

1 **SUPREME COURT OF THE STATE OF NEW YORK**
2 **COUNTY OF NEW YORK**

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4 PLAYHOUSE PRE-SCHOOL & KINDERGARTEN INC.
5 d/b/a PLAYHOUSE PRE-SCHOOL AND
6 SHIRANI D. PERERA,

Index No.: 653960/2019

7
8 Plaintiffs,

9 *-against-*

SUMMONS

10
11 YELLOWSTONE CAPITAL WEST, LLC,
12 BLACK ROCK FUNDERS, INC., CITI CAPITAL LLC,
13 FEDERAL BUSINESS LENDERS INC.,

14
15 Defendants.

16 -----X
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18 **TO ABOVE NAMED DEFENDANTS:**

19
20 **YOU ARE HEREBY SUMMONED** and required to serve upon Plaintiffs' attorneys an
21 answer to the verified complaint in this action within twenty (20) days after the service of this
22 Summons, exclusive of the day of service (or within thirty (30) days after the service is complete
23 if this Summons is not personally delivered to you within the State of New York). In case of your
24 failure to answer, judgment will be taken against you by default for the relief demanded in the
25 verified complaint

26
27 Plaintiffs designate New York County as the place of trial. The basis of the venue
28 designated is Defendants' principal places of business, which is located in New York County at
29 the time Plaintiffs commenced this action.

30 Dated: New York, New York
31 July 10, 2019

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35 By: _____

36 Jerry Boies, Esq.
37 **THE BOIES LAW FIRM, PLLC**
38 535 Fifth Avenue, 4th Floor
39 New York, NY 10017
40 (646) 706-2482
41 *ATTORNEYS FOR PLAINTIFFS*

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5 d/b/a PLAYHOUSE PRE-SCHOOL AND
6 SHIRANI D. PERERA,

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VERIFIED COMPLAINT

10
11 YELLOWSTONE CAPITAL WEST, LLC,
12 BLACK ROCK FUNDERS, INC., CITI CAPITAL LLC,
13 FEDERAL BUSINESS LENDERS INC.,

JURY TRIAL DEMANDED

14
15 Defendants.

16 -----X

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18 **NATURE OF THE ACTION**

19 1. Plaintiff SHIRANI D. PERERA (“Plaintiff Perera” or “Ms. Perera”) and
20 PLAYHOUSE PRE-SCHOOL & KINDERGARTEN INC. (“Playhouse”) (collectively,
21 “Plaintiffs”), by and through their attorneys, THE BOIES LAW FIRM, PLLC, bring this action
22 for, *inter alia*, breach of contract, breach of implied covenant of good faith and fair dealing, fraud,
23 negligence, rescission, unjust enrichment, wire fraud, mail fraud, and violation of New York
24 Unfair Trade Practices Act (“UTPA”) against YELLOWSTONE CAPITAL WEST, LLC
25 (“Yellowstone”), BLACKROCK FUNDERS, INC. (“Blackrock”), CITI CAPITAL LLC (“Citi
26 Capital”), and FEDERAL BUSINESS LENDERS, INC. (“FBL”), (collectively, “Defendants”) for
27 their deceitful and manipulative business practices by targeting vulnerable and innocent small
28 business owners across the United States, including Plaintiffs.

29 2. More precisely, the scam worked as follows: a) Defendants sent out mass emails to
30 vulnerable business owners to apply for and promised them loans against their collaterals,
31 including Plaintiffs; b) Plaintiff Perera received one of those emails and indicated that she might
32 be interested in a business loan; c) Defendants and their agents sent Plaintiff Perera a loan

1 application and requested for her business profile and bank statements; d) Defendants then
2 collected all sorts of information from the Plaintiffs, such as bank statements, driver's license,
3 social security number, and voided checks; e) a couple weeks later, Defendants sent a
4 congratulatory email to Plaintiffs and stated that Plaintiffs were approved for a loan of \$320,000.00
5 against Plaintiff's collaterals but required Plaintiffs to make a \$25,600.00 down payment to receive
6 the \$320,000.00 loan; f) the Defendants then sent Plaintiffs an already-completed loan application
7 for another loan of \$30,000.00 in order to assist Plaintiffs with the aforementioned down payment
8 for the \$320,000.00 loan; g) the Defendants sent an ACH Authorization Form to Plaintiffs, which
9 required Plaintiffs to pay a 5% of funding amount, with Affidavit of Confession of Judgment.

