

1 Stephen F. Yunker, Esq. (CSB 110159)
2 655 West Broadway, Suite 1400
3 San Diego, California 92101
4 Tel: (619) 233-5560
5 Fax: (619) 233-5535
6 Email: sfy@yslaw.com

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12 ***ATTORNEYS FOR PLAINTIFF
AND THE PROPOSED CLASS AND
SUBCLASS***

13 **IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14 KATHRYN FRANCE BUTLER,
15 on behalf of herself and all others
16 similarly situated,

17 Plaintiff,

18 vs.

19 EQUIFAX, INC., a Georgia
20 corporation,

21 Defendant.

Case No.: '17CV2158 JLS KSC

CLASS ACTION COMPLAINT FOR:

- (1) Negligence
(2) Violation of California's Data
Breach Law (Cal Civ. Code §§
1798.80 *et seq.*) and
(3) Violation of California's Unfair
Competition Law (Cal. Bus. & Prof.
Code §§ 17200, *et seq.*).
(4) Constructive Fraud

DEMAND FOR JURY TRIAL

1 Plaintiff Kathryn France Butler (“Plaintiff”), individually and on behalf of the
2 general public and all other similarly situated (the “Class Members”), by and through
3 her undersigned counsel, upon personal knowledge as to facts pertaining to her and on
4 information and belief as to all other matters, brings this action against Equifax, Inc.
5 (“Equifax” or “Defendant”), and states the following:

6 **NATURE OF THE CASE**

7 1. On September 7, 2017, Equifax announced to the general public for the
8 first time that it experienced an enormous data breach involving some of the most
9 sensitive and private personal information of approximately 143 million Americans
10 (the “Breach”). According to Equifax, “[c]riminals exploited a U.S. website
11 application vulnerability to gain access to certain files”

12 2. Equifax stated that the unauthorized access occurred from mid-May
13 through July 2017, and that the impacted information included names, Social Security
14 numbers, birth dates, addresses, driver’s license numbers, credit card numbers and
15 certain dispute documents with personal identifying information (the “Personal
16 Data”).

17 3. Equifax is one of the three major credit reporting agencies involved in the
18 business of maintaining sensitive and private personal information of consumers
19 worldwide. Although Equifax is historically associated with consumer credit
20 reporting, it has expanded its services to include credit monitoring and identity theft
21 protection for consumers, along with human resource services. According to Equifax,
22 it “organizes, assimilates and analyzes data on more than 820 million consumers and
23 more than 91 million businesses worldwide[.]”

24 4. Equifax collects and maintains personal and sensitive information about
25 consumers, including Plaintiff and other Class Members. It obtains private
26 information from the aforementioned services it provides, as well as from credit card
27 companies, banks, credit unions, retailers, lenders, among other sources that provide
28 private information to Equifax.

1 5. Equifax then disseminates this information, including credit scores,
2 histories, and lending risk analyses to those lenders, retailers, and other entities. This
3 information helps determine an individual's creditworthiness, affecting their ability to
4 qualify for loans, housing and even jobs.

5 6. Plaintiff and Class Members expect, believe, and rely upon those
6 expectations and beliefs that Equifax will implement proper security measures to
7 protect their Personal Data. Equifax also affirmatively informs consumers that it will
8 protect their Personal Data. According to Equifax, it has "built our reputation on our
9 commitment to deliver reliable information to our customers (both businesses and
10 consumers) and to protect the privacy and confidentiality of personal information
11 about consumers. We also protect the sensitive information we have about businesses.
12 Safeguarding the privacy and security of information, both online and offline, is a top
13 priority for Equifax."

14 7. Equifax promises consumers that it is "committed to protecting the
15 security of your information through procedures and technology" and that Equifax is
16 "committed to protecting the security of your personal information and use technical,
17 administrative and physical security measures that comply with applicable federal and
18 state laws."

19 8. However, despite such promises, Equifax's security measures were
20 grossly deficient and below industry standards, leading to the Breach and Equifax's
21 inability to discover the Breach for nearly three months.

22 9. As a result of the promises it made to consumers, Equifax owed a duty at
23 all times to Plaintiff and Class Members to maintain adequate security measures to
24 secure and protect the Personal Data stored on its network and within its databases.
25 By failing to maintain adequate security measures, allowing criminals to get past
26 firewalls and access data that should have been encrypted, and by maintaining
27 Plaintiff's and Class Members' Personal Data on inadequate networks, Equifax
28 breached that duty.

1 10. Equifax was at all times aware that its security measures were inadequate
2 prior to the Breach, yet failed to protect the Personal Data. Prior to the Breach,
3 Equifax's networks were hacked on numerous occasions. Despite prior hacks,
4 Equifax failed to take reasonable measures to protect the Personal Data and failed to
5 warn Plaintiff and other Class Members that their Personal Data was unjustly
6 susceptible to unlawful access. Instead, Equifax continued to promise consumers that
7 it was using appropriate industry-standard protocols to protect their Personal Data.

8 11. As a proximate and direct result of Equifax's inadequate security, the
9 Breach occurred and Plaintiff and Class Members' Personal Data was compromised,
10 impacted, and stolen, placing them at considerable risk of fraud and identity theft, and
11 causing pecuniary harm associated with paying for credit monitoring services,
12 replacing compromised credit, and having to undertake other measures to protect
13 against future fraud and identity theft resulting from the Breach.

