

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
HUNT & HENRIQUES, ATTORNEYS AT LAW
MICHAEL S. HUNT, ESQ. #99804, JANALIE HENRIQUES, ESQ. #111589
151 BERNAL RD, SUITE #8, SAN JOSE, CA 95119

TELEPHONE NO: (408)362-2270 FAX NO. (Optional): (408)362-2299

E-MAIL ADDRESS (Optional):

ATTORNEY FOR (Name): **PLAINTIFF**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
 STREET ADDRESS: 4050 MAIN STREET
 MAILING ADDRESS:
 CITY AND ZIP CODE: RIVERSIDE, CA 92501
 BRANCH NAME: RIVERSIDE DIVISION-LIMITED CIVIL

PLAINTIFF: PROSPER MARKETPLACE, INC.
 DEFENDANT: JERALD CLINE

DOES 1 TO _____

CONTRACT

COMPLAINT AMENDED COMPLAINT (Number):

CROSS-COMPLAINT AMENDED CROSS-COMPLAINT (Number):

Jurisdiction (check all that apply):

ACTION IS A LIMITED CIVIL CASE
 Amount demanded does not exceed \$10,000
 exceeds \$10,000 but does not exceed \$25,000

ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)

ACTION IS RECLASSIFIED by this amended complaint or cross-complaint

from limited to unlimited
 from unlimited to limited

FOR COURT USE ONLY

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF RIVERSIDE

FEB 25 2008
Bmillard

FILED
 MAR 24 2008
 RFB

CASE NUMBER:
RIC 494584

1. **Plaintiff** (name or names): PROSPER MARKETPLACE, INC.

alleges causes of action against **defendant*** (name or names): JERALD CLINE

2. This pleading, including attachments and exhibits, consists of the following number of pages: **4**

3. a. Each plaintiff named above is a competent adult
 except plaintiff (name): PROSPER MARKETPLACE, INC.
 (1) a corporation qualified to do business in California
 (2) an unincorporated entity (describe):
 (3) other (specify): A DELAWARE CORPORATION

b. Plaintiff (name): PROSPER MARKETPLACE, INC.
 a. has complied with the fictitious business name laws and is doing business under the fictitious name (specify):
 b. has complied with all licensing requirements as a licensed (specify): CALIFORNIA FINANCE LENDER

c. Information about additional plaintiffs who are not competent adults is shown in Attachment 3c.

4. a. Each defendant named above is a natural person
 except defendant (name):
 (1) a business organization, form unknown
 (2) a corporation
 (3) an unincorporated entity (describe):
 (4) a public entity (describe):
 (5) other (specify):

except defendant (name):
 (1) a business organization, form unknown
 (2) a corporation
 (3) an unincorporated entity (describe):
 (4) a public entity (describe):
 (5) other (specify):

* If this form is used as a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

SHORT TITLE: PROSPER MARKETPLACE, INC. VS. JERALD CLINE	CASE NUMBER:
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4. (Continued)
- b. The true names of defendants sued as Does are unknown to plaintiff.
- (1) Doe defendants (specify Doe numbers): _____ were the agents or employees of the named defendants and acted within the scope of that agency or employment.
- (2) Doe defendants (specify Doe numbers): _____ are persons whose capacities are unknown to plaintiff.
- c. Information about additional defendants who are not natural persons is contained in Attachment 4c.
- d. Defendants who are joined under Code of Civil Procedure section 382 are (names): _____
5. Plaintiff is required to comply with a claims statute, and
- a. has complied with applicable claims statutes, or
- b. is excused from complying because (specify): _____
6. This action is subject to Civil Code section 1812.10 Civil Code section 2984.4.
7. This court is the proper court because
- a. a defendant entered into the contract here.
- b. a defendant lived here when the contract was entered into.
- c. a defendant lives here now.
- d. the contract was to be performed here.
- e. a defendant is a corporation or unincorporated association and its principal place of business is here.
- f. real property that is the subject of this action is located here.
- g. other (specify): _____
8. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):
- Breach of Contract
- Common Counts
- Other (specify): _____
9. Other allegations: Prosper Marketplace, Inc. is the owner of the account sued upon herein.
10. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for
- a. damages of: \$12,143.61
- b. interest on the damages
- (1) according to proof
- (2) at the rate of (specify): 13.00 percent per year from (date): August 17, 2007
- c. attorney's fees
- (1) of: \$ _____
- (2) according to proof.
- d. other (specify): _____
11. The paragraphs of this pleading alleged on information and belief are as follows (specify paragraph numbers): _____

