## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

MICHAEL ALLEN, individually and on behalf of all others similarly situated,

Plaintiff,

v.

QUICKEN LOANS INC. and NAVISTONE, INC.,

Defendants.

Civil Action No.:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Michael Allen ("Plaintiff"), individually and on behalf of himself and all others similarly situated, by and through his attorneys, makes the following allegations pursuant to the investigation of his counsel and based upon information and belief, except as to allegations specifically pertaining to himself and his counsel, which are based on personal knowledge.

## NATURE OF THE CASE

1. This is a class action suit brought against Defendants Quicken Loans Inc.

("Quicken") and NaviStone, Inc. ("NaviStone") (collectively, "Defendants") for wiretapping the computers of visitors to Defendant Quicken's website, Quickenloans.com. NaviStone employs these wiretaps to observe visitors' keystrokes, mouseclicks and other electronic communications in real time for the purpose of gathering visitors' Personally Identifiable Information ("PII") to de-anonymize those visitors – that is, to match previously unidentifiable website visitors to postal names and addresses. These wiretaps enable Defendants to immediately, automatically, and secretly observe the keystrokes, mouseclicks and other electronic communications of visitors regardless of whether the visitor ultimately procures financial services from Quicken. By doing

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so, Defendants have violated Title I of the Electronic Communications Privacy Act of 1986, 18 U.S.C. §§ 2510-22, also known as the "Wiretap Act," which prohibits the intentional interception of wire, oral, and electronic communications unless specifically authorized by a court order.

2. On several occasions within the past 6 months, Plaintiff Michael Allen visited Quickenloans.com, but has never procured financial services from Quicken as a result of these visits. During each of Plaintiff's visits Quicken wiretapped his electronic communications with the website, disclosed the intercepted data to NaviStone in real time, and used the intercepted data to attempt to learn his identity, postal address, and other PII.

3. Plaintiff brings this action on behalf of himself and a class of all persons whose electronic communications were intercepted through the use of NaviStone's wiretap on Quickenloans.com, pursuant to 18 U.S.C. § 2520, and seeks all civil remedies provided under the Wiretap Act including but not limited to statutory damages of \$10,000 per class member.

#### **PARTIES**

4. Plaintiff Michael Allen is a natural person and citizen of the State of New Jersey who resides in Paramus, New Jersey. Several times over the last six months, Mr. Allen browsed Defendant Quicken's website at Quickenloans.com. Although Mr. Allen never procured financial services from Defendants as a result of these visits and never consented to any interception, disclosure or use of his electronic communications, Mr. Allen's keystrokes, mouseclicks and other electronic communications were intercepted in real time and were disclosed to NaviStone through Quicken's use of NaviStone's wiretap. Mr. Allen was unaware at the time that his keystrokes, mouseclicks and other electronic communications were being intercepted and disclosed to a third party.

5. Defendant Quicken Loans Inc. is a Michigan corporation with its principal place of business at 1050 Woodward Ave., Detroit, Michigan. Quicken does business throughout New

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Jersey and the entire United States.

6. Defendant NaviStone, Inc. is a Delaware corporation with its principal place of business at 1308 Race Street, Cincinnati, Ohio 45202. NaviStone does business throughout New Jersey and the entire United States. NaviStone is an online marketing company and data broker that deals in U.S. consumer data.

#### JURISDICTION AND VENUE

7. This action is brought pursuant to the federal Wiretap Act, 18 U.S.C. §§ 2510, *et seq.* 

8. The jurisdiction of this Court is predicated on 28 U.S.C. § 1331.

9. Both Defendants transact business in this District. Venue is proper in this District under 28 U.S.C. § 1391 because Plaintiff resides in this District, Defendants do substantial business in this District, and a substantial part of the events giving rise to Plaintiff's claims took place within this District.

10. This Court has personal jurisdiction over Defendants because Defendants conduct substantial business within New Jersey, such that Defendants have significant, continuous, and pervasive contacts with the State of New Jersey. Moreover, a substantial part of the events giving rise to Plaintiff's claims took place within New Jersey. Furthermore, Plaintiff resides in this District and is a citizen of the state of New Jersey.

#### FACTS COMMON TO ALL CLAIMS

#### **Overview Of NaviStone's Wiretaps**

11. Defendant NaviStone is a marketing company and data broker that deals in U.S. consumer data. NaviStone's business model involves entering into voluntary partnerships with various e-commerce websites. Upon partnering with NaviStone, these e-commerce websites will

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agree to insert a small parcel of computer code into their websites, which is provided by NaviStone (and is written by NaviStone). This small parcel of computer code serves as a socalled "back door" in computer terminology – its function is to retrieve and execute a much larger portion of JavaScript code that is remotely hosted on NaviStone's servers. As NaviStone explains on http://navistone.com, "[a]dding a simple line of code to each page of your website enables a wealth of new marketing data."

12. This "back door" code permits NaviStone to execute its own computer code on the websites of its e-commerce partners. Stated otherwise, the "simple line of code" that NaviStone requests its partners add "to each page of [their] website[s]" serves to call and execute remote computer code that is: (i) provided by NaviStone, (ii) written by NaviStone, and (iii) hosted on a remote server by NaviStone.

13. As currently deployed, NaviStone's remote code functions as a wiretap. That is, when connecting to a website that runs this remote code from NaviStone, a visitor's IP address and other PII is sent to NaviStone in real-time. NaviStone's code will then continue to spy on the visitor as he or she browses the website, instantaneously reporting the visitor's every keystroke and mouse click to NaviStone. This real-time interception and transmission of visitors' electronic communications begins as soon as the visitor loads Quickenloans.com into their web browser. Every keystroke and mouseclick is instantaneously intercepted and transmitted to NaviStone through the wiretap. This real-time transmission includes, among other things, information typed on forms located on Quickenloans.com, regardless of whether the user completes the form or clicks "Submit." Upon transmission to NaviStone, this information is used to de-anonymize website visitors.