14 12. Plaintiff brings this action on behalf of herself and all other persons
15 whose Personal Data was disclosed as a result of the data breach first disclosed by
16 Equifax on September 7, 2017.

17 13. Plaintiff seeks on behalf of herself and Class Members injunctive relief,
18 actual and other economic damages, consequential damages, nominal damages or
19 statutory damages, punitive damages, attorneys' fees and costs.

20 **JURISDICTION AND VENUE**

21 14. This Honorable Court has subject matter jurisdiction over this action
22 under the Class Action Fairness Act, 28 U.S.C. 1332(d), because this is a class action
23 involving more than 100 Class Members, the amount in controversy exceeds \$5
24 million exclusive of interest and costs, and many members of the Class, including
25 Plaintiff, are citizens of different states than Defendant.

26 15. This Court has personal jurisdiction over Equifax because Equifax is
27 authorized to conduct business in California, and does in fact conduct business in
28 California. Equifax therefore has sufficient minimum contacts with the state to render

1 exercise of jurisdiction by this Court in compliance with traditional notions of fair
2 play and substantial justice.

3 16. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391
4 because Equifax regularly conducts business in this district, unlawful acts or
5 omissions are alleged to have occurred in this district, and Equifax is subject to
6 personal jurisdiction in this district.

7 **PARTIES**

8 17. Plaintiff Kathryn France Butler is an individual and resident of
9 Oceanside, San Diego County, California. On information and belief, Plaintiff
10 provided Equifax with access to her Personal Data in connection with loan and other
11 credit applications. After learning about the Breach, Plaintiff visited
12 www.equifaxsecurity2017.com to check if her Personal Data had been impacted as a
13 result of the Breach. After entering her last name and the last six digits of her Social
14 Security number, Plaintiff received confirmation stating her information “may have
15 been impacted” by the Breach.

16 18. Prior to visiting www.equifaxsecurity2017.com, Plaintiff received no
17 direct notice by U.S. mail, email or otherwise from Equifax notifying her that her
18 Personal Data was impacted by the Breach, nor has Equifax told Plaintiff which of her
19 Personal Data was taken.

20 19. After being told that her Personal Data may have been stolen and
21 compromised, Plaintiff investigated Equifax’s TrustedID Premier credit monitoring
22 service. However, after learning that enrolling in such service could serve as a waiver
23 of her rights to participate in litigation against Equifax and force all claims to
24 arbitration, Plaintiff chose not to enroll.

25 20. Plaintiff’s Personal Data has been compromised and stolen as a result of
26 the Breach and Equifax’s unlawful conduct alleged herein. As a direct and proximate
27 result of Equifax’s wrongful acts and omissions, the resulting Breach, and the
28 resulting identity theft and fraud inflicted on Plaintiff by unauthorized criminal

parties, Plaintiff as suffered and will continue to suffer economic damages and other forms of injury and harm, including a loss of value to her Personal Data, for which there is an established market. Equifax knew or should have known that Personal Data is valuable to consumers, and knew or should have known that as a result of its inadequate security measures and resulting Breach, that Plaintiff and Class Members' Personal Data would be sold without authorization and without any monetary benefit incurred by Plaintiff or Class Members.

21. As a direct and proximate result of Equifax's wrongful acts and omissions, the resulting Breach, and the resulting identity theft and fraud inflicted by unauthorized criminals, Plaintiff and suffered and will continue to suffer other economic damages and harm, including but not limited to:

- a. Imminent, immediate, and continuing risk of identity theft and fraud;
- b. Invasion of privacy;
- c. Breach of the confidentiality of certain Personal Data;
- d. Deprivation of the value in her Personal Data; and/or
- e. Financial costs associate with credit monitoring, account monitoring, and damage mitigation.

22. Defendant Equifax is incorporated in Georgia with its headquarters and principal place of business located at 1550 Peachtree Street, N.W., Atlanta, Georgia 30309.

CLASSWIDE ALLEGATIONS

23. The United States Government Accountability Office stated in a June 2007 report on Data Breaches ("GAO Report") that identity thieves use sensitive personal information such as Social Security numbers to open financial accounts, receive government benefits and incur charges and credit in a person's name.¹

¹ See <http://www.gao.gov/new.items/d07737.pdf>.

1 24. The identity theft discussed in the GAO Report is harmful because
2 consumers may not learn of the theft until their credit rating is impacted, and it
3 will require time and expense to remediate the damage, specifically that
4 consumers will face “substantial costs and inconveniences repairing damage to
5 their credit records.”

6 25. When unauthorized third parties access an individual’s sensitive
7 personal information, they are able to carry out a wide variety of bad acts and
8 crimes, such as obtaining a driver’s license, obtaining government benefits,
9 and/or filing fraudulent tax returns.

10 26. “[Personal Data], which companies obtain at little cost, has
11 quantifiable value that is rapidly reaching a level comparable to the value of
12 traditional financial assets.”² It is so valuable to identity thieves that once
13 [Personal Data] has been disclosed, criminals often trade it on the “cyber black-
14 market” for several years. Its value is axiomatic, considering the value of Big
15 Data in corporate America and the consequences of cyber thefts include heavy
16 prison sentences. Even this obvious risk to reward analysis illustrates beyond
17 doubt that Personal Data has considerable market value.