Date: February 22, 2008

Michael S. Hunt

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

(If you wish to verify this pleading, affix a verification.)

SHORT TITLE: PROSPER MARKETPLACE, INC. VS. JERALD CLINE	CASE NUMBER:
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FIRST CAUSE OF ACTION—Breach of Contract

(number)

ATTACHMENT TO Complaint Cross - Complaint

(Use a separate cause of action form for each cause of action.)

BC-1. Plaintiff (name): PROSPER MARKETPLACE, INC.

alleges that on or about (date): November 17, 2006

a written oral other (specify):

agreement was made between (name parties to agreement):
PROSPER MARKETPLACE, INC. and JERALD CLINE

A copy of the agreement is attached as Exhibit A, or

The essential terms of the agreement are stated in Attachment BC-1 are as follows (specify):

Pursuant to the borrower registration agreement and promissory note(s), Defendant agreed to pay to Plaintiff or its assigns, the sum of \$15,000.00 with interest therein at the rate of 13.00% per annum in consecutive monthly installments of \$505.41 commencing December 17, 2006.

BC-2. On or about (dates): August 17, 2007

defendant breached the agreement by the acts specified in Attachment BC-2 the following acts

(specify):

Failed to pay the installment payment then due and owing. Defendant remains in default.

BC-3. Plaintiff has performed all obligations to defendant except those obligations plaintiff was prevented or excused from performing.

BC-4. Plaintiff suffered damages legally (proximately) caused by defendant's breach of the agreement

as stated in Attachment BC-4 as follows (specify):

Loss of use and benefit of Plaintiff's funds in the amount of \$12,143.61 plus interest at the rate of 13.00% per annum from the date of default and other fees and charges authorized by the agreement.

BC-5. Plaintiff is entitled to attorney fees by an agreement or a statute

of \$

according to proof.

BC-6. Other:

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SECOND **CAUSE OF ACTION—Common Counts**
(number)

ATTACHMENT TO Complaint Cross - Complaint
 (Use a separate cause of action form for each cause of action.)

CC-1. Plaintiff (name): PROSPER MARKETPLACE, INC.

alleges that defendant (name): JERALD CLINE
 became indebted to plaintiff other (name):

- a. within the last four years
 - (1) on an open book account for money due.
 - (2) because an account was stated in writing by and between plaintiff and defendant in which it was agreed that defendant was indebted to plaintiff.

- b. within the last two years four years
 - (1) for money had and received by defendant for the use and benefit of plaintiff. for work, labor,
 - (2) services and materials rendered at the special instance and request of defendant and for which defendant promised to pay plaintiff
 - the sum of \$
 - the reasonable value.
 - (3) for goods, wares, and merchandise sold and delivered to defendant and for which defendant promised to pay plaintiff
 - the sum of \$
 - the reasonable value.
 - (4) for money lent by plaintiff to defendant at defendant's request.
 - (5) for money paid, laid out, and expended to or for defendant at defendant's special instance and request.
 - (6) other (specify): Unjust enrichment

CC-2. \$12,143.61, which is the reasonable value, is due and unpaid despite plaintiff's demand,
 plus prejudgment interest according to proof at the rate of 13.00 percent per year
 from (date): August 17, 2007

CC-3. Plaintiff is entitled to attorney fees by an agreement or a statute
 of \$
 according to proof.

