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9 Attorneys for Defendant
ADIDAS AMERICA, INC.

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

CHRISTIAN DUKE, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

adidas AMERICA, INC.,

Defendant.

Case No. '18CV2081 LAB NLS

**NOTICE OF REMOVAL OF
ACTION TO FEDERAL COURT
BY DEFENDANT ADIDAS
AMERICA, INC.**

Complaint Filed: July 3, 2018

1 **DEFENDANT ADIDAS AMERICA, INC.’S NOTICE OF REMOVAL**

2 **PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. § 1441, defendant
3 adidas America, Inc., (“Adidas”) hereby removes to this Court the state action
4 described below, which is within the original jurisdiction of this Court and properly
5 removed under 28 U.S.C. §§ 1332, 1441, 1446, and 1453. Pursuant to 28 U.S.C.
6 § 1446(d), copies of this Notice of Removal are being served upon counsel for
7 Plaintiff Christian Duke and filed with the Clerk of the Superior Court of the
8 County of San Diego as an exhibit to a Notice of Filing. A copy of the Notice of
9 Filing is attached hereto (without exhibits) as **Exhibit 1**.

10 **PROCEDURAL HISTORY AND TIMELINESS OF REMOVAL**

11 1. On July 3, 2018, Plaintiff Christian Duke filed a purported class action
12 captioned *Duke v. adidas America, Inc*, Case No. 37-2018-00033037-CU-BT-CTL,
13 against Adidas in the Superior Court of the State of California, County of San
14 Diego (“State Court Action”).

15 2. Adidas was served with the State Court Action Summons and
16 Complaint on August 8, 2018. (*See Ex. 2D.*) Adidas’ removal notice is timely.
17 *See* 28 U.S.C. § 1446(b) (removal is timely if filed within 30 days of defendants’
18 receipt of the pleading). Pursuant to 28 U.S.C. § 1446(a), true and correct copies of
19 all process, pleadings, and orders served upon Adidas in the State Court Action are
20 attached to this Notice as **Exhibit 2**.

21 3. The San Diego County Superior Court is located within the Southern
22 District of California. 28 U.S.C. § 84(d). This Notice of Removal is therefore
23 properly filed in this Court pursuant to 28 U.S.C. § 1441(a).

24 **ALLEGATIONS OF THE COMPLAINT**

25 4. This action is a putative class action against Adidas on behalf of all
26 California citizens who are current or former Adidas consumers and “whose
27 “personal information and/or confidential information was compromised as a result
28 of a data breach announced by Adidas on or about June 28, 2018.” (Compl. ¶ 31,

1 attached as Exhibit 2A.) Plaintiff Christian Duke is a California citizen residing in
2 San Diego County. (*Id.* ¶ 6.) Plaintiff alleges that Adidas collects and maintains
3 personal information on its adidas.com website, that it undertook a duty to protect
4 such information as confidential, and that it breached that duty by failing to
5 implement reasonable security procedures. (*Id.* ¶¶ 3, 5.) Plaintiff claims that, as a
6 result of Adidas’ “failure to safeguard personal information” (*id.* ¶ 5), on or around
7 June 26, 2018, Adidas disclosed that hackers breached Adidas’ computer systems
8 and accessed contact information, usernames, and encrypted passwords of
9 consumers who made purchases via adidas.com/US (the “Incident”). (*Id.* ¶¶ 3-4.)
10 Plaintiff also alleges that Adidas failed to timely notify Plaintiff and class members
11 of the Incident. (*Id.* ¶¶ 30, 76.)

12 5. As a result of this alleged conduct, Plaintiff claims that he and class
13 members were injured because they (i) “face years of constant surveillance of their
14 financial and personal records, monitoring, and loss of rights” (Compl. ¶ 30); (ii)
15 lost money and property by purchasing identity theft protection services (*id.* ¶¶ 76,
16 87); and (iii) are subject to an increased risk for future identity theft and fraudulent
17 activity on their financial accounts. (*Id.* ¶ 87.)

18 6. Based on these allegations, Plaintiff seeks to bring claims on behalf of
19 the following class:

20 All current and former consumers who made purchases on or through
21 Adidas.com who are California citizens and whose personal and/or
22 confidential information was compromised as a result of the data
breach announced by Adidas on or about June 28, 2018.

23 (*Id.* ¶ 31.)