18 27. Because Personal Data is so valuable, identity thieves have posted
19 sensitive personal information on various websites, thereby making it publicly
20 available for acquisition by buyers.

21 28. Therefore, any company, including Equifax, who transacts
22 business with a consumer and then compromises the privacy of his or her
23 Personal Data has deprived that person of the full monetary value of the
24 consumer’s transaction with the company.

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26
27 ² See John T. Soma, *et al.*, *Corporate Privacy Trend: The “Value” of Personally*
28 *Identifiable Information (“PII”) Equals the “Value” of Financial Assets*, 15 Rich. J.L.
& Tech. 11, at *3-4 (2009) (citations omitted).

1 29. It is within this framework that Plaintiff, Class Members, and
 2 approximately 143 million Americans must now live in, with the knowledge
 3 that their Personal Data is out of reach and stolen by unauthorized third parties
 4 who will use it for improper purposes, including making such information
 5 available on the black market.

6 30. On September 7, 2017 Equifax announced to the general public for
 7 the first time that the Breach occurred, and was perpetrated by criminals who
 8 gained access to files storing sensitive Personal Data for approximately 143
 9 million Americans, including names, Social Security numbers, birth dates,
 10 addresses, driver's license numbers, credit card numbers, and other data.

11 31. According to Equifax, the hackers had access to the Personal Data
 12 between mid-May 2017 until July 29, 2017, when the Breach was discovered.

13 32. According to Equifax, the breach was due to its own error,
 14 specifically a vulnerability in a web application for its U.S. website.

15 33. While Equifax learned of the breach on July 29, 2017, it waited
 16 over a month before informing the general public. As of the date of this
 17 Complaint, Plaintiff and Class Members affected by the Breach still have not
 18 been personally notified by Equifax.

19 34. Equifax failed to develop, implement, and maintain a
 20 comprehensive information security program with administrative, technical, and
 21 physical safeguards that were appropriate to its size and complexity, the nature
 22 and scope of its activities, and the sensitivity of any customer information at
 23 issue. *See* Gramm-Leach-Bliley Act ("GLBA"), 15 U.S.C. §6801.

24 35. Equifax's aforementioned failures include, but are not limited to:

- 25 a. Failure to create, implement, and maintain adequate data security
 26 practices to protect Plaintiff and Class Members' Personal Data;
- 27 b. Failing to detect the Breach in a timely manner; and
- 28 c. Failing to disclose that its data security protocol was inadequate,
 fell below industry standards, and could not protect Plaintiff and
 Class Members' Personal Data.

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2 36. Equifax also failed to develop and implement a proper risk
3 response program to address the Breach and other incidents of unauthorized
4 access to Personal Data. This includes, but is not limited to, Equifax's failure to
5 notify the Plaintiff and Class Members that their Personal Data had been placed
6 at risk or stolen.

7 37. Equifax's belated disclosure to the general public about the Breach
8 were misleading, incomplete, and failed to provide Plaintiff and Class Members
9 with salient information about the scope of Personal Data stolen.

10 38. Equifax's September 7, 2017 press release disclosing the Breach is
11 misleading and failed to disclose to consumers, including Plaintiff and Class
12 Members, the breadth of the threat to their Personal Data e.g. despite stating
13 that names, Social Security numbers, birth dates, addresses, driver's license
14 numbers, credit card numbers and dispute documents containing personal
15 identifying information were accessed, the release states "No Evidence of
16 Unauthorized Access to Core Consumer or Commercial Credit Reporting
17 Databases."

18 39. Equifax's Breach notice places the burden on Plaintiff and Class
19 Members to protect themselves and mitigate any damages and harm, not
20 Equifax. Equifax instructed its customers to review their account statements,
21 monitor their credit reports, and obtain fraud alerts: "please monitor your
22 account statements and report any unauthorized charges to your credit card
23 companies and financial institutions" and "remain vigilant for incidents of fraud
24 and identity theft by reviewing account statements and monitoring your credit
25 reports."

26 40. Equifax's notice states that Equifax will provide one year of credit
27 monitoring and identity theft protection to U.S. consumers through TrustedID
28 Premier. However, the offering is inadequate and requires consumers to spend

1 additional time and resources. Furthermore, Equifax is requiring consumers to
2 enroll in the TrustedID Premier program at a later date and is requiring
3 consumers who enroll to agree to a mandatory arbitration provision and class
4 action waiver.

5 41. Furthermore, the limited one-year offer does not include
6 monitoring the online black market for identity theft and, therefore, is
7 insufficient.

8 42. Equifax's notice also states that consumers may want to place a
9 "fraud alert" or a "freeze" on their credit reports.

10 43. However, Equifax fails to disclose that a fraud alert may not
11 prevent the unauthorized misuse of existing accounts, and also fails to disclose
12 that a credit freeze requires a fee. Therefore, anytime a consumer wants to
13 permit an entity to check his or her credit, it will cost money to lift the freeze.
14 Additionally, if an identity thief has already used data to open accounts, then a
15 credit freeze will provide no benefit, and a credit freeze does not prevent
16 identity thieves from altering existing accounts.

