

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

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

Michelle E. Austin, Individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff **Montgomery County**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Jerry R. DeSiderato, Esquire / DILWORTH PAXSON LLP, 1500 Market
Street, Suite 3500E, Phila, PA 19102 (215) 575-7000

DEFENDANTS

EQUIFAX, Inc., et al.

County of Residence of First Listed Defendant **Fulton County, GA**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. Section 1681, et seq.

Brief description of cause:

VIOLATION OF FAIR CREDIT REPORTING ACT

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

>150,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

09/11/2017

SIGNATURE OF ATTORNEY OF RECORD

Jerry R. DeSiderato, Esquire

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 42 Summit Avenue, Eagleville, Pennsylvania 19403

Address of Defendant: (both defendants) 1550 Peachtree Street, NW, Atlanta, GA 30309

Place of Accident, Incident or Transaction: 42 Summit Avenue, Eagleville, Pennsylvania 19403

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☒ No ☐

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

2. ☐ FELA

3. ☐ Jones Act-Personal Injury

4. ☐ Antitrust

5. ☐ Patent

6. ☐ Labor-Management Relations

7. ☐ Civil Rights

8. ☐ Habeas Corpus

9. ☐ Securities Act(s) Cases

10. ☐ Social Security Review Cases

11. ☒ All other Federal Question Cases

(Please specify) FCRA, 15 U.S.C. Section 1681, et seq.

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts

2. ☐ Airplane Personal Injury

3. ☐ Assault, Defamation

4. ☐ Marine Personal Injury

5. ☐ Motor Vehicle Personal Injury

6. ☐ Other Personal Injury (Please specify)

7. ☐ Products Liability

8. ☐ Products Liability — Asbestos

9. ☐ All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Jerry R. DeSiderato, Esquire, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 09/11/2017

Jerry R. DeSiderato, Esquire

Attorney-at-Law

201097

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 09/11/2017

Jerry R. DeSiderato, Esquire

Attorney-at-Law

201097

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

MICHELLE E. AUSTIN, individually and	:	CIVIL ACTION
on behalf of all others similarly situated	:	
v.	:	
EQUIFAX, INC. and EQUIFAX CREDIT	:	
INFORMATION SERVICES, INC.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ☐
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ☐
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ☐
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ☐
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ☒
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ☐

September 11, 2017


Jerry R. DeSiderato

Plaintiffs

Date

Attorney-at-law

Attorney for

215-575-7000

215-575-7200

jdesiderato@dilworthlaw.com

Telephone

FAX Number

E-Mail Address

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MICHELLE E. AUSTIN,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

EQUIFAX, INC., and
EQUIFAX CREDIT INFORMATION
SERVICES, INC.,

Defendants.

Civ. A. No.

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff Michelle E. Austin, by and through her undersigned counsel, brings this action individually and on behalf of a class of all persons and entities similarly situated, against Equifax, Inc. and Equifax Credit Information Services, Inc. (collectively, “Equifax” or “Defendant”) for damages derived from violation of the Fair Credit Reporting Act and of various state laws. Plaintiff alleges facts regarding herself based on personal knowledge, and on information and belief as to all other factual allegations, as follows:

NATURE OF THE ACTION

1. This is a consumer class action lawsuit brought by Plaintiff, individually and on behalf of all others similarly situated (*i.e.*, the Class Members), who have had their personal information held by Equifax—including names, social security numbers, birth dates, addresses, drivers’ license numbers, credit card numbers and other personal identifying information (hereinafter collectively the “Personally Identifiable Information”)—unlawfully disclosed to unnamed third parties.

2. Equifax disregarded Plaintiff's and the Class Members' privacy rights by intentionally, willfully, recklessly, or negligently failing to take the necessary precautions required to safeguard and protect their Personally Identifiable Information from unauthorized disclosure.

3. Equifax improperly handled and stored Plaintiff's and the Class Members' Personally Identifiable Information ("PII"). Equifax did not maintain Plaintiff's or the Class Members' PII with applicable, required, and appropriate cyber-security protocols, policies and procedures. Consequently, Plaintiff's and the Class Members' PII was compromised and stolen.