24 7. The Complaint purports to state claims for: (i) negligence; (ii) breach
25 of contract; (iii) breach of implied contract; (iv) violation of the California
26 Customer Records Act, Cal. Civ. Code § 1798.80 *et seq.*; and (v) for unlawful and
27 unfair business practices in violation of the California Unfair Competition Law
28 (UCL), Cal. Bus. & Prof. Code § 17200 *et seq.* Plaintiff seeks: (i) compensatory

1 and punitive damages (Compl. ¶ 56); (ii) “restitution for costs incurred associated
2 with the data breach and disgorgement of all profits accruing to Adidas because of
3 its unlawful and unfair business practices” (*id.* ¶ 89); (iii) statutory damages and
4 statutory penalties; (*id.* ¶ Prayer for Relief, d); and (iv) attorneys’ fees and costs.
5 (*Id.* ¶ Prayer for Relief, f.) Plaintiff also seeks equitable, injunctive, and declaratory
6 relief. (*Id.* ¶ Prayer for Relief, c.)

7 8. Adidas disputes Plaintiff’s allegations, believes the Complaint lacks
8 merit, and denies that Plaintiff or the putative class has been harmed in any way, or
9 that the class meets the requirements of Rule 23. Adidas assumes the truth of the
10 allegations for the purposes of removal only and reserves all defenses, motions, and
11 pleas.

12 **BASIS FOR REMOVAL**

13 9. This action is within the original jurisdiction of this Court, and
14 removal is therefore proper under the Class Action Fairness Act of 2005 (“CAFA”),
15 28 U.S.C. § 1332(d), which grants district courts original jurisdiction over covered
16 class actions in which the class has more than 100 members, the parties are
17 minimally diverse, and the amount in controversy exceeds \$5,000,000. As set forth
18 below, this action satisfies each of the requirements of Section 1332(d)(2) for
19 original jurisdiction under CAFA, and may therefore be removed to this Court. *See*
20 *Ibarra v. Manheim Invs., Inc.*, 775 F.3d 1193, 1195 (9th Cir. 2015); *Bryant v. NCR*
21 *Corp.*, 284 F. Supp. 3d 1147, 1152 (S.D. Cal. 2018) (action properly removed
22 where CAFA requirements were satisfied).

23 10. **Covered Class Action.** This action meets the CAFA definition of a
24 class action: “any civil action filed under [R]ule 23 of the Federal Rules of Civil
25 Procedure or similar State statute or rule of judicial procedure.” 28 U.S.C.
26 §§ 1332(d)(1)(B), 1453(a) & (b). Here, Plaintiff filed the complaint as a class
27 action pursuant to California Code of Civil Procedure section 382 and California
28

1 Rules of Court 3.765 (*see* Compl. ¶ 31) – state statutes similar to the Rule 23. The
2 action is accordingly a covered class action.

3 **11. Class Action Consisting of More than 100 Members.** Plaintiff
4 brings this purported class action on behalf of all citizens of California “who made
5 purchases on or through Adidas.com,” and “whose personal and/or confidential
6 information was compromised” as a result of the Incident. (Compl. ¶ 31.) Plaintiff
7 alleges that “numerous Californians” were affected by the Incident, as California is
8 a “larger ‘base’ than any other U.S. state” (*id.* ¶ 15), and that, while the exact
9 number of class members is unknown to him, Plaintiff believes the class size is
10 “significant.” (*Id.* ¶ 33.) Queries show that approximately 2,700,415 individuals
11 who made purchases through adidas.com/US are California residents. (*See*
12 Declaration of Allison Kruse (“Kruse Decl.”) ¶ 4.) Plaintiff alleges that all of these
13 accounts were “compromised.” (Compl. ¶ 5.) The aggregate number of putative
14 class members is greater than 100 persons for purposes of 28 U.S.C.
15 § 1332(d)(5)(B).

16 **12. Diversity.** The required diversity of citizenship under CAFA is
17 satisfied because “any member of a class of plaintiffs is a citizen of a State different
18 from any defendant.” 28 U.S.C. § 1332(d)(2)(A). Plaintiff Christian Duke is a
19 citizen and resident of California. (Compl. ¶ 6.) adidas America, Inc. is
20 incorporated under the laws of Oregon, and its principal place of business is in
21 Oregon. (*See* Declaration of Kurt Tandan (“Tandan Decl.” ¶ 2.) As of the time of
22 removal, the citizenship of Adidas has not changed. Accordingly, a member of the
23 purported class in this case—Plaintiff Christian Duke—is a citizen of a state
24 (California) different from a defendant (Oregon), thus satisfying the diversity
25 requirements of 28 U.S.C. § 1332(d)(2)(A).