17 44. Equifax advertises itself as a leader in data security and promotes
18 the importance of data breach prevention, and specifically targets consumers for
19 data protection services, including credit monitoring and identity theft
20 protection.

21 45. Equifax describes itself as a "global information solutions
22 company that uses **trusted** unique data, innovative analytics, technology and
23 industry expertise to power organizations and individuals around the world by
24 transforming knowledge into insights that help make more informed business
25 and personal decisions."³

26
27
28 ³ See <http://www.equifax.com/about-equifax/company-profile/>

1 46. Equifax says that it “develop[s], maintain[s] and enhance[s]
2 secured proprietary information databases through the compilation of consumer
3 specific data, including credit, income, employment, asset, liquidity, net worth
4 and spending activity, and business data, including credit and business
5 demographics, that we obtain from a variety of sources, such as credit granting
6 institutions, income and tax information primarily from large to mid-sized
7 companies in the U.S., and survey-based marketing information. We process
8 this information utilizing our proprietary information management systems. We
9 also provide information, technology and services to support debt collections
10 and recovery management.”⁴

11 47. Equifax further states that “We also offer a portfolio of products
12 that enable individual consumers to manage their financial affairs and **protect**
13 **their identity**.”⁵

14 48. Although Equifax knew or should have known about the
15 weaknesses of its website applications and failure to implement internal
16 mechanisms to detect a breach, Equifax continued to promise to consumers,
17 including Plaintiff and Class Members, that their Personal Data was safe.

18 49. Equifax is absolutely aware of the dangers of identity theft, and has
19 stated “[i]dentity theft is committed when someone steals your personal
20 information – such as your name, Social Security number, and date of birth –
21 typically to hijack your credit and use it to open up new credit accounts, take
22 out loans in your name, or access your bank or retirement accounts. An identity
23
24

25 ⁴ Equifax 10-K For the Fiscal Year Ended December 31, 2016,
26 [https://otp.tools.investis.com/clients/us/equifax/SEC/sec-](https://otp.tools.investis.com/clients/us/equifax/SEC/sec-show.aspx?Type=html&FilingId=11875154&Cik=0000033185)
27 [show.aspx?Type=html&FilingId=11875154&Cik=0000033185](https://otp.tools.investis.com/clients/us/equifax/SEC/sec-show.aspx?Type=html&FilingId=11875154&Cik=0000033185)

28 ⁵ *Id.* (emphasis added)

1 thief can even use your personal information to steal your tax refunds, seek
2 medical services, or commit crimes in your name.”⁶

3 50. Equifax has affirmatively acknowledged the dangers of identity
4 theft, and has conceded that as a result of identity theft, unauthorized users can:

- 5 a. Open new credit card accounts with your name, Social Security
6 number and date of birth. When the thief charges to the credit cards
7 and leaves the bills unpaid, the delinquency will be reported to your
8 credit report and could impact your credit score;
- 9 b. Open a bank account in your name and write bad checks on the
10 account;
- 11 c. Create counterfeit checks or debit cards and use them to drain your
12 existing bank accounts;
- 13 d. File for bankruptcy under your name to avoid paying debts;
- 14 e. Set up a phone, wireless, or other utility service in your name.

15
16 51. Equifax has continuously recognized the risks of identity theft and
17 the emotional toll it can take on its victims.⁷

18 52. At all times relevant hereto, Equifax created and implemented its
19 security policies which ultimately failed to comport with industry standards
20 with regard to data protection.

21 53. Plaintiff and Class Members relied on Equifax to keep their
22 Personal Data safe and confidential.

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24
25 ⁶ See [https://www.equifax.com/personal/education/identity-theft/what-is-identity-](https://www.equifax.com/personal/education/identity-theft/what-is-identity-Theft)
26 Theft.

27 ⁷ See [http://www.equifax.com/pdfs/corp/EFS-714-](http://www.equifax.com/pdfs/corp/EFS-714-ADV_Predictive_Model_Fraud_WP_72409.pdf)
28 ADV_Predictive_Model_Fraud_WP_72409.pdf; and
https://www.equifax.com/assets/PSOL/15-9814_psol_emotionalToll_wp.pdf;

1 54. Equifax's wrongful acts and omissions, and its breach of the
2 ordinary standard of care in failing to protect Plaintiff and Class Members'
3 Personal Data, and its failure to adequately notify Plaintiff and Class Members
4 about the breach, was arbitrary, capricious, and in wanton derogation of
5 Equifax's duties to Plaintiff and Class Members.

6 **CLASS ALLEGATIONS**

7 55. Plaintiff brings this class action on behalf of herself and all other
8 members of a class of nationwide consumers (the "Nationwide Class") defined
9 as follows:

10 All persons in the United States whose personal or financial information
11 was compromised as a result of the data breach first disclosed by Equifax
12 on or about September 7, 2017.

13 56. Plaintiff brings this class action on behalf of herself and all other
14 members of a class of California consumers (the "California Class") as defined
15 as follows:

16 All persons in California whose personal or financial information was
17 compromised as a result of the data breach first disclosed by Equifax on
18 or about September 7, 2017.

19 57. The Nationwide Class and California Class are collectively
20 referred to as the "Classes."

