

1 Alex Asil Mashiri, Esq. (SBN 283798)  
alex mashiri@yahoo.com  
2 **MASHIRI LAW FIRM**  
3 A Professional Corporation  
11251 Rancho Carmel Drive #500694  
4 San Diego, CA 92150  
5 Tel: (858) 348-4938  
6 Fax: (858) 348-4939

7 Tamim Jami, Esq. (SBN 311351)  
tamim@jamilaw.com  
8 **THE JAMI LAW FIRM P.C.**  
9 3525 Del Mar Heights Rd #941  
10 San Diego, CA 92130  
11 Tel: (858) 284-0248  
12 Fax: (858) 284-0977

13 Attorneys for Plaintiff:  
14 VICTOR R. DEL LLANO

15 **UNITED STATES DISTRICT COURT**  
16 **SOUTHERN DISTRICT OF CALIFORNIA**

17 VICTOR R. DEL LLANO, individually  
18 and on behalf of others similarly  
19 situated,

20 Plaintiff,

21 vs.

22 VIVINT SOLAR INC. and SOLAR  
23 MOSAIC INC.,

24 Defendants.

) Case No. '17CV1429 AJB MDD

) **CLASS ACTION**

) **CLASS ACTION COMPLAINT FOR**  
) **DAMAGES**

) **(1) Violations of the Fair Credit**  
) **Reporting Act 15 U.S.C. § 1681, et**  
) **seq.; and**

) **(2) Violations of Cal. Civ. Code §**  
) **1785.19**

) **DEMAND FOR JURY TRIAL**

**MASHIRI LAW FIRM**  
A PROFESSIONAL CORPORATION  
11251 RANCHO CARMEL DR. # 500694  
SAN DIEGO, CA 92150  
TEL: (858) 348-4938  
FAX: (858) 858-348-4939

1 Plaintiff VICTOR R. DEL LLANO alleges as follows:

2 **INTRODUCTION**

3 1. Plaintiff VICTOR R. DEL LLANO, by and through his attorneys, on  
4 behalf of himself and the classes set forth below, (hereinafter referred to as  
5 “Plaintiff”), brings this lawsuit against Defendant VIVINT SOLAR INC. (hereinafter  
6 “VIVINT”) and Defendant SOLAR MOSAIC INC. (hereinafter “MOSAIC”) who  
7 routinely procure credit reports without a permissible purpose in violation of the Fair  
8 Credit Reporting Act (“FCRA”) and the California Consumer Credit Reporting  
9 Agencies Act (“CCRAA”).

10 2. Plaintiff brings this action to seek actual damages, statutory damages,  
11 injunctive relief, attorneys’ fees and costs, and other relief the Court deems  
12 appropriate.

13 3. Plaintiff alleges as follows, upon personal knowledge as to himself and  
14 his own acts and experiences, and, as to all other matters, upon information and  
15 belief, including investigation conducted by his attorneys.

16 4. Plaintiff makes these allegations on information and belief, with the  
17 exception of those allegations that pertain to Plaintiff, or to a Plaintiff’s counsel,  
18 which Plaintiff alleges on personal knowledge.

19 5. While many violations are described below with specificity, this  
20 Complaint alleges violations of the statutes cited in their entirety.

21 6. Unless otherwise stated, Plaintiff alleges that any violations by  
22 Defendant were knowing and intentional, and that Defendant did not maintain  
23 procedures reasonably adapted to avoid any such violations.

24 7. Unless otherwise indicated, the use of Defendant in this Complaint  
25 includes all agents, employees, officers, members, directors, heirs, successors,  
26 assigns, principals, trustees, sureties, subrogees, representatives, and insurers of  
27 Defendant.  
28

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A PROFESSIONAL CORPORATION  
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SAN DIEGO, CA 92150  
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**PARTIES**

1  
2 8. Plaintiff is, and at all times mentioned herein was, an individual, residing  
3 in the State of California.

4 9. Plaintiff is a natural person whose credit report was affected by an  
5 unauthorized inquiry. In addition, Plaintiff is a “consumer” as the term is defined by  
6 15 U.S.C. section 1681a(c).

7 10. Plaintiff is informed and believes, and thereon alleges, that Defendant  
8 VIVINT is a “person” as the term is defined by 15 U.S.C. section 1681a(b).