26 **13. Amount in Controversy.** Under CAFA, the claims of individual class
27 members are aggregated to determine if the amount in controversy exceeds the
28 required “sum or value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C.

1 § 1332(d)(2), (6). “A removing defendant need only include a plausible allegation
2 that the amount in controversy exceeds the jurisdictional threshold, and the
3 defendant’s amount in controversy allegation should be accepted if not contested by
4 the plaintiff or questioned by the court.” *Bryant*, 284 F. Supp. 3d at 1149 (citing
5 *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014)). If
6 the amount is contested and the complaint does not specify damages, the removing
7 defendant bears the burden of establishing the amount in controversy by a
8 “preponderance of the evidence.” *Abrego v. Dow Chem. Co.*, 443 F.3d 676, 683
9 (9th Cir. 2006). “The demonstration concerns what the plaintiff is claiming . . . not
10 whether the plaintiff is likely to win or be awarded everything he seeks.” *Brill v.*
11 *Countrywide Home Loans, Inc.*, 427 F.3d 446, 449 (7th Cir. 2005).

12 14. Without conceding any merit to the Complaint’s allegations, causes of
13 action or relief sought, the amount in controversy here satisfies this jurisdictional
14 threshold. Plaintiff seeks monetary relief in the form of: (i) compensatory and
15 punitive damages (Compl. ¶ 56); (ii) restitution and disgorgement (*id.* ¶ 89); (iii)
16 statutory damages and statutory penalties; (*id.* ¶ Prayer for Relief, d); and (iv)
17 attorneys’ fees and costs. (*Id.* ¶ Prayer for Relief, f.)

18 15. Plaintiff’s request for damages alone exceeds the \$5,000,000
19 threshold. For example, Plaintiff seeks costs associated with purchasing identity
20 theft protection services and other “remedial” measures. (*See, e.g.*, Compl. ¶ 76.)
21 The average cost of identity theft protection services across six sample plans is
22 \$17.27 per month. (*See Decl. of Alexandra Laks (“Laks Decl.”) ¶¶ 2-3, Ex. A.*)
23 Multiplying this cost for a single month across approximately 2,700,415 class
24 members exceeds \$5,000,000.

25 16. Plaintiff also demands damages for lost time associated with the “years
26 of constant surveillance of their financial and personal records, monitoring, and loss
27 of rights.” (Compl. ¶ 30.) The estimated cost of such damages exceeds the
28 \$5,000,000 threshold as well. If Plaintiff’s and putative class members’

1 “surveillance and monitoring” time is valued at the California minimum wage
2 (\$11.00 per hour),¹ and the “constant” “surveillance and monitoring” is estimated as
3 just one hour per class member, the potential amount in controversy exceeds
4 \$15 million (1 hour x \$11.00 per hour x 2,700,415 putative class members =
5 \$29,704,565).

6 17. Plaintiff also requests punitive damages in connection with his
7 negligence claim. (*See* Compl. ¶ 56.) Punitive damages are considered part of the
8 amount in controversy. *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 700-
9 701 (9th Cir. 2007) (punitive damages properly considered in amount in
10 controversy). Punitive damages may be awarded for negligence in the context of
11 data breach litigation. *Cf. In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, 313
12 F. Supp. 3d 1113, 1148-49 (N.D. Cal. 2018) (denying dismissal of punitive
13 damages claims for alleged negligence, breach of implied good faith and fair
14 dealing, and violations of the Consumer Records Act in relation to security breach).
15 Considering Plaintiff’s alleged actual or compensatory damages in connection with
16 Plaintiff’s request for punitive damages, the amount in controversy is more than
17 satisfied.

18 18. Plaintiff’s request for restitution and disgorgement “of all profits
19 accruing to Adidas because of its unlawful and unfair business practices” (Compl.
20 ¶ 89), statutory damages, and attorneys’ fees further pushes Plaintiff’s claims above
21 the \$5,000,000 threshold. *See, e.g., Gibson v. Chrysler Corp.*, 261 F.3d 927, 942-
22 43 (9th Cir. 2001) (attorneys’ fees are properly included in the amount in
23 controversy in a class action). While Adidas disputes that it is liable to Plaintiff or
24 the putative class, or that Plaintiff or the putative class suffered injury or incurred
25

27 ¹ *See* Minimum Wage, State of California Department of Industrial Relations,
28 https://www.dir.ca.gov/dlse/faq_minimumwage.htm (last accessed September 5, 2018).