21 58. Excluded from the Classes are: (1) Equifax and its officers,
22 directors, employees, principals, affiliated entities, controlling entities, agents,
23 and other affiliates; (2) the agents, affiliates, legal representatives, heirs,
24 attorneys at law, attorneys in fact, or assignees of such persons or entities
25 described herein; and (3) the Judge(s) assigned to this case and any members of
26 their immediate families.

27 59. While Plaintiff is currently unaware of the precise number of Class
28 Members, Equifax has admitted that the Personal Data of approximately 143
million Americans was taken during the Breach. Plaintiff therefore believes

1 that the Classes are so numerous that joinder of all members would be
2 impractical.

3 60. Plaintiff's claims are typical of the claims of the Classes. Plaintiff
4 and the Class members were injured by the same wrongful acts and omissions
5 as described herein. Plaintiff's claims therefore arise from the same practices,
6 course of conduct, wrongful acts and omissions that give rise to the claims of all
7 Class Members.

8 61. Common questions of law and fact exist as to all Class Members
9 and predominate over any individual questions. Such common questions of law
10 and fact include, but are not limited to:

- 11 a. Whether Equifax engaged in unlawful, unfair or fraudulent acts or
12 practices;
- 13 b. Whether Equifax engaged in the wrongful conduct alleged herein;
- 14 c. Whether Equifax utilized reasonable and/or industry standard
15 measures to protect the Personal Data of Plaintiff and Class
16 Members;
- 17 d. Whether Equifax adequately or properly maintained its network to
18 protect Personal Data of Plaintiff and Class Members;
- 19 e. Whether Equifax adequately or properly encrypted Personal Data
20 of Plaintiff and Class Members as necessary to effectuate its
21 security protocols;
- 22 f. Whether Equifax knew or should have known prior to the Breach
23 that its network and systems were at risk of a potential data breach;
- 24 g. Whether Equifax should have notified Plaintiff and Class Members
25 that it failed to use reasonable, industry-standard practices to
26 protect their Personal Data;
- 27 h. Whether Equifax should have notified Plaintiff and Class Members
28 that their Personal Data was at risk of imminent and unauthorized
disclosure;
- i. Whether Equifax intentionally failed to disclose material
information regarding its security protocols, the imminent risk of a
data breach, and the Breach itself;
- j. Whether Equifax's acts, omissions, and nondisclosures were
intended to deceive Plaintiff and Class Members;
- k. Whether Equifax's conduct violated the law;

1. Whether Plaintiff and Class Members are entitled to restitution, disgorgement, and other equitable relief this Honorable Court may deem appropriate; and,
- m. Whether Plaintiff and Class Members are entitled to recover actual damages, statutory damages, punitive damages, attorneys' fees and costs, and any other measure of damage that this Honorable Court may deem appropriate.

62. Plaintiff will fairly and adequately protect the interests of all Class Members. Plaintiff is an adequate representative of the Classes in that she has no interests which are adverse to or in conflict with those of the Class Members she seeks to represent. Plaintiff has retained counsel with substantial experience and success in the prosecution of complex consumer protection class actions of this nature.

63. A class action is superior to any other available method for the fair and efficient adjudication of this controversy since individual joinder of all Class Members is impractical. Furthermore, the expenses and burden of individual litigation would make it difficult or impossible for the individual members of the Classes to redress the wrongs done to them, especially given that the damages or injuries suffered by each individual member of the Classes may be relatively small. Even if the Class Members could afford individualized litigation, the cost to the court system would be substantial and individual actions would also present the potential for inconsistent or contradictory judgments. By contrast, a class action presents fewer management difficulties and provides the benefits of single adjudication and comprehensive supervision by a single court.

FIRST CAUSE OF ACTION Negligence

64. Plaintiff incorporates by reference all preceding paragraphs as if more fully set forth herein.

1 65. During its normal course of business, Equifax collected the Personal Data
2 of millions of consumers, including Plaintiff and Class Members. As a result of
3 Equifax's admissions that data security and the risk of identity theft are important
4 considerations for consumers, and the fact it has suffered past data breaches,
5 including: a) May 2016 involving its W-2 Express website resulting in the leak of
6 Personal Data from 430,000 persons; b) a breach occurring between April 17, 2016
7 and March 29, 2017 related to customers' employee tax records, c) a breach
8 announced in January 2017 in which credit information of customers at LifeLock had
9 been exposed, and d) a breach disclosed to the Attorney General of New Hampshire in
10 May 2014, along with other security alerts involving the fraudulent and criminal use
11 of Personal Data it acquired, it was reasonably foreseeable to Equifax that
12 unauthorized persons would attempt to breach its security systems and acquire such
13 Personal Data.

14 66. Accordingly, Equifax, which is entrusted with the Personal Data of over
15 800 million consumers and 88 million businesses worldwide, was trusted by its
16 customers and other consumers including Plaintiff and Class Members that it would
17 properly protect their Personal Data. Equifax has a special relationship with Plaintiff
18 and Class Members and, in turn, a special duty to exercise reasonable care to protect
19 and secure the Personal Data so as to prevent its unlawful and unauthorized
20 acquisition and use.

21 67. Equifax should have known to take appropriate measures to protect the
22 Personal Data.

23 68. Equifax likewise had a duty to exercise reasonable care under the
24 circumstances to prevent any breach of security that would result in the loss,
25 disclosure or compromise of the Personal Data Plaintiff and the Class, given its prior
26 knowledge of security breaches.