9 11. Plaintiff is informed and believes, and thereon alleges, that Defendant  
10 MOSAIC is a “person” as the term is defined by 15 U.S.C. section 1681a(b).

11 12. Plaintiff is informed and believes, and thereupon alleges, that Trans  
12 Union is a “consumer reporting agency” as defined under 15 U.S.C. section 1681a(f).

13 13. Plaintiff is informed and believes, and thereupon alleges, that Defendant  
14 VIVINT is, and at all times mentioned herein was, a company conducting and  
15 engaging in business in the County of San Diego, State of California.

16 14. Plaintiff is informed and believes, and thereupon alleges, that Defendant  
17 MOSAIC is, and at all times mentioned herein was, a company conducting and  
18 engaging in business in the State of California.

19 15. Defendant VIVINT is a subscriber and user of consumer reports issued  
20 by Trans Union.

21 16. Defendant MOSAIC is a subscriber and user of consumer reports issued  
22 by Trans Union.

23 17. Plaintiff is informed and believes, and thereupon alleges, that Defendant  
24 VIVINT acquired Plaintiff’s credit information through an unauthorized inquiry of  
25 Plaintiff’s “consumer report” as that term is defined by 15 U.S.C. section 1681a(d)(1).

26 18. Plaintiff is informed and believes, and thereupon alleges, that Defendant  
27 MOSAIC acquired Plaintiff’s credit information through an unauthorized inquiry of  
28 Plaintiff’s “consumer report” as that term is defined by 15 U.S.C. section 1681a(d)(1).

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A PROFESSIONAL CORPORATION  
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**JURISDICTION AND VENUE**

1  
2 19. This Court has jurisdiction under 28 U.S.C. section 1331, and 28 U.S.C.  
3 section 1367 for supplemental state claims.

4 20. This action arises out of Defendants’ violations of the FCRA. Because  
5 Defendants do business within the State of California, personal jurisdiction is  
6 established.

7 21. Venue is proper pursuant to 28 U.S.C. section 1391(b).

8 **THE FCRA’S PRIVACY PROTECTIONS**

9 22. Congress enacted the FCRA in 1970 to ensure fair and accurate credit  
10 reporting, promote efficiency in the banking system, and protect consumer privacy.

11 23. In order to protect consumer privacy, the FCRA prohibits users from  
12 obtaining consumer reports unless the user has a permissible purpose for procuring  
13 the report, as defined in the statute. Specifically, the FCRA, 15 U.S.C. section  
14 1681b(f), provides:

15 A person shall not use or obtain a consumer report for any purpose unless  
16 (1) the consumer report is obtained for a purpose for which the consumer  
17 report is authorized to be furnished under this section; and (2) the purpose  
18 is certified in accordance with section 1681e of this title by a prospective  
19 user of the report through a general or specific certification.

20 24. Similarly, the CCRAA prohibits users who lack a permissible purpose  
21 from “knowingly and willfully obtain[ing] access to a file” or “knowingly and  
22 willfully obtain[ing] data from a file.” See Cal. Civil Code § 1785.19.

23 25. One permissible purpose for obtaining a credit report is for use in  
24 connection with a credit transaction involving a consumer. See 15 U.S.C. §  
25 1681a(3)(A).

26 26. In all circumstances relating to reports procured in connection with credit  
27 transactions, if the consumer has neither *initiated a transaction* nor authorized the  
28 provision of a full report, the entity procuring the report can see only limited  
information about the consumer. See 15 U.S.C. §§ 1681b(a)(3)(A) and 1681b(c).

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A PROFESSIONAL CORPORATION  
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SAN DIEGO, CA 92150  
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**RELEVANT FACTS**

**Defendant VIVANT**

1  
2  
3 27. On March 27, 2017, Plaintiff received a notice that someone had  
4 accessed his credit report. Upon review of his Trans Union credit report, Plaintiff  
5 discovered that Defendant VIVANT accessed his Trans Union credit file on March 27,  
6 2017. In connection therewith, Defendant made a general or specific certification to  
7 Trans Union that Defendant sought the information because Plaintiff had an existing  
8 credit account with Defendant and Defendant needed to review all of Plaintiff's  
9 existing credit accounts to determine whether Plaintiff continued to meet the terms of  
10 Plaintiff's credit account with Defendant.