4. Plaintiff brings this lawsuit on behalf of herself and all others similarly situated, alleging that Equifax violated the Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681x ("FCRA"); the Pennsylvania Unfair Trade Practices and Consumer Protection Law; invaded Plaintiff's and the Class Members' privacy; and acted negligently.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over Plaintiff's FCRA claims pursuant to 28 U.S.C. § 1331. This Court also has subject matter jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367. This Court has personal jurisdiction over Equifax because, at all relevant times, Equifax conducted (and continues to conduct) business in the Eastern District of Pennsylvania.

6. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391(b) and (c) because Equifax conducts business in this District.

PARTIES

7. Plaintiff, Michelle E. Austin, is a Pennsylvania resident who resides at 42 Summit Avenue, Eagleville, Pennsylvania 19403. Plaintiff's PII has been compromised as a result of the

Breach (as hereinafter defined). Plaintiff has had an application for a Chase Visa card submitted in her name and without her authority since the Breach, and this credit application has appeared on Plaintiff's credit report to Plaintiff's financial detriment. Indeed, such unlawful activity may have negatively impacted Plaintiff's recently-obtained financing to purchase her home. Further, Plaintiff has since spent time and effort monitoring her credit and financial accounts, as well as addressing the improper credit application.

8. Defendant Equifax, Inc. is a Georgia corporation with its principal place of business located at 1550 Peachtree Street, NW, Atlanta, Georgia 30309. Equifax conducted (and continues to conduct) business in the Eastern District of Pennsylvania.

9. Defendant Equifax Credit Information Services, Inc. is a Georgia corporation with its principal place of business located at 1550 Peachtree Street, NW, Atlanta, Georgia 30309. Equifax Credit Information Services, Inc. conducted (and continues to conduct) business in the Eastern District of Pennsylvania.

BACKGROUND FACTS

10. Equifax is one of three nationwide credit-reporting companies that tracks and rates the financial history of consumers in the U.S. These credit-reporting companies are supplied with data about loans, loan payments, credit cards, and any other financial obligation of a given consumer.

11. According to Equifax's report dated September 7, 2017, a breach was discovered on July 29, 2017 (the "Breach"). The perpetrators gained access by "[exploiting] a [. . .] website application vulnerability" on one of the company's U.S.-based servers. The hackers were then able to retrieve "certain files."

12. Included among those "files" was Plaintiff's and the Class Members' PII.

13. As a result of the Breach, Plaintiff and the Class Members are subject to identity theft.

14. Identity theft occurs when a person's PII is used or attempted to be used without his or her permission to commit fraud and other crimes.¹

15. Javelin Strategy & Research ("Javelin"), a leading provider of quantitative and qualitative research, released a 2013 Identity Fraud Report (the "Javelin Report"), quantifying the impact of security breaches.² According to the Javelin Report, one in four individuals whose PII is subject to a reported security breach—such as the Breach at issue here—will suffer identity fraud or identity theft. *Id.*

16. "[T]he range of privacy-related harms is more expansive than economic or physical harm or unwarranted intrusions and [] any privacy framework should recognize additional harms that might arise from unanticipated uses of data."³

17. Victims of identity theft are at serious risk of substantial losses. "Once identity thieves have your personal information, they can drain your bank account, run up charges on your credit cards, open new utility accounts, or get medical treatment on your health insurance. An identity thief can file a tax refund in your name and get your refund. In some extreme cases, a thief might even give your name to the police during an arrest."⁴

¹ See Federal Trade Commission, *Consumer Information: Identity Theft*, available at <http://www.consumer.ftc.gov/features/feature-0014-identity-theft> (last visited September 11, 2017).

² See Javelin Strategy & Research, *2013 Identity Fraud Report: Data Breaches Becoming a Treasure Trove for Fraudsters*, available at <https://www.javelinstrategy.com/coverage-area/2013-identity-fraud-report-data-breaches-becoming-treasure-trove-fraudsters> (last visited September 11, 2017).

³ See Federal Trade Commission, *Protecting Consumer Privacy in an Era of Rapid Change*, at 8 (Mar. 2012), available at <http://www.ftc.gov/os/2012/03/120326privacyreport.pdf> (last visited September 11, 2017).

⁴ See Federal Trade Commission, *Warning Signs of Identity Theft*, available at <http://www.consumer.ftc.gov/articles/0271-signs-identity-theft> (last visited September 11, 2017).