CC-4. Other: .

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
RIVERSIDE DIVISION-LIMITED CIVIL

STATEMENT OF LOCATION/VENUE

CASE NAME: PROSPER MARKETPLACE, INC.

V. JERALD CLINE

CASE NUMBER:

Please check ONE of the following statements to indicate the basis for your filing of the complaint in this Judicial District and fill in the address.

1. Cause of Action arose in this Judicial District.
Address of the cause of action is:

Street	City	Zip Code
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2. Property located in this judicial district. The address of this property is:

Street	City	Zip Code
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3. Tort occurred in this judicial district. The address of the tort is:

Street (if known) (or nearest major intersection)	City	Zip Code
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4. Contract entered into or to be performed in this judicial district. The address where contract entered into or to be performed is:

Street (if known)	City	Zip Code
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- XXX 5. Defendant resides in this judicial district. The address of the defendant is:

4556 LYON AVE, Riverside, CA 92505-3424

Street	City	Zip Code
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: February 22, 2008

Signature of Plaintiff's Attorney
HUNT & HENRIQUES

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): HUNT & HENRIQUES, Attorneys at Law Michael S. Hunt, #99804 Janalie Henriques, #111589 151 Bernal Rd. STE 8, San Jose, CA 95119-1306 TELEPHONE NO: (408) 362-2270 FAX NO. (OPTIONAL): (408) 362-2299 ATTORNEY FOR (Name): PLAINTIFF		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE STREET ADDRESS: 4050 Main Street MAILING ADDRESS: CITY AND ZIP CODE: Riverside, CA 92501 BRANCH NAME: RIVERSIDE DIVISION-LIMITED CIVIL		
CASE NAME: PROSPER MARKETPLACE, INC. vs. JERALD CLINE		
CIVIL CASE COVER SHEET <input type="checkbox"/> Unlimited <input checked="" type="checkbox"/> Limited (Amount (Amount demanded demanded is exceeds \$25,000) \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: <div style="font-size: 1.5em; font-family: cursive;">RIC 44584</div> JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured Motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other Employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input checked="" type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (<i>not specified above</i>) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (<i>not specified above</i>) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve c. <input type="checkbox"/> Substantial amount of documentary evidence	d. <input type="checkbox"/> Large number of witnesses e. <input type="checkbox"/> Coordination and related actions pending in one or more courts in other counties, states or countries, or in a federal court f. <input type="checkbox"/> Substantial post-disposition judicial disposition
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3. Remedies sought (*check all that apply*): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (*specify*): 2

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (*You may use form CM-015*)

Date: February 22, 2008
 HUNT & HENRIQUES- Michael S. Hunt

(TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet shall be used for statistical purposes only.

page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a Defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)–Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (not asbestos or toxic/environmental) (24)
- Medical Malpractice (45)
 - Medical Malpractice–Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (not civil harassment)(08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (not medical or legal)
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)
- Contract/Warranty Breach–Seller Plaintiff (not fraud or negligence)
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case–Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage (not provisionally complex) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation(14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential.)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ–Administrative Mandamus
 - Writ–Mandamus on Limited Court Case Matter
- Writ–Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation

- (Cal. Rules of Court Rule 3.400-3.403)
 - Antitrust/Trade Regulation (03)
 - Construction Defect (10)
 - Claims Involving Mass Tort (40)
 - Securities Litigation (28)
 - Environmental/Toxic Tort (30)
 - Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (non-domestic relations)
 - Sister State Judgment
 - Administrative Agency Award (not unpaid taxes)
 - Petition/Certification of Entry of Judgment on Unpaid Tax
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (not specified above) (42)
 - Declaratory Relief Only
 - Injunctive Relief Only (non-harassment)
 - Mechanics Lien
 - Other Commercial Complaint Case (non-tort/non-complex)
 - Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (not specified above) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief from Late Claim
 - Other Civil Petition