11 28. Plaintiff never conducted any business nor incurred any additional  
12 financial obligations to Defendant VIVANT. Further, Defendant VIVANT did not  
13 offer Plaintiff credit or otherwise make a firm offer of credit.

**Defendant MOSAIC**

14  
15 29. On March 27, 2017, Plaintiff received a notice that someone had  
16 accessed his credit report. Upon review of his Trans Union credit report, Plaintiff  
17 discovered that Defendant MOSAIC accessed his Trans Union credit file on March  
18 27, 2017. In connection therewith, Defendant made a general or specific certification  
19 to Trans Union that Defendant sought the information because Plaintiff had initiated a  
20 credit transaction for the extension of credit from Defendant.

21 30. Plaintiff never conducted any business nor incurred any additional  
22 financial obligations to Defendant MOSAIC. Further, Defendant MOSAIC did not  
23 offer Plaintiff credit or otherwise make a firm offer of credit.

24 31. 15 U.S.C. section 1681b delineates the only permissible uses of, or  
25 access to, consumer reports, including "to use the information in connection with a  
26 credit transaction involving the consumer on whom the information is to be furnished  
27 and involving the extension of credit to, or review or collection of an account of, the  
28 consumer." *See* 15 U.S.C. § 1681b(a)(3)(A).

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A PROFESSIONAL CORPORATION  
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SAN DIEGO, CA 92150  
TEL: (858) 348-4938  
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1 32. 15 U.S.C. section 1681b(f) provides that “[a] person shall not use or  
2 obtain a consumer report for any purpose unless– (1) the consumer report is obtained  
3 for a purpose for which the consumer report is authorized to be furnished under this  
4 section; and (2) the purpose is certified in accordance with section 1681e of this title  
5 by a prospective user of the report through a general or specific certification.”

6 33. 15 U.S.C. section 1681e provides that “Every consumer reporting agency  
7 shall [...] require that prospective users of the information identify themselves, certify  
8 the purposes for which the information is sought, and certify that the information will  
9 be used for no other purpose.”

10 34. Upon requesting Plaintiff’s credit report from Trans Union, Defendants  
11 certified that they would use the information for a permissible purpose as enumerated  
12 under 15 U.S.C. section 1681b and for no other purpose.

13 35. Because Trans Union requires a certification prior to the dissemination  
14 of a consumer’s credit report, Defendants were on notice and aware of the  
15 requirements under 15 U.S.C. section 1681b and other provisions of the FCRA.

16 36. 15 U.S.C. section 1681b delineates the only permissible uses of, or  
17 access to, consumer reports, including “to use the information in connection with a  
18 credit transaction involving the consumer on whom the information is to be furnished  
19 and involving the extension of credit to, or review or collection of an account of, the  
20 consumer.” 15 U.S.C. § 1681b(a)(3)(A).

21 37. Plaintiff did not initiate any credit transaction with Defendants as  
22 provided in 15 U.S.C. § 1681b(a)(3)(A).

23 38. Plaintiff was not involved in any credit transaction with Defendants  
24 involving the extension of credit to, or review or collection of an account of, the  
25 consumer as provided in 15 U.S.C. § 1681b(a)(3)(A).

26 39. Plaintiff is not aware of any collection accounts, including any accounts  
27 that were purchased or acquired by Defendants that would permit Defendants to  
28 obtain Plaintiff’s credit report as provided in 15 U.S.C. § 1681b(a)(3)(A).

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A PROFESSIONAL CORPORATION  
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SAN DIEGO, CA 92150  
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1 40. Plaintiff does not have any existing credit accounts that were subject to  
2 collection efforts by Defendants as provided in 15 U.S.C. § 1681b(a)(3)(A).

3 41. Plaintiff did not engage Defendants for any employment relationship as  
4 provided in 15 U.S.C. § 1681b(a)(3)(B).

5 42. Plaintiff did not engage Defendants for any insurance as provided in 15  
6 U.S.C. § 1681b(a)(3)(C).

7 43. Plaintiff did not apply for a license or other benefit granted by a  
8 governmental instrumentality as provided in 15 U.S.C. § 1681b(a)(3)(D).