14. NaviStone maintains a back-end database containing data and profiles on

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consumers across the U.S., which includes consumers' names and mailing addresses. As users browse the various e-commerce websites that deploy NaviStone code, NaviStone attempts to "match" website visitors with records of real-life people maintained in its back-end database. This matching may occur as simply as running a database query to correlate the IP address of a website visitor, though NaviStone may also attempt to match user profiles through the use of names, addresses, and other PII. Once a match is found, NaviStone de-anonymizes the user and updates its back-end database with the user's current browsing activities and PII.

15. NaviStone has partnered with hundreds e-commerce websites since beginning its operations. By combining and correlating its data, NaviStone can watch consumers as they browse hundreds of participating e-commerce sites, in real-time.

16. Pursuant to an agreement with NaviStone, Quicken intentionally embedded NaviStone's software coded wiretap on Quickenloans.com

17. NaviStone obfuscates the wiretap codes through dummy domains to attempt to conceal its activities. For example, part of NaviStone's remote code running on Quicken's website is located at http://code.murdoog.com/onetag/C196978CF1900B.js (as of the writing of this Complaint).

18. On June 20, 2017, a leading tech news website, gizmodo.com, published an exposé on NaviStone's wiretaps entitled "Before You Hit 'Submit,' This Company Has Already Logged Your Personal Data."<sup>1</sup> The Gizmodo article describes NaviStone as "a company that advertises its ability to unmask anonymous website visitors and figure out their home addresses."<sup>2</sup> The article revealed that NaviStone is "in the business of identifying 'ready to engage' customers and matching 'previously anonymous website visitors to postal names and

<sup>&</sup>lt;sup>1</sup> https://gizmodo.com/before-you-hit-submit-this-company-has-already-logge-1795906081 <sup>2</sup> *Id.* 

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addresses.' [NaviStone] says it can send postcards to the homes of anonymous website shoppers within a day or two of their visit, and that it's capable of matching '60-70% of your anonymous site traffic to Postal names and addresses.''<sup>3</sup>

19. Indeed, on its own website, NaviStone boasts that it "invented progressive website visitor tracking technology," which allows it to "reach [] previously unidentifiable website visitors."<sup>4</sup> According to NaviStone, "[b]y simply adding one line of code to each website page, you can unlock a new universe of 'ready to engage' customers."<sup>5</sup>

20. NaviStone also explains how to implement this software wiretap on its clients' webpages:

- 1: Insert One Line Of Code On Each Webpage. We'll provide you and your IT team with a short tracking code (and instructions) to insert on *each page* of your website. Data collection begins immediately and is reviewed for quality by our staff.
- 2: Identify Engaged Website Visitors. Data is stored in a secure environment specifically dedicated to your company's information. Website visitors are identified as direct marketing prospects or reactivation targets based on their level of engagement on your site, as identified by unique algorithms developed by our data scientists.
- Identify Verified Names and Addresses.
   When unidentified website visitors show an intent to purchased based on the modeling process described above, NaviStone® will secure postal names and addresses to include in your direct marketing prospecting and reactivation programs. ...
- 4: Use, Expand, Repeat. NaviStone® will continue to track website behavior to identify new, unique prospects and reactivation targets so

<sup>&</sup>lt;sup>3</sup> *Id*.

<sup>&</sup>lt;sup>4</sup> https://www.navistone.com/

<sup>&</sup>lt;sup>5</sup> Id.

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you can expand and optimize this unique process for success time and time again.<sup>6</sup>

21. NaviStone's wiretap intercepts communications in real time. As *Gizmodo* put it, "before you hit 'submit,' this company has already logged your personal data."<sup>7</sup> *Consumerist* also shared the same concern: "these forms collect your data even if you don't hit 'submit."<sup>8</sup>

22. NaviStone's wiretap is engaged as soon as the visitor arrives at Quickenloans.com. By merely loading the main page on Quickenloans.com, with no other action, the visitor is connected to NaviStone's wiretap, which begins to intercept and monitor their communications.

23. As the visitor interacts with Quickenloans.com, for example, by typing information into a form (*e.g.*, the balance of his or her mortgage, the total value of his or her home, etc.), all of these communications are intercepted and disclosed to NaviStone in real time, through the wiretap. Indeed, as will be demonstrated below, when NaviStone's code is deployed on a webpage that contains an online form – such as a "sign up" page or an "account registration" page – the data is sent to NaviStone as it is typed. Visitors do not need to click "Submit" on the form, or take any other action, for their communications to be intercepted and disclosed to NaviStone.

24. NaviStone's wiretaps are deployed on hundreds of e-commerce websites. Upon information and belief, NaviStone maintains and correlates its back-end database of User Data and PII across these hundreds of websites. For example, assume that Site X and Site Y are both running NaviStone's wiretap. Now, assume that a user provides her name and phone number to

<sup>&</sup>lt;sup>6</sup> https://www.navistone.com/how-it-works (last visited Nov. 3, 2017).

<sup>&</sup>lt;sup>7</sup> https://gizmodo.com/before-you-hit-submit-this-company-has-already-logge-1795906081 (last visited Nov. 3, 2017).

<sup>&</sup>lt;sup>8</sup> https://consumerist.com/2017/06/29/these-forms-collect-your-data-even-if-you-dont-hit-submit/

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Site X, but <u>not</u> to Site Y. Through the use of NaviStone's wiretap and back-end database, NaviStone can de-anonymize the user on Site Y and know her name and phone number, even though she never provided that information to Site Y.

#### NaviStone's Wiretap In Action On Quickenloans.com

25. The operation of NaviStone's wiretap on the Quickenloans.com website can be observed using the Developer Tools Window in the Google Chrome browser. In the images below, the Quickenloans.com website, as it appears normally through the browser is shown in the left-hand side of the window, while the Developer Tools Network View, showing incoming and outgoing transmissions, is shown in the right-hand window.