1 damages in any amount, for purposes of CAFA, the matter in controversy exceeds
2 \$5 million.

3 19. **No CAFA Exclusions.** The action does not fall within any exclusion
4 to removal jurisdiction recognized by 28 U.S.C. § 1332(d) because Adidas is not a
5 citizen of the State of California, the state in which the action was filed. Because
6 no other exclusion applies, this action is removable pursuant to CAFA, 28 U.S.C.
7 §§ 1332(d) and 1453(b).

8 **DEMAND FOR JURY TRIAL**

9 20. Adidas demands trial by jury on all issues raised in this action upon
10 which a jury trial is permitted.

11 **CONCLUSION**

12 21. For all of the reasons stated above, this action is within the original
13 jurisdiction of this Court pursuant to 28 U.S.C. § 1332(d). Accordingly, this action
14 is removable pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453.

15 WHEREFORE, Defendant Adidas gives notice that the above-described
16 action pending against it in the Superior Court of the County of San Diego,
17 California, is removed to this Court.

18
19 Dated: September 7, 2018

DAVID F. MCDOWELL
ALEXANDRA E. LAKS
MORRISON & FOERSTER LLP

20
21
22 By: /s/ David F. McDowell
DAVID F. MCDOWELL

23
24 Attorneys for Defendant
ADIDAS AMERICA, INC.

25
26
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JS 44 (Rev. 06/17)

CIVIL COVER SHEET

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

<p>I. (a) PLAINTIFFS Christian Duke</p> <p>(b) County of Residence of First Listed Plaintiff <u>San Diego County</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Jeffrey R. Krinsk (109234) / Trenton R. Kashima (291405) Finkelstein & Krinsk LLP, 550 West C St., Suite 1760, San Diego, CA 92101; Tel: (619) 238-1333</p>	<p>DEFENDANTS adidas America, Inc.</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p style="text-align: right;">'18CV2081 LAB NLS</p> <p>Attorneys (If Known) David F. McDowell (125806) / Alexandra E. Laks (291861) Morrison & Foerster LLP, 707 Wilshire Blvd., Suite 6000, Los Angeles, CA 90017; Tel: (213) 892-5200</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		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 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
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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 checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<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))	<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 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	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	
<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	<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	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	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
		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		
		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. § 1332

Brief description of cause:
Purported class action arising out of alleged data security incident

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____ **JURY DEMAND:** Yes No

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

DATE: 09/07/2018 SIGNATURE OF ATTORNEY OF RECORD: s/David F. McDowell

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

EXHIBITS TO NOTICE OF REMOVAL

Ex.	Description	Page
1	Defendant adidas America, Inc.'s Notice of Filing Notice of Removal of Action to Federal Court, Case No. 37-2018-00033037-CU-BT-CTL (San Diego Super. Ct.) (without exhibits)	1
2	True and correct copies of all process, pleadings, and orders served upon Adidas in Case No. 37-2018-00033037-CU-BT-CTL (San Diego Super. Ct.)	4
3	Civil Cover Sheet	37

EXHIBIT 1

1 DAVID F. MCDOWELL (CA SBN 125806)
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9 Attorneys for Defendant
ADIDAS AMERICA, INC.

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN DIEGO

13 CHRISTIAN DUKE, on behalf of himself and
all others similarly situated,

14 Plaintiff,

15 v.

16 adidas AMERICA, INC.,

17 Defendant.
18

Case No. 37-2018-00033037-CU-BT-CTL

**DEFENDANT ADIDAS AMERICA, INC.'S
NOTICE OF FILING NOTICE OF
REMOVAL OF ACTION TO FEDERAL
COURT**

Judge: Hon. Randa Trapp
Dept.: C-70

1 TO THE CLERK OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE
2 COUNTY OF SAN DIEGO, AND TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that a Notice of Removal of this action was filed in the United
4 States District Court for the Southern District of California, on September 7, 2018, under Federal
5 Case No. _____, effectuating the removal of this action to Federal Court.