9 44. Plaintiff did not have an existing credit obligation that would permit  
10 Defendants to obtain his credit report as provided in 15 U.S.C. § 1681b(a)(3)(E).

11 45. Plaintiff did not conduct any business transaction nor incur any  
12 additional financial obligations to Defendants as provided in 15 U.S.C. §  
13 1681b(a)(3)(F).

14 46. Plaintiff did not conduct any business transaction nor incur any  
15 additional financial obligations to Defendants as provided in 15 U.S.C. §  
16 1681b(a)(3)(F).

17 47. Defendants' inquiry for Plaintiff's consumer report information falls  
18 outside the scope of any permissible use or access included in 15 U.S.C. section  
19 1681b.

20 48. Therefore, Defendants violated 15 U.S.C. section 1681b by using  
21 Plaintiff's consumer report for an impermissible use that falls outside the scope of 15  
22 U.S.C. section 1681b.

23 49. Because Trans Union requires Defendants to certify a permissible  
24 purpose prior to the dissemination of each consumer credit inquiry, Defendants were  
25 aware of and had the ability to comply with the requirements under 15 U.S.C. section  
26 1681b and other provisions of the FCRA.

27 50. Defendants actions were willful under 15 U.S.C. section 1681n because  
28 Defendants either knowingly or recklessly disregarded the FCRA's prohibitions on

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1 impermissibly pulling consumers’ credit reports. *See Doe v. Sentech Employment*  
2 *Services, Inc.*, (2016 WL 2851427, \*6 (E.D. Mich. May 16, 2016) citing *Singleton v.*  
3 *Domino’s Pizza, LLC*, 2012 WL 245965, \*4 (D. Md. Jan. 25, 2012) [“Assertions that  
4 a defendant is aware of the FCRA, but failed to comply with its requirements, are  
5 sufficient to support an allegation of willfulness and to avoid dismissal.”].

6 51. The FCRA was enacted in 1970; Defendant VIVINT has had over 40  
7 years to become compliant.

8 52. Defendants violated a clear statutory mandate set forth in 15 U.S.C.  
9 section 1681q.

10 53. Plaintiff suffered an invasion of a legally protected interest when  
11 Defendants accessed his highly confidential personal information on his credit report  
12 at a time when Defendants had no right to do so, an invasion of Plaintiff’s right to  
13 privacy. The FCRA, through 15 U.S.C. section 1681b, protects consumers like  
14 Plaintiff from this precise behavior.

15 54. Upon information and belief, by impermissibly pulling a consumer’s  
16 credit report, Defendants takes an unfair competitive advantage in the marketplace by  
17 better identifying consumers assets, intimate personal information, and financial  
18 standing which all allow Defendants to selectively determine ideal clients for its  
19 products, an advantage other competitors in the marketplace are not afforded when  
20 adhering to the law. For instance, Defendants obtains credit reports on consumers for  
21 one or more of the following reasons: (1) marketing, (2) research, (3) investigation,  
22 (4) sale of information to a third party, (5) maliciously violate a consumer’s privacy,  
23 or (6) some other impermissible purpose.

24 55. The FCRA expressly provides that Congress made the following finding:  
25 “There is a need to insure that consumer reporting agencies exercise their grave  
26 responsibilities with fairness, impartiality and a respect for the consumer’s right to  
27 privacy.” *See* 15 U.S.C. § 1681a(4).  
28

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A PROFESSIONAL CORPORATION  
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SAN DIEGO, CA 92150  
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1 56. Plaintiff was affected both psychologically and physiologically, because  
2 when he realized the behavior of Defendants described above (pulling his credit  
3 report without any authorization), Plaintiff felt that his privacy had been invaded and  
4 that his personal and private information had been disclosed to Defendants, who had  
5 no right to Plaintiff’s information.

6 57. The injury suffered by Plaintiff is concrete because, on information and  
7 belief, Defendants’ violation of 15 U.S.C. section 1681b caused Plaintiff’s credit  
8 score to drop directly impacting Plaintiff’s credit availability and finances. Plaintiff  
9 also suffered from Defendants’ invasion of Plaintiff’s privacy. In enacting 15 U.S.C.  
10 section 1681b, Congress specifically sought to protect consumers from invasions of  
11 privacy and created restrictions on access to consumers’ sensitive financial  
12 information in their credit reports.