10 3. The Defendants then deposited \$27,600.00 into Plaintiffs' bank account and
11 immediately or soon thereafter Defendants Citi Capital and Blackrock withdrew \$1,500.00 and
12 \$25,600.00 respectively from that same Plaintiffs' bank account.

13 4. The Defendants did not give Plaintiffs the \$320,000.00 loan or any loan. Then,
14 Defendant Yellowstone drastically modified the terms of the aforementioned Affidavit of
15 Confession of Judgment that Plaintiff executed and forged the notary's signature on the third page
16 of Affidavit of Confession of Judgment to obtain a judgment against Plaintiffs in the amount of
17 \$49,166.25 (NYS Supreme Court, Erie County; *Yellowstone Capital West LLC v. Playhouse Pre-*
18 *School, et al*; Index No.: 820093/2018).

19 5. Plaintiffs did not retain any money or benefits from all the aforementioned
20 fraudulent transactions. Nevertheless, as for part of the scam, Yellowstone obtained a judgment in
21 the amount of \$49,166.25 against Plaintiffs, withdrew \$4,347.00 from Plaintiffs' bank account,
22 caused Plaintiffs' bank account to be frozen, and caused Plaintiffs substantial damages.

23 **JURISDICTION AND VENUE**

24 6. Jurisdiction is proper pursuant to, *inter alia*, CPLR §§ 301, *et seq.*

1 7. Further Defendants reside or do business in the State of New York, County of New
2 York.

3 8. Venue is proper pursuant to New York CPLR §§ 503 and 509. Further, the events
4 giving rise to this action occurred in the City and State of New York, County of New York.

5 **THE PARTIES**

6 9. At all times herein, Plaintiff Shirani Perera was a resident of the State of California,
7 in the County of Los Angeles.

8 10. At all times herein, Plaintiff Shirani Perera was and is currently the owner of
9 Playhouse Pre-School & Kindergarten, Inc. located in Redondo Beach, California.

10 11. At all times herein, Plaintiff Playhouse Pre-School & Kindergarten Inc. is
11 corporation organized under the laws of the State of California and located in Redondo Beach,
12 California.

13 12. Upon information and belief, Defendant Yellowstone Capital West, LLC was and
14 still is a New York limited liability company with a principal place of business located at 116
15 Nassau Street, Suite 804, New York, 10038.

16 13. Upon information and belief, Defendant Blackrock Funders, Inc. was and still is a
17 New York corporation with a principal place of business located at 99 Wall Street, Suite# 576,
18 New York, NY 10005.

19 14. Upon information and belief, Defendant Citi Capital LLC was and still is a New
20 York limited liability company with a principal place of business located at 35-12 19th Street
21 Avenue, Suite 3W, Astoria, NY 11105.

1 15. Upon information and belief, Defendant Federal Business Lenders, Inc. (“FBL”) 2 was and still is a New York corporation with a principal place of business located at 1562 First 3 Avenue, #121, New York, NY 10028.

4 **FACTUAL BACKGROUND**

5 16. Upon information and belief, Federal Business Lenders (“FBL”) sent out mass 6 targeted mailings and emails to various small business owners, including Plaintiffs, across the 7 United States offering them loans with a promised of approval upon completing the application 8 that is including in those mails or attached to those emails.

9 17. Plaintiff Perera runs Playhouse Pre-School & Kindergarten, a small pre-school in 10 Redondo Beach, California.

11 18. On or about early November 2018, Plaintiff Perera received one of those targeted 12 emails from FBL and went online to express her interest in the loan application and provided her 13 email address to start the process.