6 PLEASE TAKE FURTHER NOTICE that pursuant to 28 U.S.C. § 1446(d), the filing of
7 the Notice of Removal of Civil Action in the Federal Court, together with the filing of a copy of
8 the Notice of Removal of Civil Action with this Court, effects the removal of this action and the
9 State Court proceeding may proceed no further unless and until this action is remanded by the
10 Federal District Court. A copy of said Notice of Removal (without exhibits) is attached to this
11 Notice as Exhibit 1 and is served and filed herewith.

12
13 Dated: September 7, 2018

DAVID F. MCDOWELL
ALEXANDRA E. LAKS
MORRISON & FOERSTER LLP

14
15
16 By: 
17 DAVID F. MCDOWELL

18 Attorneys for Defendant
ADIDAS AMERICA, INC.

PROOF OF SERVICE

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California 94105-2482. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on September 7, 2018, I served a copy of:

DEFENDANT ADIDAS AMERICA, INC.’S NOTICE OF FILING NOTICE OF REMOVAL OF ACTION TO FEDERAL COURT

BY ELECTRONIC TRANSMISSION on the parties listed below through the OneLegal system.

BY U.S. MAIL [Code Civ. Proc sec. 1013(a)] by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as follows, for collection and mailing at Morrison & Foerster LLP, 425 Market Street, San Francisco, California 94105-2482 in accordance with Morrison & Foerster LLP’s ordinary business practices.

I am readily familiar with Morrison & Foerster LLP’s practice for collection and processing of correspondence for mailing with the United States Postal Service, and know that in the ordinary course of Morrison & Foerster LLP’s business practice the document(s) described above will be deposited with the United States Postal Service on the same date that it (they) is (are) placed at Morrison & Foerster LLP with postage thereon fully prepaid for collection and mailing.

Jeffrey R. Krinsk *Attorneys for Plaintiff*
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Francisco, California, this 7th day of September, 2018.

Kristin M. Marttila
(typed)


(signature)

EXHIBIT 2

EXHIBIT 2A

Duke v. adidas America, Inc.,
Case No. 37-2018-00033037-CU-BT-CTL
COMPLAINT

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

CHRISTIAN DUKE, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

adidas AMERICA, INC.,

Defendants.

Case No: 37-2018-00033037-CU-BT-CTL

CLASS ACTION COMPLAINT for:

- 1) **Negligence**
- 2) **Breach of Contract**
- 3) **Breach of Implied Contract**
- 4) **Violation of the California Customer Records Act, California Civil Code Section 1798.80, et seq.**
- 5) **Unlawful and Unfair Business Practices Under California Business and Professions Code Section 17200 et seq.**

1 Plaintiff Christian Duke (“Plaintiff” or “Duke”), individually and on behalf of the class of
2 similarly situated California citizens, alleges the following against adidas America, Inc.
3 (“Defendant” or “Adidas”) based upon personal knowledge with respect to himself and on
4 information and belief derived from, among other things, investigation of counsel and review of
5 public documents as to all other matters.

6 NATURE OF THE ACTION

7 1. Adidas is an Oregon corporation. Adidas holds itself out as a major purveyor of
8 active sportswear including apparel and footwear (i.e. “Sportswear”) that is the majority of Adidas
9 sales within California and, particularly, Sportswear sales via adidas.com/US.

10 2. Adidas is licensed by the State of California and is subject to the laws and regulations
11 including, *inter alia*, regulation through the California Attorney General’s Office and the Secretary
12 of State.

13 3. In the course of its business, Adidas collects and maintains personal, private and
14 legally protected information about its consumers that actively purchased Adidas Sportswear on its
15 adidas.com website (collectively, “members”). Adidas had and undertook a non-delegable duty to
16 maintain members’ highly personal and private information as confidential and purports to maintain
17 and follow reasonable policies and procedures to protect such information from non-consensual
18 disclosure such as hereby allowed by Adidas.

19 4. On at least June 26, 2018, Defendant publicly disclosed that hackers breached the
20 Adidas computer system(s) and accessed the contact information, user names and encrypted
21 passwords potentially other protected private information (hereinafter sometimes, “personal
22 information”).

23 5. Plaintiff is a person directly and adversely affected by Defendant’s breach and brings
24 this class action lawsuit on behalf of himself and all other current and former Adidas consumers that
25 provided protected information and who are citizens of California and whose personal information
26 has been compromised as a result of Defendant’s failure to safeguard personal information as
27 promised. Plaintiff is seeking damages, restitution, and injunctive relief requiring Adidas to
28 implement and maintain reasonable and effective security practices and procedures.