13 58. Further, Defendants increased the risk that Plaintiff and the class  
14 members will be injured if there is a data breach on Defendants’ computer systems by  
15 acquiring additional highly sensitive information about Plaintiff and the class  
16 members and saving that information onto its computer system. Data breaches are  
17 increasingly common<sup>1</sup> and companies, like the Defendants, are frequent targets of  
18 cybercriminals.<sup>2</sup>

19 59. As such, Plaintiff is entitled to the remedies available under 15 U.S.C.  
20 section 1681n and 15 U.S.C. section 1681o.

21 **CLASS ALLEGATIONS**

22 60. Plaintiff brings this action on his own behalf, and on behalf of all others  
23 similarly situated.

24 **Defendant VIVINT**

25 61. Plaintiff defines the **VIVINT FCRA Class** as follows:  
26

27 <sup>1</sup> See Data Breaches, Kerbs, available at <http://krebsonsecurity.com/category/data-breaches/>  
28 <sup>2</sup> See <http://www.esecurityplanet.com/network-security/capital-one-acknowledges-insider-breach.html>; Also see [http://ago.vermont.gov/assets/files/Consumer/Security\\_Breach/2013-12-30%20Capital%20One%20Security%20Breach%20Notice%20Ltr%20to%20Consumer.pdf](http://ago.vermont.gov/assets/files/Consumer/Security_Breach/2013-12-30%20Capital%20One%20Security%20Breach%20Notice%20Ltr%20to%20Consumer.pdf).

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A PROFESSIONAL CORPORATION  
11251 RANCHO CARMEL DR. # 500694  
SAN DIEGO, CA 92150  
TEL: (858) 348-4938  
FAX: (858) 858-348-4939

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**CLASS A**

All persons with addresses within California whose consumer credit report from any of these three major credit agencies (Experian, Trans Union, and Equifax) were accessed by Defendant VIVINT in the two years predating the filing of this Complaint and continuing through the date the class list is prepared.

**CLASS B**

All persons with addresses within California whose consumer credit report from any of these three major credit agencies (Experian, Trans Union, and Equifax) were accessed by Defendant VIVINT in the five years predating the filing of this Complaint and continuing through the date the class list is prepared.

62. Plaintiff defines the **VIVINT CCRAA Class** as follows:

**CLASS A**

All persons with addresses within California whose consumer credit report from any of these three major credit agencies (Experian, Trans Union, and Equifax) were accessed by Defendant VIVINT in the two years predating the filing of this Complaint and continuing through the date the class list is prepared.

**CLASS B**

All persons with addresses within California whose consumer credit report from any of these three major credit agencies (Experian, Trans Union, and Equifax) were accessed by Defendant VIVINT in the five years predating the filing of this Complaint and continuing through the date the class list is prepared.

**Defendant MOSAIC**

63. Plaintiff defines the **MOSAIC FCRA Class** as follows:

**CLASS A**

All persons with addresses within California whose consumer credit report from any of these three major credit agencies

(Experian, Trans Union, and Equifax) were accessed by Defendant MOSAIC in the two years predating the filing of this Complaint and continuing through the date the class list is prepared.

**CLASS B**

All persons with addresses within California whose consumer credit report from any of these three major credit agencies (Experian, Trans Union, and Equifax) were accessed by Defendant MOSAIC in the five years predating the filing of this Complaint and continuing through the date the class list is prepared.

64. Plaintiff defines the **MOSAIC CCRAA Class** as follows:

**CLASS A**

All persons with addresses within California whose consumer credit report from any of these three major credit agencies (Experian, Trans Union, and Equifax) were accessed by Defendant MOSAIC in the two years predating the filing of this Complaint and continuing through the date the class list is prepared.

**CLASS B**

All persons with addresses within California whose consumer credit report from any of these three major credit agencies (Experian, Trans Union, and Equifax) were accessed by Defendant MOSAIC in the five years predating the filing of this Complaint and continuing through the date the class list is prepared.

65. Defendants and its employees or agents are excluded from the Classes. Plaintiff does not know the number of members in the Classes, but believes the number is in the hundreds if not more. This matter should therefore be certified as a Class action to assist in the expeditious litigation of this matter.