1 69. Equifax also possessed a duty to exercise reasonable care under the
2 circumstances to swiftly detect any breach of security that would result in the loss,
3 disclosure, compromise, and/or theft of Plaintiff and Class Members' Personal Data.

4 70. Once the Breach was detected, Equifax had a duty to exercise reasonable
5 care under the circumstances to notify affected persons including Plaintiff and Class
6 Members in order to minimize potential damage due to the loss, disclosure,
7 compromise and/or theft of Personal Data.

8 71. Equifax breached its duties by failing to adequately protect Plaintiff and
9 Class Members' Personal Data from loss, disclosure, compromise, and/or theft by
10 unauthorized third parties.

11 72. Plaintiff and Class Members' Personal Data was transferred, sold,
12 opened, viewed, mined and otherwise released, disclosed, and disseminated without
13 authorization as the direct and proximate cause of Equifax's failure to create,
14 implement, and maintain its processes, controls, policies, and protocols for complying
15 with applicable laws and comports with industry standards for protecting Plaintiff
16 and Class Members' Personal Data.

17 73. The policy of preventing future harm further weighs in favor of finding a
18 special relationship between Equifax and the Classes. Consumers rely on Equifax to
19 keep Personal Data safe. If Equifax is not held accountable for failing to create,
20 implement, and maintain proper industry-standard security measures, they will not
21 take the steps necessary to protect consumers against future breaches.

22 74. Because of the aforementioned breaches suffered by Equifax, it was
23 reasonably foreseeable that if it did not take reasonable precautions, the Personal Data
24 of Plaintiff and Class Members would be misappropriated.

25 75. Major credit reporting agencies like Equifax face a higher threat of
26 security breaches than other types and sizes of businesses due in part to the scope and
27 breadth of the personal, private, and sensitive information that Equifax possesses
28 about hundreds of millions of consumers.

76. As a direct and proximate result of Equifax's wrongful, unlawful acts and omissions, and breach of its duties of care, Plaintiff and Class Members have suffered and will continue to suffer economic damages and other injuries and harms in the form of: (i) an imminent, immediate and the continuing increased risk of identity theft and identity fraud, (ii) invasion of privacy, (iii) breach of the confidentiality of their Personal Data, (iv) deprivation of the value of their Personal Data, for which there is a well-established market, (v) failure to receive the full benefit of their bargain as a result of receiving credit fraud and monitoring services that were less valuable than what they paid for, and/or (vi) the financial and/or temporal cost of monitoring their credit, monitoring their financial accounts, and mitigating their damages.

77. Neither Plaintiff nor Class Members contributed to the Breach, nor did they contribute to Equifax's decision to employ insufficient and below-standard security to protect the Personal Data.

78. Plaintiff and Class Members seek compensatory and punitive damages with interest, the costs of suit and attorneys' fees, and any further relief that this Honorable Court deems appropriate.

79. Equifax's above-described unlawful, wrongful acts and omissions and failure to carry out its duties with reasonable care directly and proximately caused the Breach and constitute common law negligence.

SECOND CAUSE OF ACTION
Violations of the California Data Breach Act, California Civil Code §§ 1798.80, *et seq.*

80. Plaintiff incorporates by reference all preceding paragraphs as if more fully set forth herein.

81. "[T]o ensure that personal information about California residents is protected," the California Legislature enacted the Customer Records Act (the "California CRA"), Civil Code §1798.81.5, which requires that any business that "owns licenses, or maintains personal information about a California resident shall

1 implement and maintain reasonable security procedures and practices appropriate to
2 the nature of the information, to protect the personal information from unauthorized
3 access, destruction, use, modification, or disclosure.”

4 82. The events alleged herein constituted a “breach of the security system” of
5 Equifax within the meaning of Civil Code §1798.82.

6 83. The information lost, disclosed, or intercepted during the events alleged
7 herein constituted unencrypted “personal information” within the meaning of Civil
8 Code §§1798.80(e) and 1798.82(h).

9 84. Equifax failed to implement and maintain reasonable or appropriate
10 security procedures and practices to protect consumers’ personal and financial
11 information. On information and belief, Equifax failed to employ security measures
12 that comport with industry standards, best practices or safeguards with respect to
13 consumers’ Personal Data.

14 85. Equifax failed to disclose the breach of security of its system in the most
15 expedient time possible and without unreasonable delay after it knew or reasonably
16 believed that consumers’ personal information had been compromised.

17 86. The breach of the personal information of millions of Equifax’s
18 consumers’ records constituted a “breach of the security system” of Equifax pursuant
19 to Civil Code §1798.82(g).

20 87. By failing to implement reasonable measures to protect consumers’
21 personal data it maintained, Equifax violated Civil Code §1798.81.5.

22 88. In addition, by failing to promptly notify all affected consumers that their
23 personal information had been acquired (or was reasonably believed to have been
24 acquired) by unauthorized persons in the data breach, Equifax violated Civil Code
25 §1798.82 of the same title in a manner that would reach all affected consumers.