1 **PARTIES**

2 6. Plaintiff Duke is a citizen of California residing in San Diego County. Plaintiff has
3 received only elemental information about Defendant’s misconduct and received no suitable
4 information regarding protection against Defendant’s misconduct.

5 7. Defendant Adidas is a corporation duly existing under and by virtue of the laws of
6 Oregon while authorized to transact business and doing substantial in the State of California,
7 including Defendant’s conduct of business to the allegations against Defendant.

8 **JURISDICTION AND VENUE**

9 8. This Court has jurisdiction of this action under Article VI, section 10 of the California
10 Constitution and section 410.10 of the Code of Civil Procedure. Jurisdiction is also proper under the
11 California Business and Professions Code section 17200 *et seq.*

12 9. This Court has jurisdiction over Adidas because it is licensed in California, conducts
13 business in California, and is a de facto citizen of California. Defendant maintains numerous offices
14 in California and conducts significant business within California by California citizens.

15 10. Venue is proper in this Court because Plaintiff is a citizen of San Diego County, is
16 authorized to do business in California and regularly conducts business in San Diego County,
17 including not by way of limitation, business inextricable from Defendant’s conduct as described
18 herein.

19 **FACTUAL ALLEGATIONS**

20 11. Adidas recognizes that its members’ personal information is highly sensitive and that
21 it has a duty to safeguard and secure such information. Adidas’ privacy policy provides, in pertinent
22 part, the following:

23 **Protecting your Privacy**

24 adidas America, Inc. ("adidas" or "we", "us", or "our") is strongly committed to
25 protecting the privacy of your personal information collected at or in connection with
26 an adidas website. This Online Privacy Policy (the “Policy”) applies to those adidas
27 websites that display or link to this Policy (including adidas.com/us,
28 miadidas.com/us, and adidas.com and referred to in this Policy as the "Website").
This Policy applies to data collected by adidas through its Websites and services that
display these terms. It does not apply to those adidas sites, services and products that
do not display or link to this Policy or that have their own privacy policies. This
Policy describes the information we collect and how we use it. By visiting our

1 Website, you are accepting the practices described in this Policy. If you do not agree
2 to the terms of this Policy, please do not use the Website.

3 Consent to Collection and Processing

4 This Website may be operated, in whole or in part, from a country other than the
5 United States. By using our Website, you consent to having your personal
6 information transferred to and processed in a jurisdiction outside of the United States.

7 What Information about me does adidas.com collect and store?

8 Our privacy policy is simple: *Except as disclosed below, we don't sell, trade, give
9 away, or rent your personal information to any company outside of the adidas Group.
10 One of the basic principles we've tried to follow in designing this Website is to limit
11 the information we collect from and share about you.*

12 Personal Information

13 We collect and store information that you provide to our Website or our Customer
14 Service Department or that we receive from third parties (such as companies
15 providing commercially available databases). For example, when you place an order,
16 *we collect and store some or all of the following information that you provide: name,
17 billing address, shipping address, email address, telephone number, and credit card
18 number and expiration date. If you sign up for an adidas account, which allows you
19 to use the same sign-in details anywhere in the world, we will ask for your name, e-
20 mail address, date of birth and password. We will also collect the following
21 additional information, if you choose to provide it when you sign-up for an account:
22 telephone number, gender, personal preferences, social identifier if you choose to log
23 in to your account via social media and age.* (Emphasis supplied.) We collect your e-
24 mail addresses and zip code if you subscribe to our newsletter and we collect your
25 mobile number if you opt in to receive text messages. You may unsubscribe at any
26 time by following the instructions located within each newsletter or linked to each
27 text message. We also collect and store your geolocation information. Registration
28 may be required and personal information collected in certain areas of the Website in
which you specifically and knowingly provide such information, e.g. community
postings (i.e., chat or bulletin boards), suggestions, or customer service requests.
When we run a contest or sweepstakes relating to our Website, it will be accompanied
by a set of rules. The rules for each contest/sweepstakes will specify how the
information gathered from you for entry will be used and disclosed, if it is different
than as described in this Policy. Personal information will be collected only if you
voluntarily submit it to our sponsors or us.

Usage Information

* * *

How does adidas.com use your personal information?