66. Plaintiff and members of the Classes were harmed by the acts of Defendants in at least the following ways: Defendants, either directly or through its

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A PROFESSIONAL CORPORATION  
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SAN DIEGO, CA 92150  
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1 agents, engaged in illegal and deceptive practices, when it submitted an unauthorized  
2 consumer report inquiry under 15 U.S.C. section 1681 *et seq.* Plaintiff and the  
3 Classes' members were damaged thereby.

4 67. This suit seeks only recovery of actual and statutory damages on behalf  
5 of the Classes, and it expressly is not intended to request any recovery for personal  
6 injury and claims related thereto. Plaintiff reserves the right to expand the Classes'  
7 definitions to seek recovery on behalf of additional persons as warranted as facts are  
8 learned in further investigation and discovery.

9 68. The joinder of the Classes' members is impractical and the disposition of  
10 their claims in the Class action will provide substantial benefits both to the parties and  
11 to the court. The Classes can be identified through Defendants' records or  
12 Defendants' agents' records.

13 69. There is a well-defined community of interest in the questions of law and  
14 fact involved affecting the parties to be represented. The questions of law and fact to  
15 the Classes predominate over questions which may affect individual members of the  
16 Classes, including the following:

- 17 a) Whether, within the class period, Defendants or its agents submitted any  
18 consumer credit report inquiries;
- 19 b) Whether Defendants procured credit reports without a permissible purpose  
20 under the FCRA;
- 21 c) Whether Defendants' conduct was willful under the FCRA;
- 22 d) Whether Defendants accessed or obtained data from consumer files in  
23 violation of the CCRAA;
- 24 e) Whether Defendants accessed or obtained data from consumer files under  
25 false pretense of an account review when consumers never held an account  
26 with Defendants.
- 27 e) Whether Plaintiff and the members of the Classes were damaged thereby,  
28 and the extent of damages for such violations.

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1 70. Plaintiff will fairly and adequately protect the interest of the Classes.

2 71. Plaintiff has retained counsel experienced in consumer litigation,  
3 including class action litigation and in handling claims involving violations of the Fair  
4 Credit Reporting Act.

5 72. Plaintiff's claims are typical of the claims of the Classes, which all arise  
6 from the same operative facts involving unlawful consumer credit report practices.

7 73. A class action is a superior method for the fair and efficient adjudication  
8 of this controversy.

9 74. Class-wide damages are essential to induce Defendants to comply with  
10 the Federal and State laws alleged in the Complaint.

11 75. The interests of class members in individually controlling the  
12 prosecution of separate claims against Defendants is small because the maximum  
13 statutory damages in an individual action under the FCRA is minimal. Management  
14 of these claims is likely to present significantly fewer difficulties than those presented  
15 in many class claims, *e.g.* securities fraud.

16 76. Defendants have acted on grounds generally applicable to the Classes,  
17 thereby making appropriate final declaratory relief with respect to each class as a  
18 whole.

19 77. Plaintiff contemplates providing notice to the putative class members by  
20 direct mail in the form of a postcard and via Internet website.

21 78. Plaintiff requests certification of a hybrid class combining the elements  
22 of Fed. R. Civ. P. 23(b)(3) for monetary damages and Fed. R. Civ. P. 23(b)(2) for  
23 equitable relief.

24 **FIRST CAUSE OF ACTION**

25 **(Violation of the FCRA: Impermissible Access against all Defendants)**

26 79. Plaintiff incorporates by reference all of the above paragraphs of this  
27 Complaint as though fully stated herein.  
28

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1 80. The FCRA establishes very specific rules placing limitations upon an  
2 entity (or “person”) seeking to obtain a consumer’s credit history or the content of a  
3 consumer’s credit file.

4 81. 15 U.S.C. section 1681b(f) states in part the following:

5 **Certain use or obtaining of information prohibited.** A person shall  
6 not use or obtain a consumer report for any purpose unless –

- 7 (1) the consumer report is obtained for a purpose for which the  
8 consumer report is authorized to be furnished under this section;  
and
- 9 (2) the purpose is certified in accordance with section 1681e of  
10 this title by a prospective user of the report through a general or  
11 specific certification.