26. When Quickenloans.com is loaded into a browser, the website automatically retrieves a computer file located on a remote server. At the time this Complaint was written, the computer file was named "C196978CF1900B.js," and it was hosted at http://code.murdoog.com/onetag/

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#### 27. The file "C196978CF1900B.js" is roughly 24 KB in size and contains computer

code written in a language called JavaScript. It appears as such:

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The top line of the code contains a comment indicating that it is to be used on

"Quickenloans.com." However, the remainder of the code lacks comments, explanations, proper

indenting, or intelligible names for variables. Essentially, this code is obfuscated.

The domain "code.murdoog.com," which deploys this code, is owned and 28.

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operated by NaviStone.

29. Next, the code in C196978CF1900B.js is executed, with no further actions by the user, or prompting by Quicken or NaviStone. This immediately begins intercepting the visitors' electronic communications and transmitting them to https://apis.murdoog.com/

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- 30. The domain "apis.murdoog.com" is also owned and operated by NaviStone.
- 31. The intercepted communications are encoded in a format called Base64. When

decoded, they appear as such:

{"v":"e609394e-f9d3-4c7e-a85b-d1c3d6c77be8","m":"7c213bd9-2744-45c4-a38ee1184f1b3f11","csi":2602349387,"se":"108f0375-a71a-401c-9039-d747ba53c1bf","p":"0a487a7f-bd29-4b2c-9b3e-365b46b1f5dc","u":"https://www.quickenloans.com/mortgageapplication/four-steps?mortgageoption=yourgage#1","pn":"/mortgage-application/foursteps","t":"Apply for a Mortgage | Quicken Loans","c":"https://www.quickenloans.com/mortgageapplication/four-

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steps","pr":"CD4143","eid":"ns\_seg\_100","s":1,"vs":11,"l":"PageL oad"}

Based on information and belief, other portions of these intercepted data (which are obfuscated such that they are machine-readable but are not readable by humans) include a timestamp, an ID number, the user's IP address, and other PII.

32. NaviStone's wiretap will then continue to monitor the user as he or she browses Quickenloans.com. It will report every page visited by the user. Assume that a visitor is interested in applying for a mortgage.

| Apply for a Mortgage   C ×   |  |  |
|--|--|--|
| C Quicken Loans Inc. [US]   https://www.quickenloans.com/mortgage-applic     | ation/four-steps#2   | \$   |
| <b>Quicken Loans</b>   | Real Estate Agent Site   Sign up for Email and Texts   MyQL Sign In<br>Need heip? Chat or Call (800) 251-9080  | R D Bements Console Sources Network Performance ≫ ▲8 ; 1     O S ● ♥ Venc III S © Group by frame @ Preserve log © Disable cache mundoog ◎ Reper @ Hide dats UR(s)  |
| Select One   | chaning a new home?<br>voi buying your property?<br>Voit   | Work Jr. Sci. Sci. Brug, Merkla Ford Dic. VIS. Manifest Die:           Winderschlutz         Weinig Merkla Ford  |
| 90 MCK<br>OR STAR  | OR CALL (800) 251-0000<br>IT ONLINE WITH BOCKET MORTGAGE   |  |
|  | of our clients would<br>RECOMMEND USI<br>- aud on claid client survey  |  |
|  | - Based un Linused Gilent Surveys  | 3 / 121 requests   264 KB / 71.5 KB transferred   Finish: 4.05 s   DOMContentLoaded: 1.17 s   Load   |
| our mortgage partners contact you about your inquiry by text message or phor | Assumptioned Research Relation Assumption and the service Qualities Latence and family of Companies, and potentially<br>in Including automatic telephone dealing system or an antificial or presected wirket to the esciential or cellular<br>motests, tatle, or national Do Har Call Regimenty, Two do not have to again to encer use tat and or metaged as a condition<br>and the service of the second service of the second service of the service of the service of the second service of the service of the service of the second service of the second service of the service of the service of the second service of t | Conset Works New     See     Sep     Sep |
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This activity is immediately communicated to NaviStone as such:

{"v":"e609394e-f9d3-4c7e-a85b-d1c3d6c77be8","m":"7c213bd9-2744-45c4-a38ee1184f1b3f11","csi":2775439104,"se":"108f0375-a71a-401c-9039-d747ba53c1bf","p":"4660d48a-6831-4ce3-9162eeb436f72b04","u":"https://www.quickenloans.com/mortgageapplication/four-steps?mortgageoption=yourgage#2","pn":"/mortgage-application/foursteps","t":"Apply for a Mortgage | Quicken Loans","c":"https://www.quickenloans.com/mortgage-

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application/foursteps","pr":"CD4143","eid":"ns\_seg\_100","s":1,"vs":12,"l":"PageL oad"}

33. When filling out forms, any PII the user provides is immediately, automatically, and secretly transmitted to NaviStone in real-time. Here, by way of example, the user has indicated that he or she has "Signed a Purchase Agreement." A transmission is automatically, immediately, and secretly made to NaviStone:

| 02 Apply for a Mortgage   C ×   |  | * - 6 ×   |
|---|--|---|
| ← → C • Quicken Loans Inc. [US]   https://www.quickenloans.com/m  | ortgage-application/four-steps#2   | \$ i  |
| <b>Quicken Loans</b>  | Real Estate Agent Site   Sign up for Email and Texts   MyQL Sign In<br>Need heip? Chait or Call (800) 251-9080   | Image: Second Sources     Network     Performance     ≫     & § ; X       Image: Second  |
| •<br>•  | ntgaga Goak<br>ned a Purthase Agreement:<br>vy wre you purchasing a new home?<br>tect One  | Weil /s         CSS Imp         Media         Fort Coc         Wildle         Marriest         Ma   |
| Sector  | what state are you buying your property?<br>Iect One<br>wany:<br>Next  | Construit (also measurements), 2012 August 497712112001, 11121 August 49772112001, 11121 August 497721 August 4 |
|   | orical (800) 251-000<br>oristant online with Bocket Moritgage  |   |
|   | of our clients would<br>RECOMMEND USI<br>-Based on closed client surveys   | 4/123 requests 1274 K8/751 K8 transferred 1 Finish 1485 s 1 DOMContentGoaled 117 s 1 Low.   |
| A REAL PROPERTY OF THE OWNER WAS ADDRESSED.   |  | E Console What's New X  |
| our mortgage partners contact you about your inquiry by ter<br>telephone number you have provided, even if that telephone | No PHA, Via or Junto Products. No State Restrictions.<br>In of Lise and our <u>locarity and Protoc Philos</u> , No also expensity consent to having Quicken Loans, our <u>family of Companies</u> , and potentially<br>message of phose (including automatic steephone dailing system or as antificial or precoded violat) to the residential or collular<br>members in an occupant, table, manisour Dia Nord (20 lights) my dia materia havins to gave to include such calls or messaget as a condition<br>communicating with us by phone, you consent to calls being recorded and monitored. | top      File      Detail teat      Ideas high      Ideas   |
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Now, the user has indicated that he or she is a "first-time home buyer." Again, a transmission is automatically, immediately, and secretly made to NaviStone:

| oly for a Mortgage   C X   |  |  |
|--|--|--|
| C Quicken Loans Inc. [US]   https://www.quickenloans.com/mo                            | vtgage-application/four-steps#2  | \$   |
| <b>Quicken Loans</b>   | Real Estate Agent Site   Sign up for Email and Texts   MyQL Sign in<br>Need help? Chat or Call (800) 251-9080                              | R ① Bements Console Sources Network Performance ≫ ▲8 :     O ◎ ■ ♥ View Ⅲ % Group by hame ◎ Preserve log ◎ Dicable cac     murdoog ◎ Reger ◎ Hide data URLs  |
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| Sig  | ned a Purchase Agreement 🔹   | Name Stat Type Initiator Size Time Waterfall 20.00 s   |
| Fan  | y ars you purchasing a new home!<br>na finā fina home buyer  | C196978CF19008[p. 200 script satellite 24 123]<br>966978CF19008[v200 script C1882781015]<br>969718CF19008[v200 script C1892781013]<br>969778CF19008[v200 script C1892781013]   |
|  | you currently renting?<br>act One  | 96978CF190081v 200 script <u>C196978</u> 1.0 42  |
|  | what state are you buying your property? ect One   | b244eb34178am=2b2074-#054a=4787-8b3+690554c=400748+431-4564-807<br>r644eb4582at=-g120mdoteAntizveryMatextoxd   |
|  |  | e11401Veropticki QOUBeHeadBendigh (SBN63)227-rd588FF Jahlroch Weig Gebendige Bahlroch<br>wWB31bm) Bishondreich Gebeidd Jahl Jahlroch Washish, Ford (Sbahlweig) Kabel (Shahli Shahli |
|  | Next   |  |
| 99   | 2 MACK<br>OR CALL (800) 251-9080<br>OR START ONLINE WITH <u>ROCKET MORTGAGE</u>  |  |
|  |  |  |
|  | of our clients would   | 5 / 125 requests   28.4 KB / 74.8 KB transferred   Finish: 23.78 s   DOMContentLoaded: 1.17 s  |
|  | RECOMMEND US!  | Console What's New  top  Filter Default levels  17 items hidden by filters   |
| Product available on Fixed-Rate Conventional Products only.                            | -Based on closed client surveys  | Sp         V         Time         Default tools         Y Trans Moderal by Tame           472072284 for more statil.         -<  |
| Communication Consent:<br>By submitting your contact information you agree to our Term | s of Use and our Security and Privacy Policy. You also expressly consent to having Quicken Loans, our Family of Companies, and potentially | tatus.com/feature/5718547946799104 for more details.   |
| 🗎 🔁 📚 🤌 🖬 🚺  | message or phone lincluding automatic telephone dialing system or an artificial or prerecorded voice) to the residential or cellular       | • •  |

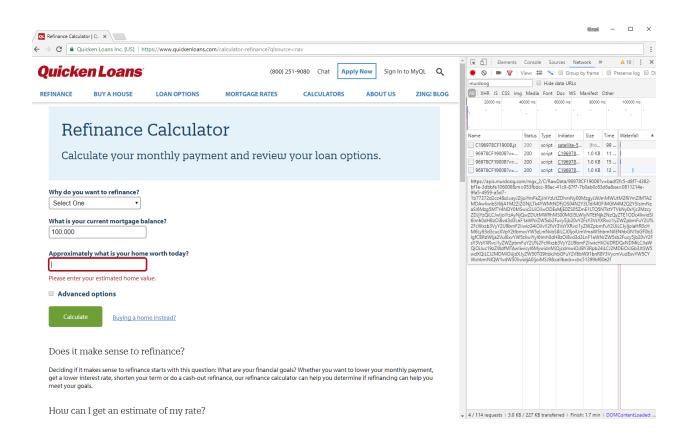
Now, the user has indicated that he or she is currently renting. Again, another transmission is automatically, immediately, and secretly made to NaviStone:

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| Loans Inc. [US] https://www.quickenloans.com/mortgage-a | nlication/four-stans#2  | \$  |
|---|---|---|
|   |   | TR D Bements Console Sources Network Performance * A8 :   |
| Quicken Leane   | Real Estate Agent Site   Sign up for Email and Texts   MyQL Sign In | View: III % Group by frame Preserve log @ Disable cache   |
| uicken Loans <sup>®</sup>                               | Need help? Chat or Call (800) 251-9080                              | murdoog   |
|   |   | XHR JS CSS Img Media Font Doc WS Manifest Other   |
|   |   | 50000 ma 100000 ma 150000 ma 200000 ma  |
|   |   |   |
| Mortgage G  |   |   |
| Signed a Pure   | nase Agreement  | Name Stat Type Initiator Size Time Waterfall 20.00 s  |
| Why are you   | purchasing a new home?  | C196978CF1900Bjs 200 script <u>satellite</u> 24 123   |
| I am a first-tim  |   | 96978CF190087v_ 200 script <u>C195978</u> _ 1.0 _ 15 _  |
|   |   | 96978CF190087v 200 script <u>C196978</u> 1.0 13<br>96978CF190087v 200 script <u>C196978</u> 1.0 52  |
| Are you curr  | ntly renting?   | 96978CF190087v 200 script <u>C196978</u> 1.0 42   |
| Yes   |   | 96978CF190087v_ 200 script C196978_ 1.0 _ 79 _  |
| When does   | sur lease expire?   | https://apis.murdoog.com/mgx_2/C/RawData/96978CF190087v=07d4bdc4-17d6-4d05-90cb-  |
|   |   | b52a44b341738xm=5b205749-d56a-4787-8b3a-65015ec9f0e58xe=4b02f024-a151-45e0-b876-<br>fc8c4d8e5b828xd=eyi2ljoiMDdkNG/KYzQtMTdkN00ZDA1LTkwY2ltYjUyYTQ0YjM0MTczliwib5l6ljVM   |
| Month   | Year     Year   | ALINEQSLWQ1WmEthDeAvgG4YMnTY1MDE1ZWM5ZjBINSJambaSSbW2OF5PaulJSwieZU00<br>YjAyZjAyNCIMTUaLTQ1ZTArtyg5W1mY2byNGQ4ZTVGDBLCWbj0ZTRIGGNGGY1Y2BKZ00ZWY0U<br>WISMTR4ZjRvTNwOCMLDDcwbiwdSBbimbGHBED8WaB3LhF1aWNc2W5b2Fucy5jb20vbW3ydG |
| in what state   | are you buying your property?                                       | hZ2UtYXBwbGiYXRpb24vZm91ci1zdGVwcvMyIwicG4iOilvbW9vdGdhZ2UtYXBwbGiYXRpb24vZm91  |
| Select One  |   | citzdGVwcykInQiOUBcHBse58mb3lgYS8Nb3J0Z2FnZ588IFF1aWNrZW4gTG9hbnMg4CBRdWija2vu8<br>wyW5zliwiYy8Imh0dHBzOi8vd3d3LnF1aWNrZW5sb2Fucy5jb20vbW9ydGdhZ2UtYX8wbGi}YXRpb24  |
|   |   | vZm9LcitzdGVwcytanByljo-QOQDMTQztwcZWNUjobnNtcZVnXzEwMCtahMiOjUshZzJo5LCitajoQW<br>N0aW9uliwidjAdjoiRm9ybUlucHV0liwidjAzijoicHVyY2thcZVbTGVhczluZ118cHVyY2thc2VfTGVhc2lu  |
| County:   |   | ZylsInYwNClőljEifQ%3D%3D8callback=cb8d254685bfe4  |
|   |   |   |
|   |   |   |
|   | Next  |   |
|   |   |   |
| E GO BACK   |   |   |
|   | OR CALL (800) 251-9080  |   |
|   |   |   |
|   |   | 6 / 127 requests   29.4 K8 / 76.4 K8 transferred   Finish: 33.09 s   DOMContentLoaded: 1.17 s   Lo  |
|   | 🤞 🔹 🔁   | Console What's New  |
|   |   | Console What's New  |
|   | PERCENT   | 47946799104 for more details.   |
|   | of our clients would RECOMMEND US!                                  | A Parser-blocking, cross site (i.e. satelliteLib-c646e83is:18   |
|   | - Based on closed client surveys                                    | <pre>different eTLD+1) script, <u>https://assets.adobedtm.com/Be06569m/scripts/sa</u><br/>tellite-573152em.is, is invoked via document.write. The network request</pre>   |
|   | Based on Cased Caern Surveys  | for this script MAY be blocked by the browser in this or a future page<br>load due to poor network connectivity. If blocked in this page load, it   |
|   |   | will be confirmed in a subsequent console message.See <u>https://www.chromes</u><br><u>tatus.com/feature/5718547946799184</u> for more details.   |
|   |   | • >   |
| 📚 🚅 🚾 🖬 🦪   |   | 🖬 🔺 🖪 🔁 🍓 😽 627 PM  |

34. Furthermore, after visitors enter their "mortgage balance" on Quickenloans.com, another transmission is automatically, immediately, and secretly made to NaviStone:

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Similarly, when visitors enter their total "home worth" on Quickenloans.com, another

transmission is automatically, immediately, and secretely made to NaviStone:

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| Image: Calculator   Q: × \         ← → C ■ Quicken Loans Inc. [US]   https://www.guickenloans.com/calculator-refinance?glsource=nav   | 6aat - 🗆 X  |
|---|---|
| Quicken Loans         (800) 251-9080         Chat         Apply Now         Sign In to MyQL         Q           REFINANCE         BUY A HOUSE         LOAN OPTIONS         MORTGAGE RATES         CALCULATORS         ABOUT US         ZINGI BLOG   | Elements Console Sources Network      A 10 : X     View:      Group by frame      Preserve log Di     murdoog     Hide data URLs     XHR JS CSS Img Media Font Doc WS Manifest Other     10000 min     10000 min     10000 min  |
| <b>Refinance Calculator</b><br>Calculate your monthly payment and review your loan options.   | BOOC MR         Type         Initiator         Size         Time         Waterfall         ▲           I 196978CF19008.js         200         script         145872.m         10/m         99         4           0 9978CF19008.js         200         script         125927         10 K8         15         9978CF19008.h         200         script         125927         10 K8         15         1         1         9978CF19008.h         200         script         125927         10 K8         15         1         1         99         1         99         1 </td |
| Why do you want to refinance?<br>Select One<br>What is your current mortgage balance?<br>100.000<br>Approximately what is your home worth today?<br>300.000   | https://apis.mudioog.com/mgr.2/C/RavData/96978CF190081v=badf2c5-0897-4382-<br>br1 = 3db1e1002 https://apis.mudioog.com/mgr.2/C/RavData/96978CF190081v=badf2c5-0897-4382-<br>br1 = 3db1e1002 https://apis.mudioog.com/mgr.2/C/RavData/96978CF190081v=badf2c5-0897-4382-<br>br1 = 3db1e102 https://apis.mudioog.com/mgr.2/C/RavData/96078CF190081v=badf2c5-0897-4382-<br>mudioog.com/mgr.2/C/RavData/96078CF190084cy/U/SimMut/RaVm2011/25194/<br>2017/341C-04607420/0002004000000000000000000000000000  |
| Calculate Buying a home instead?  |   |
| Does it make sense to refinance?  |   |
| Deciding if it makes sense to refinance starts with this question: What are your financial goals? Whether you want to lower your monthly payment, get a lower interest rate, shorten your term or do a cash-out refinance, our refinance calculator can help you determine if refinancing can help you meet your goals. |   |
| How can I get an estimate of my rate?   | ▼ 5 / 121 requests   4.0 KB / 232 KB transferred   Finish: 2.5 min   DOMContentLoaded:  |

