Defendants.

Case No.: 2:21-cv-07492 VAP (JDEx)

**REQUEST FOR JUDICIAL NOTICE  
IN SUPPORT OF DEFENDANTS'  
MOTION TO DISMISS PLAINTIFF'S  
COMPLAINT**

Date: February 14, 2022  
Time: 2:00 p.m.  
Location: Courtroom 8A, 8th Floor  
350 West 1st Street  
Los Angeles, CA 90012  
Judge: Honorable Virginia A Phillips

Complaint Filed: September 20, 2021  
Trial Date: None Set

1 Pursuant to Rule 201 of the Federal Rules of Evidence, Defendants Daniel A.  
2 Rosen, Inc. d/b/a Credit Repair Cloud (“CRC”) and Daniel Rosen (collectively,  
3 “Defendants”), hereby file the following Request for Judicial Notice concurrently  
4 with and in support of its concurrently filed Motion to Dismiss Plaintiff’s Complaint  
5 (the “Motion”). Defendants respectfully request that this Court take judicial notice of  
6 the following documents attached as Exhibit A in support of its Motion:

- 7 • **Exhibit A** – November 7, 2019 Letter from Congress to CFPB  
8 Associate Director Bryan A. Schneider

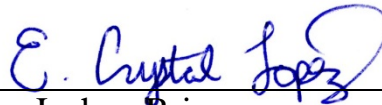
9 Federal Rule of Evidence 201(b)(2) permits judicial notice of a fact that is  
10 “not subject to reasonable dispute because it can be accurately and readily  
11 determined from sources whose accuracy cannot be reasonably be questioned.”  
12 Exhibit A to the Request for Judicial Notice is a government document that is not  
13 subject to reasonable dispute and is from a source whose accuracy cannot  
14 reasonably be questioned. *Accord* Fed. R. Evid. 201(b). *See also, e.g., Daniels-Hall*  
15 *v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998 (9th Cir. 2010) (taking judicial notice of  
16 documents “made publicly available by government entities”). Courts in this  
17 District routinely take judicial notice of letters from members of the United States  
18 Congress to governmental agencies. *See e.g., Cty. of Los Angeles v. Monsanto Co.*,  
19 No. CV 19-4694-GW-AFMX, 2019 WL 13064885, at \*6-7 (C.D. Cal. Nov. 21,  
20 2019) (granting request for judicial notice of Letter from M. Simpson, Member of  
21 Congress, to L. Jackson, EPA Administrator); *Stiles v. Trader Joe’s Co.*, No.  
22 CV1604318TJHKSX, 2017 WL 3084267, at \*2 (C.D. Cal. Apr. 4, 2017) (granting  
23 request for judicial notice of letter from various members of the United States  
24 Congress to the FDA commissioner). Defendants request that the Court take  
25 judicial notice of Exhibit A.

1 For the foregoing reasons, Exhibit A is a proper subject for judicial notice.  
2 Accordingly, Defendants respectfully request that this Court take judicial notice of  
3 Exhibit A.

4  
5 Dated: December 17, 2021

Respectfully submitted,

6 MINTZ LEVIN COHN FERRIS GLOVSKY AND  
7 POPEO P.C.

8 

9 By: Joshua Briones  
E. Crystal Lopez

10 Attorneys for Defendants,  
11 DANIEL A. ROSEN, INC., D/B/A  
12 CREDIT REPAIR CLOUD, AND  
13 DANIEL ROSEN  
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# EXHIBIT A

**Congress of the United States**  
**Washington, DC 20515**

November 7, 2019

Bryan A. Schneider  
Associate Director  
Division of Supervision, Enforcement and Fair Lending  
Consumer Financial Protection Bureau  
1700 G St. N.W  
Washington, D.C. 20006

Associate Director Schneider,

Congratulations on your new role as the Consumer Financial Protection Bureau's (Bureau) Associate Director in the Division of Supervision, Enforcement and Fair Lending. You have accepted a very important responsibility at a critical time in the Bureau's history.

Congress passed the Credit Repair Organizations Act (CROA) in 1996, and since its effective date the following year, CROA has regulated the activity of credit repair organizations. CROA made important strides to protect consumers, including a prohibition on consumer billing prior to work being conducted on a client's behalf. We understand the Federal Trade Commission, which enforces CROA, instructed credit repair organizations (CROs) and consumers that CROA is law of the land with respect to billing regulations.

It has come to our attention that the Bureau has recently assumed a new regulatory approach to credit repair organizations' billing practices through enforcement with no prior guidance given to the industry. It appears the Bureau now attempts to subject credit repair organizations to an interpretation of a single clause in Telemarketing Sales Rule (TSR), which was implemented via rulemaking process by the FTC and before Congress passed CROA. The Bureau's interpretation of the TSR would prohibit a credit repair company from billing its consumers for six months after completion of work, an extremely burdensome requirement for any industry.

These dueling mandates seem contradictory; with CROA's standard being the most recent and derived from congressional authority, one would assume with regard to CROs the TSR is no longer operative, but the Bureau's recent actions suggest, at least, confusion. Financial companies have a responsibility to abide by the law of the land. Regulators, too, have a responsibility to clearly articulate for the companies they regulate the legal standard by which they will be measured.

We expect the Bureau to provide American business with guidance, due process, and regulatory clarity. While the Bureau's policy development with respect CROs' billing requirements predated your arrival at the Bureau, we ask that you provide to us with specific examples of formal guidance provided by the Bureau to CROs that clearly articulates how a modern CRO operationally complies with the billing standard in the TSR and demonstrate that the billing standard in the TSR, not CROA, has been and is the controlling law of the land.

Thank you for your prompt attention to this matter, and we look forward to your response.

Sincerely,



Blaine Luetkemeyer  
Member of Congress



Ted Budd  
Member of Congress



Denver Lee Riggleman III  
Member of Congress



Ann Wagner  
Member of Congress