12 82. 15 U.S.C. section 1681b(a)(3) lists the all-inclusive purposes for which a  
13 consumer report can be obtained.

14 83. 15 U.S.C. section 1681b(a)(3) states in relevant part as follows:

15 **In General.** [...] Any consumer reporting agency may furnish a  
16 consumer report under the following circumstances and no other:

- 17 (3) To a person which it has reason to believe–
- 18 (A) intends to use the information in connection with a  
19 credit transaction involving the consumer on whom the  
20 information is to be furnished and involving the extension  
21 of credit to, or review or collection of an account of, the  
22 consumer[...]

23 84. When requesting Plaintiff’s credit information from Trans Union,  
24 Defendant VIVINT and Defendant MOSAIC had actual knowledge that they did not  
25 have a permissible purpose to obtain such credit information concerning Plaintiff.

26 85. For Defendants to repeatedly and impermissibly access the credit files of  
27 consumers without permission, constitutes willful non-compliance with the FCRA.

28 86. Upon information and belief, Defendants obtain credit reports on  
consumers for one or more of the following reasons: (1) marketing, (2) research, (3)

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1 investigation, (4) sale of information to a third party, (5) maliciously violate a  
2 consumer's privacy, or (6) some other impermissible purpose.

3 87. As a result of each and every negligent violation of the FCRA, Plaintiff  
4 is entitled to actual damages, pursuant to 15 U.S.C. section 1681o(a)(1); and  
5 reasonable attorney's fees and costs pursuant to 15 U.S.C. section 1681o(a)(2), from  
6 Defendants.

7 88. As a result of each and every willful violation of the FCRA, Plaintiff is  
8 entitled to actual damages or damages of not less than \$100 and not more than \$1,000  
9 and such amount as the court may allow for all other class members, pursuant to 15  
10 U.S.C. section 1681n(a)(1)(A); punitive damages as the court may allow, pursuant to  
11 15 U.S.C. section 1681n(a)(2); and reasonable attorney's fees and costs pursuant to  
12 15 U.S.C. section 1681n(a)(3) from Defendants.

13 **SECOND CAUSE OF ACTION**

14 **(Violation of the CCRAA: Impermissible Access against all Defendants)**

15 89. Plaintiff incorporates by reference all of the above paragraphs of this  
16 Complaint as though fully stated herein.

17 90. Plaintiff did not authorize Defendants to do a pull of his credit reports.

18 91. Defendants lacked any permissible purpose to obtain the credit reports  
19 under Cal. Civil Code section 1785.11.

20 92. Defendants knowingly and willfully accessed or obtained data from the  
21 consumer files of Plaintiff and the class members in violation of Cal. Civil Code  
22 section 1785.19. Upon information and belief, Defendants obtain credit reports on  
23 consumers for one or more of the following reasons: (1) marketing, (2) research, (3)  
24 investigation, (4) sale the information to a third party, (5) maliciously violate a  
25 consumer's privacy, or (6) some other impermissible purpose.

26 93. Plaintiff is entitled to civil penalties of not more than \$2,500 for each and  
27 every one of these violations pursuant to Cal. Civil Code section 1785.19. Plaintiff is  
28 further entitled to actual damages and punitive damages of not less than \$100 and not

MASHIRI LAW FIRM  
A PROFESSIONAL CORPORATION  
11251 RANCHO CARMEL DR. # 500694  
SAN DIEGO, CA 92150  
TEL: (858) 348-4938  
FAX: (858) 858-348-4939

1 more than \$5,000 for each violation. Plaintiff, the Damages Class, and the Injunctive  
2 Relief Two-Year Subclass, are entitled also to injunctive relief, and to recover their  
3 costs and attorneys' fees, pursuant to Cal. Civil Code section 1785.31.