18. Identity thieves also use Social Security numbers to commit other types of fraud. Identity thieves use PII to open financial accounts and payment card accounts and incur charges in a victim's name. This type of identity theft can be the most damaging because it may take some time for the victim to become aware of the theft, while in the meantime causing significant harm to the victim's credit rating and finances. Moreover, unlike other PII, Social Security numbers are incredibly difficult to change and their misuse can continue for years into the future.

19. Identity thieves also use Social Security numbers to obtain false identification cards, obtain government benefits in the victim's name, commit crimes, and file fraudulent tax returns to obtain fraudulent tax refunds. Identity thieves also obtain jobs, rent houses and apartments, and obtain medical services in the victim's name using stolen Social Security numbers. Identity thieves also have been known to give a victim's personal information to police during an arrest, resulting in the issuance of an arrest warrant in the victim's name and an unwarranted criminal record. Victims of identity theft face "substantial costs and inconvenience repairing damage to their credit records," as well as damage to their "good name."⁵

20. The unauthorized disclosure of a person's Social Security number can be particularly damaging because Social Security numbers cannot be easily replaced. In order to obtain a new Social Security number, a person must show evidence that someone is using the number fraudulently, as well as show that he has done all he can to fix the problems resulting from the misuse.⁶ Thus, a person whose PII has been stolen cannot obtain a new Social Security number until the damage has already been done.

⁵ See Government Accounting Office, *Governments Have Acted to Protect Personally Identifiable Information, But Vulnerabilities Remain* (Jun. 17, 2009), available at <http://www.gao.gov/new.items/d09759t.pdf> (last visited September 11, 2017).

⁶ See Social Security Administration, *Identity Theft and Your Social Security Number*, SSA Publication No. 05-10064, October 2007, ICN 46327, available at <http://www.ssa.gov/pubs/10064.html> (last visited September 11, 2017).

21. Obtaining a new Social Security number also is not a complete remedy for identity theft. Government agencies, private businesses and credit reporting companies likely still have the person's records under the old number, so using a new number will not guarantee a fresh start. For some victims of identity theft, a new number may actually create new problems. Because prior positive credit information is not associated with the new Social Security number, it is more difficult to obtain credit due to the absence of a credit history.

22. PII, such as that stolen during the Breach, is such a valuable commodity to identity thieves that once the information has been compromised, criminals often trade the information on the "cyber black market" for a number of years.⁷ Identity thieves and other cyber criminals openly post stolen credit card numbers, Social Security numbers, and other personal financial information on various Internet websites, thereby making the information publically available. In one study, researchers found hundreds of websites displaying stolen personal financial information.⁸

23. Plaintiff and the Class Members have suffered damage resulting from the unauthorized disclosure of their PII. The injuries to Plaintiff and the Class Members were directly and proximately caused by Equifax's failure to properly safeguard and protect Plaintiff's and the Class Members' PII from unauthorized access, use and disclosure, as required by various state and federal regulations, industry practices, and the common law, including Equifax's failure to establish, implement and maintain appropriate administrative, technical and physical

⁷ Companies also recognize Personally Identifiable Information as an extremely valuable commodity akin to a form of personal property. See T. Soma, *et al.*, *Corporate Privacy Trend: The "Value" of Personally Identifiable Information ("PII") Equals the "Value" of Financial Assets*, 15 RICH. J.L. & TECH. 11, at *3-4 (2009).

⁸ See StopTheHacker, *The Underground Credit Card Blackmarket*, available at <http://www.stopthehacker.com/2010/03/03/the-underground-credit-card-blackmarket/> (last visited September 11, 2017).

safeguards to ensure the security and confidentiality of Plaintiff's and the Class Members' PII to protect against reasonably foreseeable threats to the security or integrity of such information.

24. Plaintiff's and the Class Members' PII is private and sensitive in nature and Equifax did not protect that PII adequately. Equifax did not obtain Plaintiff's and the Class Members' consent to disclose their PII to any other person.

25. As a direct and proximate result of Equifax's wrongful actions and inactions and the resulting Breach, Plaintiff and the Class Members have been placed at an imminent, immediate and continuing increased risk of harm from identity theft and identity fraud, requiring them to take the time and effort to mitigate the actual and potential impact of the Breach on their lives, including, among other things, placing freezes and alerts with the credit reporting agencies, closing or modifying financial accounts, and closely reviewing and monitoring their credit reports and accounts for unauthorized activity. Because Plaintiff's and the Class Members' Social Security numbers were stolen and compromised, they also now face a significantly heightened risk of identity theft and identity fraud.

