**IN THE UNITED STATES DISTRICT COURT**
**FOR THE NORTHERN DISTRICT OF GEORGIA**
**ATLANTA DIVISION**

| | |
|---|---|
| **CONSUMER FINANCIAL PROTECTION BUREAU,** | |
| **Plaintiff,** | **Civil Action No.** |
| **v.** | **1:15-CV-0859-RWS** |
| **UNIVERSAL DEBT & PAYMENT SOILUTIONS, LLC, et al.,** | |
| **Defendants.** | |

**ELECTRONIC MERCHANT SYSTEMS' AND VARINDERJIT BAGGA'S JOINT MOTION TO DISMISS ELECTRONIC MERCHANT SYSTEMS' CROSSCLAIM AGAINST VARINDERJIT BAGGA WITHOUT PREJUDICE**

Defendant Electronic Merchant Systems ("EMS") and Defendant Varinderjit Bagga ("Ms. Bagga") jointly move this Court to enter an order under Rule 41(c) of the Federal Rules of Civil Procedure dismissing EMS's crossclaim against Ms. Bagga ("Crossclaim") without prejudice, each party to pay their own costs and attorney fees.

In support of this motion, EMS and Ms. Bagga respectfully state as follows:

- EMS entered into a merchant agreement with WNY Account Solutions, LLC ("WNY") dated April 10, 2014 ("Merchant Agreement").
- The Merchant Agreement identified Ms. Bagga as the owner of WNY, and purports to have been signed by Ms. Bagga on WNY's behalf.

- Ms. Bagga denies having signed the Merchant Agreement.
- On March 26, 2015, the Consumer Financial Protection Bureau ("CFPB") initiated the above-captioned action against debt collection merchants, including WNY; their alleged principals, including Ms. Bagga; and payment processing entities, including EMS.
- EMS brought crossclaims for contractual indemnity against all co-defendants that had merchant agreements with EMS, or were purported signatories to merchant agreements with EMS, including the Crossclaim.
- On August 25, 2017, this Court entered an Order striking the CFPB's pending claims against EMS and the other payment processing entities.
- On November 15, 2017 this Court entered an Order granting Ms. Bagga's and the CFPB's joint motion to dismiss with prejudice all the CFPB's pending claims against Ms. Bagga.
- Following the November 15, 2017 Order, the only claim pending against Ms. Bagga is the Crossclaim.
- Rule 41(c) authorizes the Court to grant a motion to dismiss a crossclaim upon such terms and conditions as the Court deems proper. Fed. R. Civ. P. 41(c).
- Dismissing the Crossclaim without prejudice will serve the interests of justice and judicial economy by disposing of a pending claim between two parties that have largely been dismissed from this action.

For the foregoing reasons, EMS and Ms. Bagga respectfully request that the Court enter an Order dismissing the Crossclaim without prejudice and providing that EMS and Ms. Bagga will bear their own costs in connection with the prosecution

and defense of the Crossclaim. A proposed order accompanies this Joint Motion.

Respectfully submitted this 27th day of December, 2017.

*/s/ Carolyn "Tippi" Cain Burch*
Carolyn "Tippi" Cain Burch
Georgia Bar No. 094515
**Chalmers Burch & Adams LLC**
75 Fourteenth Street, Suite 2725
Atlanta, Georgia 30309
(678) 582-8902
Email: *tburch@cpblawgroup.com*

***Attorney For Crossclaim Defendant Varinderjit "Veena" Bagga***

*/s/ Benjamin Ockner*
Benjamin Ockner, Pro Hac Vice
**Berns, Ockner & Greenberger, LLC**
3700 Park East Drive, Suite 200
Beachwood, OH 44122
(216) 831-8838
(216) 464-4489 (Fax)
Email: *bockner@bernsockner.com*

**Michael N. Ungar**, Pro Hac Vice
**Dolores Garcia-Prignitz**, Pro Hac Vice
**Ulmer & Berne LLP**
Skylight Office Tower
1660 W. 2nd Street, Suite 1100
Cleveland, OH 44113-1448
(216) 583-7000
(216) 583-7001 (Fax)
Email: *mungar@ulmer.com*
*dgarciaprignitz@ulmer.com*

**Michael D. Flint**
GA Bar No. 264725
**Schreeder Wheeler & Flint, LLP**
1100 Peachtree Street, NE, Suite 800
Atlanta, GA 30309-4516
(404) 954-9820
(404) 681-1046 (Fax)
Email: *mflint@swfllp.com*

***Attorneys For Crossclaim Plaintiff Electronic Merchant Systems***

## CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D), I hereby certify that the foregoing has been prepared in compliance with Local Rule 5.1(B) in 14-point Times New Roman typeface.

This 27th day of December, 2017.

*/s/Benjamin J. Ockner*
**Benjamin J. Ockner**
Pro Hac Vice

## CERTIFICATE OF SERVICE

I hereby certify that I have this day filed a true and correct copy of the foregoing **ELECTRONIC MERCHANT SYSTEMS' AND VARINDERJIT BAGGA'S JOINT MOTION TO DISMISS ELECTRONIC MERCHANT SYSTEMS' CROSSCLAIM AGAINST VARINDERJIT BAGGA WITHOUT PREJUDICE** with the clerk of court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record.

This 27th day of December, 2017.

*/s/Benjamin J. Ockner*
**Benjamin J. Ockner**
Pro Hac Vice