35. By intercepting these communications, NaviStone is able to learn the identity of the visitor. As NaviStone boasts, it is capable of matching "60-70% of your anonymous site

traffic to Postal names and addresses."9

## **Other Allegations Common To All Claims**

36. Defendants, as corporations, are "persons" pursuant to 18 U.S.C. § 2510(6).

37. Plaintiff's and Class Members' keystrokes, mouseclicks, and other interactions

with Quickenloans.com are "electronic communications" as defined by 18 U.S.C. § 2510(12).

38. Throughout the entirety of the conduct upon which this suit is based, Defendants' actions have affected interstate commerce.

39. Defendants' actions are and have been intentional as evidenced by, *inter alia*,

their design and implementation of the software wiretap on Quickenloans.com, and their

disclosures and uses of the intercepted communications for profit.

### **CLASS ACTION ALLEGATIONS**

40. Plaintiff seeks to represent a class all persons whose electronic communications were intercepted through the use of NaviStone's wiretap on Quickenloans.com.

41. Members of the Class are so numerous that their individual joinder herein is impracticable. On information and belief, members of the Class number in the millions. The precise number of Class members and their identities are unknown to Plaintiff at this time but may be determined through discovery. Class members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendants.

42. Common questions of law and fact exist as to all Class members and predominate over questions affecting only individual Class members. Common legal and factual questions include, but are not limited to, whether Defendants intentionally intercepted electronic communications in violation of 18 U.S.C. § 2511(1)(a); whether Defendants intentionally disclosed the intercepted electronic communications in violation of 18 U.S.C. § 2511(1)(a); whether Defendants intentionally used, or endeavored to use the intercepted electronic communications to de-anonymize website visitors in violation of 18 U.S.C. § 2511(1)(d); whether Quicken procured NaviStone to intercept or endeavor to intercept electronic communications in violation of 18 U.S.C. § 2511(1)(a); whether NaviStone procured Quicken to intercept or endeavor to intercept electronic communications in violation of 18 U.S.C. § 2511(1)(a); whether NaviStone is wiretaps, including the software codes described herein, are an "electronic, mechanical, or other device" as defined by 18 U.S.C. § 2510(5); whether NaviStone's wiretaps are primarily useful for the purpose of the surreptitious interception of electronic communications in violation of 18 U.S.C. § 2512; whether NaviStone violated 18

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U.S.C. § 2512 by intentionally creating the wiretap codes, by possessing those wiretaps, by advertising them on the NaviStone website, and by distributing them to Quicken for installation on Quicken's website; whether Quicken violated 18 U.S.C. § 2512 by receiving the wiretaps from NaviStone, which were transported through interstate commerce, by possessing those wiretaps, and by further distributing them through the software codes embedded on Quickenloans.com; whether each class member is entitled to the remedies specified under 18 U.S.C. § 2520, including but not limited to statutory damages of \$10,000 per class member.

43. The claims of the named Plaintiff are typical of the claims of the Class because the named Plaintiff, like all other class members, visited Quickenloans.com and had his electronic communications intercepted and disclosed to NaviStone through the use of NaviStone's wiretap.

44. Plaintiff is an adequate representative of the Class because his interests do not conflict with the interests of the Class members he seeks to represent, he has retained competent counsel experienced in prosecuting class actions, and he intends to prosecute this action vigorously. The interests of Class members will be fairly and adequately protected by Plaintiff and his counsel.

45. The class mechanism is superior to other available means for the fair and efficient adjudication of the claims of Class members. Each individual Class member may lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish Defendants' liability. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. In contrast, the class action

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device presents far fewer management difficulties and provides the benefits of single

adjudication, economy of scale, and comprehensive supervision by a single court on the issue of

Defendants' liability. Class treatment of the liability issues will ensure that all claims and

claimants are before this Court for consistent adjudication of the liability issues.

46. Plaintiff brings all claims in this action individually and on behalf of members of the Class against Defendants.

#### Count I

## For Interception Of Electronic Communications In Violation Of The Wiretap Act, 18 U.S.C. § 2511(1)(a)

47. Plaintiff repeats the allegations contained in  $\P\P$  1-46, above, as if fully set forth herein.

48. By implementing NaviStone's wiretaps on Quickenloans.com, each Defendant intentionally intercepted, endeavored to intercept, and procured another person to intercept, the electronic communications of Plaintiff and Class Members, in violation of 18 U.S.C. § 2511(1)(a).

#### Count II

## For Disclosure Of Intercepted Electronic Communications In Violation Of The Wiretap Act, 18 U.S.C. § 2511(1)(c)

49. Plaintiff repeats the allegations contained in  $\P\P$  1-46, above, as if fully set forth herein.

50. By intentionally disclosing the intercepted electronic communications of the Plaintiff and Class Members to each other, and to other third parties, while knowing or having reason to know that the information was obtained through the interception of an electronic communication in violation of 18 U.S.C. § 2511(1)(a), Defendants have violated 18 U.S.C. § 2511(1)(c).