26. Equifax's wrongful actions and inactions directly and proximately caused the theft and dissemination into the public domain of Plaintiff's and the Class Members' PII, causing them to suffer, and continue to suffer, economic damages and other actual harm for which they are entitled to compensation, including:

- a. Theft of their PII (*i.e.*, identity theft);
- b. Unauthorized use of their PII (*i.e.*, identity fraud);
- c. The untimely and inadequate notification of the Breach;
- d. Improper disclosure of their PII;

- e. Ascertainable losses in the form of out-of-pocket expenses associated with the detection and prevention of identity theft and unauthorized use of their financial accounts;
- f. Damages arising from their inability to use their PII;
- g. Loss of use and access to their financial accounts, and the resulting consequences thereof, including missed payments and adverse effects on their credit scores;
- h. Ascertainable losses in the form of out-of-pocket expenses associated with mitigating the damage derived from the Breach, including time spent, loss of productivity, and loss of enjoyment of one's life;
- i. Ascertainable losses in the form of deprivation of the value of their PII, for which there is a well-established national and international market;
- j. Damages arising from the utilization of the PII by criminals on the black market;
- k. Deprivation of rights they possess under the FCRA; and
- l. Invasion of their privacy.

27. Further, Plaintiff and the Class Members have a continuing interest in ensuring that their private information, which remains in the possession of Equifax, is protected and safeguarded.

28. At all relevant times, Equifax was aware, or reasonably should have been aware, that the PII collected, maintained and stored by Equifax in its electronic systems is highly sensitive, susceptible to attack and theft, and could be used for wrongful purposes by third parties.

29. Plaintiff and the Class Members bring this action to remedy the aforementioned harms resulting from the Breach.

CLASS ACTION ALLEGATIONS

30. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff brings this class action as a national class action on behalf of herself and the following Class of similarly situated individuals:

All persons residing in the United States whose PII was acquired by unauthorized persons in the Breach announced by Equifax in September 2017.

Excluded from the Class are (i) Equifax owners, officers, directors, employees, agents and representatives and its parent entities, subsidiaries, affiliates, successors and assigns; and (ii) the Court, Court personnel and members of their immediate families.

31. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff brings this class action as a national class action on behalf of herself and the following Subclass of similarly situated individuals:

All persons residing in the Commonwealth of Pennsylvania whose PII was acquired by unauthorized persons in the Breach announced by Equifax in September 2017.

Excluded from the Subclass are (i) Equifax owners, officers, directors, employees, agents and representatives and its parent entities, subsidiaries, affiliates, successors and assigns; and (ii) the Court, Court personnel and members of their immediate families.

32. The putative Class comprises over 140 million consumers, making joinder impracticable. Disposition of this matter as a class action will provide substantial benefits and efficiencies to the Parties and the Court.

33. The rights of each Class Member were violated in a virtually identical manner as a result of Equifax's willful, reckless, or negligent actions and inactions.

34. Questions of law and fact common to all Class Members exist and predominate over any questions affecting only individual Class Members including, *inter alia*:

- a. Whether Equifax violated the FCRA by failing to properly secure Plaintiff's and the Class Members' PII;
- b. Whether Equifax knew or should have known of the susceptibility of their data security systems to a data breach;
- c. Whether Equifax willfully, recklessly, or negligently failed to maintain and execute reasonable procedures designed to prevent unauthorized access to Plaintiff's and the Class Members' PII;
- d. Whether Equifax was negligent in storing and failing to protect Plaintiff's and the Class Members' PII;
- e. Whether Equifax had a duty to exercise reasonable care in protecting and securing Plaintiff's and the Class Members' PII;
- f. Whether Equifax breached its duty to exercise reasonable care in protecting and securing Plaintiff's and the Class Members' PII;
- g. Whether by publically disclosing Plaintiff's and the Class Members' PII without authorization, Equifax invaded Plaintiff's and the Class Members' privacy;
- h. Whether Equifax's conduct constitutes deceptive trade practices under Pennsylvania law;
- i. Whether Plaintiff and the Class Members suffered damages as a result of Equifax's failure to secure and protect their PII; and
- j. Whether Equifax violated federal and state laws by failing to timely notify Plaintiff and the Class Members on an individual basis about the theft and dissemination of their PII.