14 19. On November 6, 2018, Plaintiff Perera received an email stating: “Federal Business 15 Lenders, Blackrock Funders, Inc. Citi Capital LLC, and Yellowstone Capital West have teamed 16 up to provide a loan to you”. The email message contained an application from FBL’s agent, 17 Richard Brown requesting Plaintiffs’ business profile and bank statements.

18 20. Plaintiffs submitted the completed application along with the requested 19 information. FBL additionally requested Plaintiff Perera to submit her driver’s license information, 20 social security information, and a voided check.

21 21. On or about November 29, 2018, Plaintiff Perera received a congratulatory email 22 from FBL’s Senior Account Specialist, Sophia Martinez, for an approved loan of \$320,000.00 and 23

1 a loan application for Blackrock Funders, Inc. (“Blackrock”), requiring a \$25,600.00 down
2 payment to receive the \$320,000.00 loan.

3 22. Plaintiffs completed the \$320,000.00 loan application for Blackrock and returned
4 it back to Ms. Martinez.

5 23. On December 04, 2018, Plaintiffs received an already-completed loan application
6 for \$30,000.00 from FBL’s agent, Sophia Martinez again, which contained Plaintiffs’ information
7 for now Defendant Yellowstone in order to assist Plaintiffs with the down payment of \$25,600
8 FBL requested for the \$320,000.00 loan.

9 24. The Yellowstone’s loan application package contained an ACH Authorization
10 Form for Citi Capital LLC, which required Plaintiffs to pay “5% of funding amount.” This loan
11 application package also contained an Affidavit of Confession of Judgment (“ACJ”), which
12 Yellowstone required Plaintiffs to sign and notarize.

13 25. Upon information and belief, Yellowstone’s loan documents charged Plaintiff an
14 annual interest rate in excess of 16%.

15 26. Upon information and belief, upon completion of the application package,
16 Yellowstone deposited \$27,600.00 into Plaintiffs’ bank account, rather than the \$30,000.00 as
17 promised and which Citi Capital withdrew \$1,500.00 of and of which \$25,600.00 was withdrawn
18 by Blackrock.

19 27. Plaintiffs never received the \$320,000.00 loan that FBL or the Defendants
20 promised.

21 28. On the face of the Affidavit of Confession of Judgment, Plaintiffs originally signed
22 and notarized the document and specifically wrote on the first page, “this statement will be

1 effective after Yellowstone Capital West LLC deposit the loan amount of \$30,000.00 to my bank.”

2 Further, Plaintiffs initialed and dated the above statement.

3 29. Upon information and belief, the notary who notarized the Affidavit of Confession
4 of Judgment, Ms. Patricia Valle (“Ms. Valle”), crossed out the last paragraph in order to add the
5 “California All Purpose Acknowledgement” form required for all notarized documents in the State
6 of California.

7 30. Upon information and belief, Defendants erased the statement Plaintiffs wrote on
8 the face of the ACJ, changed the notary’s signature and did not include the “California All Purpose
9 Acknowledgement” page (“Forged Instruments”).

10 31. Yellowstone used the Forged Instruments to obtain a judgment against Plaintiffs in
11 the amount of \$49,166.25 (NYS Supreme Court, Erie County; *Yellowstone Capital West LLC v.*
12 *Playhouse Pre-School, et al*; Index No.: 820093/2018), withdrew \$4,347.00 from Plaintiffs’ bank
13 account and ultimately caused Plaintiffs’ bank account to be frozen.

14 32. Upon information and belief, Defendants’ conduct has caused Plaintiffs substantial
15 damages including general damages, punitive damages, severe financial distress and hardship, loss
16 of profits, costs and attorney’s fees.

17 **AS AND FOR A FIRST CAUSE OF ACTION**
18 ***(Breach of Contract Against All Defendants)***
19

20 33. Plaintiffs reallege and incorporate by reference herein all allegations in all
21 preceding paragraphs.

22 34. Defendants offered to loan Plaintiffs a sum of \$320,000.00 and \$30,000.00.