4 **REQUEST FOR PRESERVATION OF EVIDENCE**

5 1. Preserve all forms of electronic data, regardless of where the data exists,  
6 without modification to or deletion of any potentially discoverable data;

7 2. Suspend all procedures that may alter or delete computer data;

8 3. Prevent deleting, overwriting, defragmenting, or compressing the data;

9 4. Preserve all archived back-up tapes and ensure that (a) if archive tapes  
10 are rotated, the relevant tapes are removed from the rotation; (b) if backups are made  
11 to hard drives, preserve the hard drive as well;

12 5. Preserve the contents of all hard drives, network drives, tape drives,  
13 optical drives, floppy disks, CD and DVD drives, and all other types of drives or  
14 storage media that are within the possession, custody or control of all people who  
15 have knowledge of relevant facts and those who work with them, such as assistants;

16 6. Preserve the contents of all information on portable computers—such as  
17 laptops and palmtops—used by those people as well as home computers, if these are  
18 used for work purposed;

19 7. Preserve the contents of all data on computers that were used since the  
20 limitations period on the lawsuit began (for example; five years prior to filing) but  
21 that are no longer in use; and

22 8. Disclose electronic information in the Rule 26 initial disclosures.

23 **REQUEST FOR JURY TRIAL**

24 As declared by the seventh amendment to the Constitution of the United States  
25 of America, Plaintiff is entitled to, and demands, a trial by jury.

26 **PRAYER FOR DAMAGES AND OTHER REMEDIES**

27 1. An order certifying the Class as requested herein;

28 2. An order appointing the Plaintiff as the representative of the Class;

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A PROFESSIONAL CORPORATION  
11251 RANCHO CARMEL DR. # 500694  
SAN DIEGO, CA 92150  
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3. An order certifying Plaintiff’s counsel as Class Counsel;
4. An order requiring Defendants, at their own cost, to notify all members of the Classes of the unlawful acts discussed herein;
5. Declaring that Defendants violated the FCRA;
6. An Order requiring return of Class members’ confidential consumer report and destruction of any copy;
7. Declaring that Defendants acted willfully, in knowing or reckless disregard of Plaintiff’s rights and its obligations under the FCRA;
8. Declaring that Defendants violated the CCRAA;
9. Awarding actual damages, punitive damages, civil penalties, costs, and attorney’s fees as provided under the CCRAA;
10. Awarding appropriate injunctive relief under the CCRAA, including an injunction requiring that Defendants cease its unlawful practices and ensure that consumer reporting agencies remove Defendants’ unauthorized credit inquiries from Plaintiff’s and the Class members’ credit reports;
11. Injunctive relief requiring Defendants to refrain from further impermissible consumer credit pulls in compliance with 15 U.S.C. section 1681b;
12. Actual damages suffered by Plaintiff and each Class member, pursuant to 15 U.S.C. section 1681o(a)(1), against Defendants;
13. Statutory damages of not less than \$100 and not more than \$1,000 to Plaintiff and each Class member, pursuant to 15 U.S.C. section 1681n(a)(1), against Defendants;
14. An award of costs of litigation and reasonable attorney’s fees, pursuant to 15 U.S.C. sections 1681n(a)(3) and 1681o(a)(2); and
15. Any and all other relief that this Court deems just and proper.

1 Respectfully Submitted,

2 DATED: July 14, 2017

**MASHIRI LAW FIRM**  
A Professional Corporation

By: /s/ Alex Asil Mashiri  
Alex Asil Mashiri  
Attorney for Plaintiff  
VICTOR R. DEL LLANO

**THE JAMI LAW FIRM P.C.**

By: /s/ Tamim Jami  
Tamim Jami  
Attorney for Plaintiff  
VICTOR R. DEL LLANO

**MASHIRI LAW FIRM**  
A PROFESSIONAL CORPORATION  
11251 RANCHO CARMEL DR. # 500694  
SAN DIEGO, CA 92150  
TEL: (858) 348-4938  
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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
VICTOR R. DEL LLANO
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)
MASHIRI LAW FIRM, A Professional Corporation
11251 Rancho Carmel Dr. # 500694, San Diego, CA 92150
Tel: 858 348-4938

DEFENDANTS
VIVINT SOLAR INC.
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
'17CV1429 AJB MDD

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
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

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
6 Multidistrict Litigation

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 the Fair Credit Reporting Act

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$ 10,000,000
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions):
JUDGE
DOCKET NUMBER

DATE 07/14/2017
SIGNATURE OF ATTORNEY OF RECORD
s/ Alex Asil Mashiri

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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six 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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- 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.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Says Vivint Solar, Solar Mosaic Illegally Procure Consumer Reports](#)

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