35. Plaintiff's claims are typical of the claims of the Class Members in that such claims all arise from Equifax's failure to properly safeguard and protect Plaintiff's and the Class Members' PII and the resulting Breach.

36. Plaintiff and her counsel will fairly and adequately represent the interests of the Class Members. Plaintiff has no interests antagonistic to, or in conflict with, the Class Members' interests. Plaintiff's counsel are highly experienced in the prosecution of consumer class actions and intend to vigorously prosecute this action on behalf of Plaintiff and the Class Members.

37. A class action is superior to all other available methods for fairly and efficiently adjudicating the claims of Plaintiff and the Class Members. Plaintiff and the Class Members have been irreparably harmed as a result of Equifax's wrongful actions and inactions. Litigating this case will reduce the possibility of repetitious litigation relating to Equifax's failure to secure and protect Plaintiff's and the Class Members' PII.

38. Class certification is, therefore, appropriate pursuant to Fed. R. Civ. P. 23(b)(3) because the above common questions of law or fact predominate over any questions affecting individual Class Members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

39. Class certification is also appropriate pursuant to Fed. R. Civ. P. 23(b)(2) because Equifax has acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the Class as a whole.

40. Class certification is also appropriate because the expense and burden of litigation would substantially impair the ability of Class Members to pursue individual lawsuits in order to vindicate their rights.

COUNT I
WILLFUL VIOLATION OF THE FAIR CREDIT REPORTING ACT

41. Plaintiff incorporates by reference each preceding paragraph as though fully set forth herein.

42. One of the fundamental purposes of the FCRA is to protect consumers' privacy. 15 U.S.C. § 1681(a). Protecting consumers' privacy involved adopting reasonable procedures to keep sensitive information confidential. 15 U.S.C. § 1681(b).

43. The FCRA defines a "consumer reporting agency" as:

[A]ny person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

15 U.S.C. § 1681a(f).

44. The FCRA defines a "consumer report" as:

[A]ny written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of establishing the consumer's eligibility for (A) credit or insurance to be used primarily for personal, family, or household purposes; (B) employment purposes; or (C) any other purpose authorized under [15 U.S.C. §] 1681(b).

15 U.S.C. § 1681a(d)(1).

45. Defendant regularly assembles consumer information contemplated by the FCRA and utilizes interstate commerce to furnish such information on consumers (consumer reports) to third parties.

46. Plaintiff's and the Class Members' PII constitute Consumer Reports under the FCRA because this information bears on, among other things, their credit worthiness, credit

standing, credit capacity, character, general reputation, personal characteristics, and mode of living, and is used or collected, in whole or in part, for the purpose of furnish such information to third parties.

47. The FCRA requires the adoption of reasonable procedures with regard to, among other things, the confidentiality and proper utilization of personal and insurance information. 15 U.S.C. § 1681(b). The FCRA also requires that consumer reporting agencies “maintain reasonable procedures designed to . . . limit the furnishing of consumer reports to the purposes listed under section 1681b of this title.” 15 U.S.C. § 1681e.

48. Equifax failed to adopt and maintain these and other reasonable procedures designed to limit the furnishing of consumer reports to the purposes listed under 15 U.S.C. § 1681b.

49. Equifax failed to take reasonable and appropriate measures to secure, safeguard and protect the PII. Equifax also failed to place itself in a position to immediately notify Plaintiff and the Class Members about the Breach.

50. Equifax’s violations of the FCRA, as set forth herein, were willful or, at the very least, reckless, thereby constituting willfulness.

51. As a result of Equifax’s willful or reckless failure to adopt and maintain reasonable procedures to limit the furnishing of Plaintiff’s and the Class Members’ PII to the purposes listed under 15 U.S.C. § 1681b, Plaintiff’s and the Class Members’ PII was disseminated to unauthorized third parties, compromised, and stolen. Plaintiff and the Class Members suffered individual harm as a result of Defendant’s willful or reckless violations of the FCRA.

52. As a further direct or proximate result of Equifax's willful or reckless violations of the FCRA, as described herein, Plaintiff and the Class Members were (and continue to be) injured and have suffered (and will continue to suffer) the damages described herein.