*We may use your personal information to provide the products and services that you
have ordered or requested, to process and ship orders, to provide customer service,
to provide other services to you, and to personalize the Website, our communications
with you, and your shopping experience. For example, when you create an adidas
account, you can use your account details to log in from any location and on any
device.* (Emphasis supplied.) The global single sign-on for your account will allow
adidas systems to identify you wherever you are, so you will not need to register with
us again if you sign in from a different country. Your information also may be used to

1 contact you about sales, new products, new site features, special offers, and
2 personalized offers based on your location, unless you have opted to not receive
3 promotional communications. *The information we collect may be combined with*
4 *information obtained from companies within the adidas Group and from other*
5 *companies.* (Emphasis supplied.) We may also combine this information with other
information we collect as you interact with our brand across apps, social media and
marketing messages we send you. Aggregating data allows adidas to update and
correct the information contained in our database and to provide you with product
recommendations and special offers.

6 How does adidas.com share your personal Information?

7 adidas Group - Except as described in this Policy, *we will not disclose your personal*
8 *information outside of adidas and the adidas Group without your consent. For further*
9 *information about the companies within the adidas Group, please visit*
10 *<http://www.adidas-group.com>. When you create an adidas account, we will share*
11 *some of your account details (such as your name, email address, password and date*
12 *of birth) with other adidas Group entities so you can have a global single sign-on for*
13 *your account that will allow adidas systems to identify you wherever you are in the*
14 *world.* (Emphasis supplied.) We may also share your personal information with
other adidas Group entities if both entities are responsible for your personal
information, or if the other entities are acting as our service providers and processing
your personal information on our instructions or on our behalf. adidas Partners -
Some adidas Websites allow you to choose to share your personal information with
select adidas partners so that they can contact you about their products, services or
offers. Other sites do not share your contact information with third parties, but give
you a choice as to whether you wish to receive communications from adidas on
behalf of a business partners about its specific offer (without transferring your
personal information to the third party). Co-Branded Sites - Some adidas services are
co-branded by adidas and another company, with the privacy policy of both adidas
and the other company displayed at the website. The information you provide, such as
on registration forms, is collected by both adidas and the other company. Third-party
Service Providers - We may hire other companies to provide services on our behalf,
such as marketing, analytics, credit card processing, shipping, stocking orders,
providing customer service, and fraud protection. These service providers have access
only to such personal information needed to perform their functions and are
contractually obligated to maintain the confidentiality and security of your
information. They are restricted from using, selling, distributing or altering this data
in any way other than to provide the requested services. For example, *we will share*
15 *some of your account details (such as your name, email address, password and date*
16 *of birth) with our cloud service providers for the purposes of identification and*
17 *authentication, so you can quickly and efficiently sign-on to your adidas account from*
18 *anywhere in the world. Legal and Safety Disclosures - We may access or disclose*
19 *information about you, including the content of your communications, in order to: (a)*
20 *comply with the law or respond to lawful requests or legal process* (emphasis added);
21 (b) protect the rights or property of adidas or our customers, including the
22 enforcement of our agreements or policies governing your use of our Websites and
23 services; or (c) act on a good faith belief that such access or disclosure is necessary to
24 protect the personal safety of adidas employees, customers or the public. Corporate
25 Transactions - We may disclose personal information as part of a corporate
26 transaction such as a merger or sale of assets.

27 How does adidas.com use usage information?
28

1 We use Usage Information to help us determine how people use parts of the Website
2 and who our readers are. This allows us to improve our Website and ensure that it is
3 as appealing as we can make it for as many people as possible. We also use Usage
4 Information to provide statistical "ratings" information in aggregated form to our
5 partners and other third parties about how our users collectively use the Website. We
6 may combine Usage Information about you with other information, including
7 Personal Information, about you in order to personalize the Website and our
8 communications with you and to provide you with information likely to be of interest
9 to you.