26 89. By violating Civil Code §§1798.81.5 and 1798.82, Equifax “may be
27 enjoined” under Civil Code §1798.84(e).
28

1 90. Accordingly, Plaintiff requests that the Court enter an injunction
2 requiring Equifax to implement and maintain reasonable security procedures to protect
3 consumers' data in compliance with the California Customer Records Act, including,
4 but not limited to: (1) ordering that Equifax, consistent with industry standard
5 practices, engage third party security auditors/penetration testers as well as internal
6 security personnel to conduct testing, including simulated attacks, penetration tests,
7 and audits on Equifax's systems on a periodic basis; (2) ordering that Equifax engage
8 third party security auditors and internal personnel, consistent with industry standard
9 practices, to run automated security monitoring; (3) ordering that Equifax audit, test,
10 and train its security personnel regarding any new or modified procedures; (4)
11 ordering that Equifax, consistent with industry standards, conduct regular database
12 scanning and security checks; (5) ordering that Equifax, consistent with industry
13 standard practices, periodically conduct internal training and education to inform
14 internal security personnel how to identify and contain a breach when it occurs and
15 what to do in response to a breach; and (6) ordering Equifax to meaningfully educate
16 its customers about the threats they face as a result of the loss of their financial and
17 personal information to third parties, as well as the steps Equifax customers must take
18 to protect themselves.

19 91. Plaintiff further requests that the Court require Equifax to: (1) identify
20 and notify all members of the Class who have not yet been informed of the data
21 breach; and (2) to notify affected customers of any future data breaches by email and
22 text within 24 hours of Equifax's discovery of a breach or possible breach, and by
23 mail within 72 hours.

24 92. As a result of Equifax's violation of Civil Code §§1798.81, 1798.81.5,
25 and 1798.82, Plaintiff and Class members have suffered (and will continue to suffer)
26 economic damages and other injury and actual harm in the form of, *inter alia*, (i) an
27 imminent, immediate and the continuing increased risk of identity theft and identity
28 fraud, (ii) invasion of privacy, (iii) breach of the confidentiality of their Personal Data,

(iv) deprivation of the value of their Personal Data, for which there is a well-established market, (v) failure to receive the full benefit of their bargain as a result of receiving credit fraud and monitoring services that were less valuable than what they paid for, and/or (vi) the financial and/or temporal cost of monitoring their credit, monitoring their financial accounts, and mitigating their damages.

93. Plaintiff, individually and on behalf of the members of the Class, seeks all remedies available under Civil Code §1798.84, including, but not limited to: (a) damages suffered by members of the Class; and (b) equitable relief. Plaintiff, individually and on behalf of the members of the Class, also seeks reasonable attorneys' fees and costs under applicable law.

THIRD CAUSE OF ACTION
Violation of California's Unfair Competition Law, Bus. & Prof. Code §§ 17200,
et seq.

94. Plaintiff incorporates by reference all preceding paragraphs as if more fully set forth herein.

95. The California Unfair Competition Law, Bus. & Prof. Code §17200, *et seq.* ("UCL"), prohibits any "unlawful," "fraudulent" or "unfair" business act or practice and any false or misleading advertising, as those terms are defined by the UCL and relevant case law. By virtue of its above-described wrongful actions, inaction, omissions, and want of ordinary care that directly and proximately caused the Breach, Equifax engaged in unlawful, unfair and fraudulent practices within the meaning, and in violation of, the UCL.

96. In the course of conducting its business, Equifax committed "unlawful" business practices by knowingly failing to create, maintain, implement, and audit appropriate data security processes, policies, procedures, protocols, and software and hardware systems to safeguard and protect Plaintiff and Class Members' Personal Data, and violating the statutory and common law alleged herein in the process, including, *inter alia*, California's Customer Records Act (Civ. Code §1798.80, *et seq.*), California's UCL, the Gramm-Leach-Bliley Act, and common law negligence.

1 Plaintiff and Class members reserve the right to allege other violations of law by
2 Equifax constituting other unlawful business acts or practices. Equifax's above-
3 described wrongful actions, inaction, omissions, and want of ordinary care are
4 ongoing and continue to this date.

5 97. Equifax also violated the UCL by failing to timely notify Plaintiff and
6 Class Members regarding the unauthorized release and disclosure of their Personal
7 Data.

8 98. Equifax's above-described unlawful, wrongful acts, omissions, failure to
9 act in accordance with reasonable and ordinary standards of care, misrepresentations,
10 practices, and non-disclosures also constitute "unfair" business acts and practices in
11 violation of the UCL in that Equifax's wrongful conduct is substantially injurious to
12 consumers, offends public policy, and is immoral, unethical, oppressive, and
13 unscrupulous. California has a well-defined public policy embodied by various states
14 statutes, including California's Customer Records Act and Information Practices Act
15 to ensure that businesses that maintain customer's personal information implement
16 and maintain reasonable security procedures and practices to protect the personal
17 information from unauthorized access, destruction, use, modification or disclosure.
18 The gravity of Equifax's wrongful conduct outweighs any alleged benefits attributable
19 to such conduct. There were reasonably available alternatives to further Equifax's
20 legitimate business interests other than engaging in the above-described wrongful
21 conduct.

22 99. The UCL also prohibits any "fraudulent business act or practice."
23 Equifax's above-described claims, nondisclosures and misleading statements were
24 false, misleading and likely to deceive the consuming public in violation of the UCL.