23 35. The parties agreed to the terms and conditions of the agreements.

24 36. Plaintiffs performed all conditions of the loan agreements.

1 37. Defendants breached their loan agreement with Plaintiffs by not providing the
2 \$320,000.00 and/or \$30,000.00 loans as promised.

3 38. As a direct and proximate result of Defendants' breach, Plaintiffs suffered damages
4 in the amount to be determined at trial.

5 **AS AND FOR A SECOND CAUSE OF ACTION**
6 ***(Fraud and Deceit against All Parties)***
7

8 39. Plaintiffs reallege and incorporate by reference herein all allegations in all
9 preceding paragraphs.

10 40. Defendants represented to Plaintiffs that Plaintiffs would receive \$320,000.00 and
11 \$30,000.00 loans by completing the loan applications and furnishing personal and certain financial
12 information, including banking information.

13 41. The Defendants knew or had reasons to know that Plaintiffs would not receive the
14 loans for either \$320,000.00 and/or \$30,000.00.

15 42. Defendants' misrepresentations were intentional or Defendants knowingly
16 misrepresented that Plaintiffs would receive the loans for \$320,000.00 and \$30,000.00.

17 43. Plaintiffs relied on Defendants' false and deceptive representations and submitted
18 the necessary information for the loans.

19 44. As a direct and proximate result, Plaintiffs suffered damages in the amount to be
20 determined at trial.

21 **AS AND FOR A THIRD CAUSE OF ACTION**
22 ***(Breach of Covenant of Good Faith and Fair Dealing Against All Defendants)***
23

24 45. Plaintiffs reallege and incorporate by reference herein all allegations in all
25 preceding paragraphs.

1 46. At all relevant times, a covenant of good faith and fair dealing existed between
2 Plaintiffs on the one hand and the Defendants on the other hand.

3 47. Defendants breached the covenant of good faith and fair dealing by, among other
4 things, withholding information from Plaintiffs, failing to provide Plaintiffs with the loans as
5 promised, forged documents in their favor in order to secure a judgment and a lien against
6 Plaintiffs' bank account.

7 48. As a direct and proximate result of Defendants' breach, Plaintiffs suffered damages
8 in the amount to be determined at trial.

9 **AS AND FOR A FOURTH CAUSE OF ACTION**
10 ***(Negligence Against Yellowstone)***
11

12 49. Plaintiffs reallege and incorporate by reference herein all allegations in all
13 preceding paragraphs.

14 50. Yellowstone owed Plaintiffs a duty of reasonable care to ensure the other
15 Defendants were not engaging in any fraudulent activities or transactions.

16 51. Yellowstone also had a duty to ensure that the Affidavit of Confession of Judgment
17 that Plaintiffs executed was not modified before obtaining a judgment against Plaintiffs.

18 52. Yellowstone also had a duty to ensure that the notary's signature on the third page
19 of Affidavit of Confession of Judgment that Plaintiffs executed was not forged before obtaining a
20 judgment against Plaintiffs.

21 53. Yellowstone breached that duty of care by not making any reasonable inquiries as
22 to the nature of their co-defendants' business practices and the authenticity of the Affidavit of
23 Confession of Judgment.

24 54. As a direct and proximate result, Plaintiffs are damaged in an amount to be
25 determined at trial.

1 **AS AND FOR A FIFTH CAUSE OF ACTION**
2 ***(Unjust Enrichment Against all Defendants)***

3 55. Plaintiffs reallege and incorporate by reference herein all allegations in all prior
4 preceding paragraphs.

5 56. By withdrawing \$4,347.00 from Plaintiffs' bank account, putting a lien on
6 Plaintiffs' bank accounts, obtaining a judgment in the amount of \$49,166.25 against Plaintiffs
7 based on forged documents, Defendants have been enriched or have benefitted to Plaintiffs'
8 detriment.

9 57. It would be unjust, against equity and good conscience to permit the Defendants to
10 retain, among other benefits, the \$4,347.00, a judgment in the amount of \$49,166.25.