53. Plaintiff and the Class Members, therefore, are entitled to compensation for their actual damages, statutory damages of not less than \$100 and not more than \$1,000, each, as well as attorneys' fees, punitive damages, litigation expenses and costs, pursuant to 15 U.S.C. § 1681n(a).

COUNT II
NEGLIGENT VIOLATION OF THE FAIR CREDIT REPORTING ACT

54. Plaintiff incorporates by reference each preceding paragraph as though fully set forth herein.

55. Equifax negligently failed to adopt and maintain reasonable procedures designed to limit the furnishing of consumer reports to the purposes listed under 15 U.S.C. § 1681b.

56. Plaintiff's and the Class Members' PII was wrongfully disseminated to the public as a direct and foreseeable result of Defendant's failure to adopt and maintain such reasonable procedures.

57. Equifax disclosed Personally Identifiable Information to one or more third parties in violation of the FCRA because such disclosure was not necessary to carry out the purpose for which Equifax received the information, nor was it permitted by statute, regulation or order.

58. As a direct and proximate result of Defendant's negligent violations of the FCRA, as described herein, Plaintiff's and the Class Members' PII was made accessible to unauthorized third parties in the public domain, comprised and stolen. Plaintiff and the Class Members suffered individual harm as a result of Defendant's negligent violations of the FCRA.

59. As a further direct or proximate result of Equifax's negligent violations of the FCRA, as described herein, Plaintiff and the Class Members were (and continue to be) injured and have suffered (and will continue to suffer) the damages described herein.

60. Plaintiff and the Class Members, therefore, are entitled to compensation for their actual damages, as well as attorneys' fees, punitive damages, litigation expenses and costs, pursuant to 15 U.S.C. § 1681n(a).

COUNT III **NEGLIGENCE**

61. Plaintiff incorporates by reference each preceding paragraph as though fully set forth herein.

62. By accepting and storing Plaintiff's and the Class Members' PII in its computer systems and on its networks, Equifax undertook a duty to exercise reasonable care to protect, secure and safeguard the Personally Identifiable Information and to use commercially reasonable methods to do so.

63. Equifax owed a duty of care not to subject Plaintiff and the Class Members to an unreasonable risk of harm because they were foreseeable and probable victims of any inadequate security practices.

64. Equifax owed a duty to Plaintiff and the Class Members to protect the PII using reasonable and adequate security procedures and systems that are compliant with industry-standard practices.

65. Equifax owed a duty to Plaintiff and the Class Members to implement processes to quickly detect a data breach and to timely act on warnings about data breaches.

66. It was reasonably foreseeable that Defendant's failure to exercise reasonable care to protect and secure Plaintiff's and the Class Members' PII would result in an unauthorized

third party gaining access to, possession of, and control over such information for an unlawful purpose.

67. Equifax's negligence directly and proximately caused the theft and dissemination into the public domain of Plaintiff's and Class Members' PII and Plaintiff and the Class Members were (and continue to be) injured and have suffered (and will continue to suffer) the damages described herein.

COUNT IV
NEGLIGENCE PER SE

68. Plaintiff incorporates by reference each preceding paragraph as though fully set forth herein.

69. Equifax's violation of the FCRA, as set forth herein, constitutes an actionable claim of negligence *per se* under Pennsylvania law.

70. The purpose of the FCRA is, in part, to protect those individuals who have had their PII entrusted to a third party.

71. The FCRA is a statute that applies to Equifax (a consumer reporting agency) and the conduct in which Defendant has engaged.

72. As set forth in greater detail throughout this Complaint, Equifax has violated the FCRA by, among other things:

- a. Failing to adopt and maintain reasonable procedures designed to limit the furnishing of consumer reports to the purposes listed under 15 U.S.C. § 1681b; and
- b. Failing to take reasonable and appropriate measures to secure, safeguard and protect the PII.

- c. Failing to place itself in a position to immediately notify Plaintiff and the Class Members about the Breach.

73. Equifax's violation of the FCRA is the proximate cause of Plaintiff's and the Class Members' injuries.

74. Equifax's actions and inactions directly and proximately caused the theft and dissemination into the public domain of Plaintiff's and Class Members' PII and Plaintiff and the Class Members were (and continue to be) injured and have suffered (and will continue to suffer) the damages described herein, and such actions and inactions therefore constitute negligence *per se*.