#### Count III

## For Use Of Intercepted Electronic Communications In Violation Of The Wiretap Act, 18 U.S.C. § 2511(1)(d)

51. Plaintiff repeats the allegations contained in  $\P\P$  1-46, above, as if fully set forth herein.

52. By intentionally using, or endeavoring to use, the contents of the Plaintiff's and Class Members' intercepted electronic communications to de-anonymize them, and for other purposes, while knowing or having reason to know that the information was obtained through the interception of an electronic communication in violation of 18 U.S.C. § 2511(1)(a), Defendants have violated 18 U.S.C. § 2511(1)(d).

## <u>Count IV</u> For Procuring In Violation Of The Wiretap Act, 18 U.S.C. § 2511(1)(a)

53. Plaintiff repeats the allegations contained in  $\P\P$  1-46, above, as if fully set forth herein.

54. By intentionally procuring NaviStone to intercept or endeavor to intercept electronic communications, Quicken violated 18 U.S.C. § 2511(1)(a).

55. By intentionally procuring Quicken to intercept or endeavor to intercept electronic communications, NaviStone violated 18 U.S.C. § 2511(1)(a).

## <u>Count V</u> For Manufacture, Distribution, Possession And Advertising Of Electronic Communication Intercepting Devices In Violation Of The Wiretap Act, 18 U.S.C. § 2512

56. Plaintiff repeats the allegations contained in  $\P\P$  1-46, above, as if fully set forth

herein.

57. NaviStone's wiretaps, including the software codes described herein, are an

"electronic, mechanical, or other device" as defined by 18 U.S.C. § 2510(5), are primarily useful

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for the purpose of the surreptitious interception of electronic communications.

58. By intentionally creating the wiretap codes, by possessing those wiretaps, by advertising them on the NaviStone website, and by distributing them to Quicken for installation on Quicken's website, NaviStone violated 18 U.S.C. § 2512.

59. By receiving the wiretaps from NaviStone, which were transported through

interstate commerce, by possessing those wiretaps, and by further distributing them through the

software codes embedded on Quickenloans.com, Quicken violated 18 U.S.C. § 2512.

#### **Relief Sought**

60. WHEREFORE, Plaintiff, individually and on behalf of all others similarly

situated, seeks a judgment against Defendants as follows:

- A. For an order certifying the Class under Rule 23 of the Federal Rules of Civil Procedure and naming Plaintiff as representative of the Class and Plaintiff's attorneys as Class Counsel to represent the Class;
- B. For an order declaring that Defendants' conduct as described herein violates the statutes referenced herein;
- C. For an order finding in favor of Plaintiff and the Class on all counts asserted herein;
- D. For all remedies specified in the Wiretap Act, 18 U.S.C. § 2520, including the actual damages suffered by the plaintiff, any profits made by Defendants as a result of the violations, statutory damages of whichever is greater of \$100 a day for each day of violation or \$10,000 for each class member, such preliminary and other equitable or declaratory relief as may be appropriate, punitive damages, and a reasonable attorney's fee and other litigation costs reasonably incurred;
- E. For prejudgment interest on all amounts awarded;
- F. For an order of restitution and all other forms of equitable monetary relief;
- G. For injunctive relief as pleaded or as the Court may deem proper; and
- H. For an order awarding Plaintiff and the Class their reasonable

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attorneys' fees and expenses and costs of suit.

#### Jury Demand

61. Plaintiff demands a trial by jury on all causes of action and issues so triable.

Dated: December 1, 2017

Respectfully submitted,

## **BURSOR & FISHER, P.A.**

By: <u>/s/ Frederick J. Klorczyk III</u> Frederick J. Klorczyk III

Frederick J. Klorczyk III 888 Seventh Avenue New York, NY 10019 Telephone: (212) 989-9113 Facsimile: (212) 989-9163 Email: fklorczyk@bursor.com