11 58. As a direct and proximate result, Plaintiffs are damaged in an amount to be
12 determined at trial.

13 **AS AND FOR A SIXTH CAUSE OF ACTION**
14 ***(Violation of Gen. Oblig. Law § 5-501 Against All Defendants)***

15 59. Plaintiffs reallege and incorporate by reference herein all allegations in all
16 preceding paragraphs.

17 60. Defendants knowingly charged an annual interest in excess of 16% per year on
18 the loans.

19 61. As a direct and proximate result, Plaintiffs are damaged in an amount to be
20 determined at trial.

21 **AS AND FOR A SEVENTH CAUSE OF ACTION**
22 ***(Wire Fraud Against all Defendants Pursuant to 18 U.S.C. 1343)***

23 62. Plaintiffs reallege and incorporate by reference herein all allegations in all
24 preceding paragraphs.
25
26

1 63. The defendants voluntarily and intentionally devised or participated in a scheme to
2 defraud Plaintiffs out of \$49,166.25.

3 64. The defendants did so with the intent to defraud Plaintiffs knowing that Plaintiffs
4 would not receive the loans.

5 65. It was reasonably foreseeable that the Defendants would use interstate wire
6 communications.

7 66. The Defendants did in fact used multiple interstate wire communications including
8 emails and phone calls.

9 67. As a direct and proximate result, Plaintiffs are damaged in an amount to be
10 determined at trial.

11 **AS AND FOR AN EIGHTH CAUSE OF ACTION**
12 *(Mail Fraud Against all Defendants Pursuant to 18 U.S.C. 1341)*

13 68. Plaintiffs reallege and incorporate by reference herein all allegations in all
14 preceding paragraphs.

15 69. The defendants devised or intended to devise a scheme to defraud Plaintiffs out of
16 \$49,166.25.

17 70. The use of mail was used to execute or attempt to execute the instruments.

18 71. As a direct and proximate result, Plaintiffs are damaged in an amount to be
19 determined at trial.

20 **PRAYER FOR RELIEF AS TO ALL CAUSES OF ACTION**

21 **WHEREFORE**, related to causes of action above, Plaintiffs respectfully request entry of
22 judgment in their favor and against the Defendants as follows:

23 a) For all compensatory, actual, special, and punitive damages;

24 b) For all costs of suit;

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- c) For pre- and post-judgment interest at the maximum legal rate;
- d) For attorney's fees as provided by law;
- e) For such other and further relief as the Court deems just and proper.

Dated: New York, New York
July 10, 2019



By: _____
Jerry Boies, Esq.
THE BOIES LAW FIRM, PLLC
535 Fifth Avenue, 4th Floor
New York, NY 10017
(646) 706-2482
ATTORNEYS FOR PLAINTIFFS

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JURY TRIAL DEMAND

Plaintiffs hereby demand a trial by jury as to all issues so triable.

Respectfully Submitted,

Dated: New York, New York
July 10, 2019



By: _____

Jerry Boies, Esq.
THE BOIES LAW FIRM, PLLC
535 Fifth Avenue, 4th Floor
New York, NY 10017
(646) 706-2482
ATTORNEYS FOR PLAINTIFFS

1 ATTORNEY'S VERIFICATION

2 The undersigned, attorney duly admitted to practice law before the Courts of the State of
3 New York, affirms the following under the penalty of perjury:

4 That the undersigned is associated with THE BOIES LAW FIRM, PLLC, attorneys for
5 Plaintiffs in the within action; that affiant has read the foregoing Summons and Verified Complaint
6 and knows the contents thereof; that the same is true to affiant's own knowledge, except as to the
7 matters therein stated to be alleged on information and belief, and that those matters affiant
8 believes to be true. The reason this verification is made by affiant and not by Plaintiffs is because
9 Plaintiffs are not presently in the County where affiant maintains his offices.

10 The grounds of affiant's belief as to all matters not stated upon affiant's own knowledge
11 are as follows: contents of our file.

12 Dated: New York, New York
13 July 10, 2019
14



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JERRY BOIES
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