COUNT V **INVASION OF PRIVACY**

75. Plaintiff incorporates by reference each preceding paragraph as though fully set forth herein.

76. Plaintiff's and the Class Members' PII is private information.

77. Dissemination and publication of Plaintiff's and the Class Members' PII would be offensive to a reasonable person.

78. The public has no legitimate interest in being apprised of Plaintiff's and the Class Members' PII.

79. Defendant's failure to safeguard and protect Plaintiff's and the Class Members' PII directly and proximately resulted in unreasonable publicity to the private lives of Plaintiff and the Class Members.

80. Plaintiff and the Class Members have a legal interest in the privacy of their Personally Identifiable Information.

81. Defendant's failure to safeguard and protect Plaintiff's and Class Members' Personally Identifiable Information was a direct and proximate cause of the access to and obtaining of the PII by the public as a matter of law.

82. Defendant's failure to safeguard and protect Plaintiff's and Class Members' PII deprived Plaintiff and the Class Members of their legal interest in the privacy of that information, thereby causing them damages.

83. As a result of Defendant's actions and inactions resulting in Plaintiff's and the Class Members' loss of privacy, Plaintiff and the Class Members were (and continue to be) injured and have suffered (and will continue to suffer) the damages described herein, including, but not limited to, compensatory and punitive damages.

COUNT VI
VIOLATION OF PENNSYLVANIA'S UNFAIR TRADE PRACTICES AND CONSUMER
PROTECTION LAW
(asserted on behalf of the Subclass only)

84. Plaintiff incorporates by reference each preceding paragraph as though fully set forth herein

85. The Unfair Trade Practices and Consumer Protection Law defines "unfair or deceptive acts or practices" as, among other things, "any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding." 73 P.S. § 201-2(4)(xxi).

86. Equifax willfully, recklessly and negligently failed to adopt and maintain reasonable procedures designed to safeguard and protect Plaintiff's and Class Members' PII.

87. Plaintiff's and the Class Members' PII was wrongfully disseminated to the public as a direct and foreseeable result of Defendant's failure to adopt and maintain such reasonable procedures.

88. Plaintiff and the Class Members reasonably believed that a company such as Equifax—one of the three major credit reporting companies—would have sufficient safeguards in place to protect the Plaintiff's and the Class Members' PII, particularly given Equifax's role in providing consumer reports to third parties. Equifax intentionally misled the public in this regard.

89. As a direct and proximate result of Defendant's violations of the UTPCPL, as described herein, Plaintiff's and the Class Members' PII was made accessible to unauthorized third parties in the public domain, comprised and stolen. Plaintiff and the Class Members suffered individual harm as a result of Defendant's violations of the UTPCPL.

90. As a further direct or proximate result of Equifax's violations of the UTPCPL, as described herein, Plaintiff and the Class Members were (and continue to be) injured and have suffered (and will continue to suffer) the damages described herein.

91. Plaintiff and the Class Members, therefore, are entitled to compensation for their actual damages, as well as attorneys' fees, treble damages, litigation expenses and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court enter judgment on their behalf and on behalf of the Classes defined herein, by adjudging and decreeing that:

A. This action may proceed as a class action, with Plaintiff serving as the Class Representative, and with Plaintiff's counsel as Class Counsel;

B. Defendant has violated the Fair Credit Reporting Act and Pennsylvania Unfair Trade Practices and Consumer Protection Law;

C. Requiring Defendant to take steps to ensure that the PII is adequately protected;

D. Awarding Plaintiff and the Class Members statutory, compensatory, treble and punitive damages, together with attorneys' fee and costs, including expert witness fees;

E. Defendant is to be responsible financially for the costs and expenses of a Court-approved notice program through post and media designed to give immediate notification to the Class;

F. Requiring Defendant to reimburse Plaintiff's and the Class Members' ascertainable losses;

G. Plaintiff and the Class Members are entitled to pre-judgment and post-judgment interest on the damages awarded them, and that such interest be awarded at the highest legal rate from and after the date this class action complaint is first served on Defendant; and

H. Awarding such other and further relief as this Court may deem just and proper.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Plaintiffs demand a trial by jury of all claims asserted in this Complaint so triable.

Respectfully submitted,

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Attorneys for Plaintiff

Dated: September 11, 2017