Attorneys for Plaintiff

## JS 44 (Rev. 06/17) Case 2:17-cv-12352 Decument OVER SHEET 7 Page 1 of 1 PageID: 23

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)* 

| I. (a) PLAINTIFFS DEFENDANTS   |   |  |   |   |   |  |
|--|---|--|---|---|---|--|
| MICHAEL ALLEN, individually and on behalf of all others similarly gain situated,   |   |  |   | QUICKEN LOANS INC. and NAVISTONE, INC.,   |   |  |
| (b) County of Residence of First Listed Plaintiff Bergen County, NJ  |   |  |   | County of Residence of First Listed Defendant Wayne County, MI  |   |  |
| (EXCEPT IN U.S. PLAINTIFF CASES)   |   |  |   | <i>(IN U.S. PLAINTIFF CASES ONLY)</i><br>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF<br>THE TRACT OF LAND INVOLVED.   |   |  |
| (c) Attorneys (Firm Name, Address, and Telephone Number)   |   |  |   | Attorneys (If Known)  |   |  |
| Bursor & Fisher, P.A.<br>888 Seventh Avenue, Ne<br>Tel: (646) 837-7165   | · ·   | ))   |   | 1 moneys (1) mowny  |   |  |
| II. BASIS OF JURISDI   | <b>CTION</b> (Place an "X" in O   | ne Box Only)   | III. CI   | TIZENSHIP OF P  | RINCIPAL PARTIES  | (Place an "X" in One Box for Plaintiff   |
| □ 1 U.S. Government  |   |  |   | (For Diversity Cases Only)  | rf def  | and One Box for Defendant)<br>PTF DEF  |
| Plaintiff  | (U.S. Government Not a Party)   |  | Citize  |   | 1 1 Incorporated or Pr<br>of Business In T  | incipal Place 🗖 4 🗖 4  |
| □ 2 U.S. Government<br>Defendant   | 4 Diversity<br>(Indicate Citizenship of Parties in Item III)  |  | Citize  | Citizen of Another State 2 2 2 Incorporated <i>and</i> Principal Place 5 5 5 6 5 of Business In Another State   |   |  |
|  | _   |  |   | en or Subject of a<br>reign Country   | 3 🗖 3 Foreign Nation  |  |
| IV. NATURE OF SUIT   |   | ly)<br>RTS   | FC  | DRFEITURE/PENALTY   | Click here for: Nature of BANKRUPTCY  | of Suit Code Descriptions.<br>OTHER STATUTES   |
| <ul> <li>110 Insurance</li> <li>120 Marine</li> <li>130 Miller Act</li> <li>140 Negotiable Instrument</li> <li>150 Recovery of Overpayment<br/>&amp; Enforcement of Judgment</li> <li>151 Medicare Act</li> <li>152 Recovery of Defaulted<br/>Student Loans<br/>(Excludes Veterans)</li> <li>153 Recovery of Overpayment<br/>of Veteran's Benefits</li> <li>160 Stockholders' Suits</li> <li>190 Other Contract</li> <li>195 Contract Product Liability</li> <li>196 Franchise</li> <li>210 Land Condemnation</li> <li>220 Forcelosure</li> <li>230 Rent Lease &amp; Ejectment</li> <li>245 Tort Product Liability</li> <li>290 All Other Real Property</li> </ul> | PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 970duct Liability 360 Other Personal Injury 360 Other Personal Injury 362 Personal Injury - Medical Malpractice <b>CIVIL RIGHTS</b> 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/ Accommodations 445 Amer. w/Disabilities - Employment 446 Amer. w/Disabilities - Other 448 Education | PERSONAL INJURY      365 Personal Injury -     Product Liability      367 Health Care/     Pharmaceutical     Personal Injury     Product Liability      368 Asbestos Personal     Injury Product     Liability      PERSONAL PROPER     370 Other Fraud     371 Truth in Lending     380 Other Personal     Property Damage     Product Liability      PRISONER PETITION     Habeas Corpus:     463 Alien Detainee     510 Motions to Vacate     Sentence     530 General     535 Death Penalty     Other:     540 Mandamus & Othe     550 Civil Rights     55 Prison Condition | X = 62<br>= 69<br>TTY = 71<br>= 72<br>= 74<br>= 75<br>\$\$\$ = 79<br>= 79 | 5 Drug Related Seizure     of Property 21 USC 881     0 Other      USC 881     0 Other     0 Fair Labor Standards     Act     1 Labor/Management     Relations     0 Railway Labor Act     1 Family and Medical     Leave Act     0 Other Labor Litigation     Employee Retirement     Income Security Act     IMMIGRATION     2 Naturalization Application     5 Other Immigration     Actions | □       422 Appeal 28 USC 158         □       423 Withdrawal 28 USC 157         ■       PROPERTY RIGHTS         □       820 Copyrights         □       830 Patent         □       835 Patent - Abbreviated New Drug Application         □       840 Trademark         SOCIAL SECURITY         □       861 HIA (1395ff)         □       862 Black Lung (923)         □       864 SSID Title XVI         □       865 RSI (405(g))         ■       FEDERAL TAX SUITS         □       870 Taxes (U.S. Plaintiff or Defendant)         □       871 IRS—Third Party 26 USC 7609 | <ul> <li>375 False Claims Act</li> <li>376 Qui Tam (31 USC<br/>3729(a))</li> <li>400 State Reapportionment</li> <li>410 Antitrust</li> <li>430 Banks and Banking</li> <li>450 Commerce</li> <li>460 Deportation</li> <li>470 Racketeer Influenced and<br/>Corrupt Organizations</li> <li>480 Consumer Credit</li> <li>490 Cable/Sat TV</li> <li>850 Securities/Commodities/<br/>Exchange</li> <li>890 Other Statutory Actions</li> <li>891 Agricultural Acts</li> <li>893 Environmental Matters</li> <li>895 Freedom of Information<br/>Act</li> <li>896 Arbitration</li> <li>999 Administrative Procedure<br/>Act/Review or Appeal of<br/>Agency Decision</li> <li>950 Constitutionality of<br/>State Statutes</li> </ul> |
|  |   | 560 Civil Detainee -<br>Conditions of<br>Confinement   |   |   |   |  |
| V. ORIGIN (Place an "X" in $\boxed{2}$ 1 Original $\boxed{2}$ 2 Rep  | -   | Remanded from  | J 4 Rein  | stated or 🛛 5 Transfe   | erred from 🛛 6 Multidistr   | rict 🛛 8 Multidistrict   |
|  |   | Appellate Court  | Reop  |   | er District Litigation  |  |
| VI. CAUSE OF ACTIO   | 18 U S C 2510 e   | et seq.  | e filing (1   | Do not cite jurisdictional stat   | tutes unless diversity):  |  |
|  | Violation of the F  | ederal Wiretap Act   |   |   |   |  |
| VII. REQUESTED IN<br>COMPLAINT:  | CHECK IF THIS UNDER RULE 2  | IS A CLASS ACTION<br>3, F.R.Cv.P.  | •   | EMAND \$<br>5,000,000.01  | CHECK YES only<br>JURY DEMAND:  | if demanded in complaint:  |
| VIII. RELATED CASE<br>IF ANY   | <b>E(S)</b> (See instructions):   | JUDGE  |   |   | DOCKET NUMBER   |  |
| DATE   |   | SIGNATURE OF ATT   |   |   |   |  |
| 12/01/2017<br>FOR OFFICE USE ONLY  |   | /s/ Frederick J.   | KIOPCZ  | ук III  |   |  |
| RECEIPT # AN   | 10UNT   | APPLYING IFP   |   | JUDGE   | MAG. JUD  | DGE  |

# **ClassAction.org**

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: <u>NaviStone Named in Fourth Class Action</u>, This Time with Quicken Loans, Over Online 'Wiretapping'