25 100. As a direct and proximate result of Equifax's above-described wrongful
26 actions, inaction, omissions, and want of ordinary care that directly and proximately
27 caused the Data Breach and its violations of the UCL, Plaintiff and Class members
28 have suffered (and will continue to suffer) economic damages and other injury and

1 actual harm in the form of *inter alia*, (i) an imminent, immediate and the continuing
 2 increased risk of identity theft and identity fraud, (ii) invasion of privacy, (iii) breach
 3 of the confidentiality of their Personal Data, (iv) deprivation of the value of their
 4 Personal Data, for which there is a well-established market, (v) failure to receive the
 5 full benefit of their bargain as a result of receiving credit fraud and monitoring
 6 services that were less valuable than what they paid for, and/or (vi) the financial
 7 and/or temporal cost of monitoring their credit, monitoring their financial accounts,
 8 and mitigating their damages.

9 101. Unless restrained and enjoined, Equifax will continue to engage in the
 10 above-described wrongful conduct and more data breaches will occur. Plaintiff,
 11 therefore, on behalf of herself, Class Members, and the general public, also seeks
 12 restitution and an injunction prohibiting Equifax from continuing such wrongful
 13 conduct, and requiring Equifax to modify its corporate culture and design, adopt,
 14 implement, control, direct, oversee, manage, monitor and audit appropriate data
 15 security processes, controls, policies, procedures protocols, and software and
 16 hardware systems to safeguard and protect the PII entrusted to it, as well as all other
 17 relief the Court deems appropriate, consistent with Bus. & Prof. Code §17203.

18 19 **FOURTH CAUSE OF ACTION** 20 **Constructive Fraud**

21 102. Plaintiff incorporates by reference all preceding paragraphs as if more
 22 fully set forth herein.

23 103. Equifax owed a duty to Plaintiff and Class Members to adequately
 24 protect their Personal Data under various state and federal laws and regulations by
 25 virtue of being a consumer reporting agency.

26 104. As a consumer reporting agency to whom Plaintiff's and Class Members'
 27 most intimate, sensitive and private personal information and Personal Data was
 28 provided, Equifax enjoyed a special relationship of trust and confidence with Plaintiff

1 and Class Members and owed them a heightened duty above and beyond normal
 2 commercial relations. Accordingly, Plaintiff and Class Members reasonably expected
 3 Equifax would adhere to its obligations to adequately protect the sensitive, personal
 4 information they provided including the Personal Data Equifax allowed to be stolen.

5 105. Equifax breached this duty by failing to maintain security adequate to
 6 protect Plaintiff and Class Members' Personal Data, and by failing to timely and
 7 adequately notify them of the breach.

8 106. As a result of Equifax's conduct, Plaintiff and Class Members are entitled
 9 to damages and equitable relief.

10 **DEMAND FOR JURY TRIAL**

11 107. Plaintiff hereby demands a jury trial on all issues so triable.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff, on behalf of herself and consumers similarly situated,
 14 prays for judgment as follows:

- 15 A. An Order certifying the proposed Classes defined herein, designating
 16 Plaintiff as representative of said Classes, and appointing the undersigned
 17 counsel as Class Counsel;
- 18 B. For restitution of all amounts obtained by Equifax as a result of its
 19 wrongful conduct in an amount according to proof at trial, plus
 20 prejudgment and post-judgment interest thereon;
- 21 C. For all recoverable compensatory, consequential, actual, and/or statutory
 22 damages in the maximum amount permitted by law;
- 23 D. For punitive and exemplary damages;
- 24 E. For other equitable relief;
- 25 F. For such injunctive relief, declaratory relief, orders, or judgment as
 26 necessary and appropriate to prevent these acts and practices;
- 27 G. For payment of attorneys' fees and costs as allowable by law; and
- 28 H. For all such other relief as this Honorable Court deems appropriate.

1
2 DATED: October 20, 2017

Respectfully Submitted,

3
4 /s/Stephen F. Yunker

5 Stephen F. Yunker, Esq. (CSB 110159)
6 655 West Broadway, Suite 1400
7 San Diego, California 92101
8 Tel: (619) 233-5560
9 Fax: (619) 233-5535
10 Email: sfy@yslaw.com

11 ***ATTORNEYS FOR PLAINTIFF***
12 ***AND THE PROPOSED CLASS AND***
13 ***SUBCLASS***
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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

Kathryn France Butler, on behalf of herself and all others similarly situate

(b) County of Residence of First Listed Plaintiff San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Stephen F. Yunker, Esq. (CSB 110159)
655 West Broadway, Suite 1400
San Diego, California 92101 (619) 233-5560**DEFENDANTS**

Equifax, Inc., a Georgia Corporation

County of Residence of First Listed Defendant Fulton

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

'17CV2158 JLS KSC**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 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 checked="" 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 checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" 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 checked="" type="checkbox"/> 360 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"/> 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	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	

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):

28 U.S.C. Section 1332(d)(2)

Brief description of cause:

Negligence, California Consumer Statutes, Constructive Fraud**VII. REQUESTED IN COMPLAINT:**☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$ in excess of
5,000,000.00CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE Honorable Marilyn L. HuffDOCKET NUMBER 3:17-cv-1828

DATE

10/20/2017

SIGNATURE OF ATTORNEY OF RECORD

s/Stephen F. Yunker**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.