10 What steps are taken to help secure personal information?

11 AN ATHLETE CAN'T PLAY WITHOUT CONFIDENCE, AND YOU
12 SHOULDN'T ORDER FROM A COMPANY THAT DOESN'T FOLLOW SECURE
13 DATA PRACTICES. OUR GOAL IS TO DELIVER PERFORMANCE TO YOU IN
14 EVERY WAY. THAT INCLUDES SECURITY. PERSONAL INFORMATION
15 COLLECTED AT OUR WEBSITE IS STORED IN SECURE OPERATING
16 ENVIRONMENTS THAT ARE NOT AVAILABLE TO THE PUBLIC. ONLY
17 THOSE EMPLOYEES AND SERVICE PROVIDERS WHO NEED ACCESS TO
18 PERSONAL INFORMATION IN ORDER TO DO THEIR JOBS ARE ALLOWED
19 ACCESS, EACH HAVING CONFIDENTIALITY OBLIGATIONS. TO PROTECT
20 THE SECURITY OF YOUR INFORMATION DURING TRANSMISSION, WE
21 USE SECURE SOCKETS LAYER (SSL) SOFTWARE, WHICH ENCRYPTS
22 INFORMATION YOU INPUT. FOR EXAMPLE, WHEN USING A CREDIT
23 CARD TO MAKE AN ON-LINE PURCHASE, YOUR PERSONAL
24 INFORMATION IS ENCRYPTED BEFORE YOU CONDUCT YOUR
25 TRANSACTION. MOST BROWSERS WILL GIVE A VISUAL INDICATION OF
26 WHEN YOUR CONNECTION IS SECURE. FOR EXAMPLE, INTERNET
27 EXPLORER WILL SHOW A PADLOCK ICON IN THE LOWER RIGHT OF THE
28 BROWSER WINDOW. IF YOU PLACE AN ORDER THROUGH OUR WEBSITE,
YOU WILL BE ASKED TO SET UP AN ACCOUNT AND PROVIDE AN E-MAIL
ADDRESS AND PASSWORD. IN ORDER TO HELP PROTECT YOUR
PERSONAL INFORMATION, YOU SHOULD BE CAREFUL ABOUT
PROVIDING YOUR PASSWORD TO OTHERS. IF YOU WISH TO CANCEL
YOUR ACCOUNT, OR IF YOU BECOME AWARE OF ANY LOSS, THEFT OR
UNAUTHORIZED USE OF YOUR PASSWORD, PLEASE CONTACT
CUSTOMER SERVICE. PLEASE REFER TO THE LAST SECTION OF THIS
POLICY (HOW TO CONTACT US) FOR MORE INFORMATION. WHILE WE
TRY OUR BEST TO SAFEGUARD YOUR PERSONAL INFORMATION ONCE
WE RECEIVE IT, NO TRANSMISSION OF DATA OVER THE INTERNET OR
ANY OTHER PUBLIC NETWORK CAN BE GUARANTEED TO BE 100%
SECURE. (Emphasis supplied.)

12. In addition to its storing the confidential personal information of its current consumer
membership, Adidas also stores, maintains, and shares the personal information of former members
– even years after their relationship with Adidas has ended. Indeed, preliminary reports indicate that
hackers gained access to member information dating back many years.

1 **The Data Breach**

2 13. By June 26, 2018, Adidas announced that hackers had breached its network and
3 obtained certain personal information of individuals that had purchased Adidas Sportswear through
4 the Adidas website. The information obtained by hackers included, at the least, the full names,
5 contact information, user names, and encrypted passwords.

6 14. Adidas may not have detected the unauthorized network activity until June 26, 2018
7 when Adidas discovered that individual/entities had or could use login credentials to access Adidas'
8 network.

9 15. Recent reports also indicate that numerous Californians were affected by the data
10 breach, which, according to current tallies, is significantly a larger "base" than any other U.S. state.

11 **Adidas Shared Personal Information with Companies that Failed to Maintain Suitable**
12 **Security Measures to Safeguard Members' Personal Information**

13 16. According to security experts, data theft of the kind experienced by Adidas "has
14 become a booming business."¹

15 17. On information or belief, Adidas entrusted its members' personal information while
16 failing to encrypt such information, failing to implement "multi-factor authentication" and failing to
17 employ behavior monitoring technology to promptly detect unusual activity and transfer of data.

18 18. Encryption is a way to enhance the security of a message or file by scrambling the
19 contents so that it can be read only by someone who has the right encryption key to unscramble it.
20 Encryption is "considered the most effective way to achieve data security." While encryption is not
21 necessarily a cure-all, it "could have made the personal information in this case less valuable to
22 hackers or harder to access in bulk."

23 19. In addition, based on information and belief, Adidas did not have systems in place to
24 require its employees to provide multiple layers of authentication in all areas of its computer
25 systems.

26
27 ¹ Reed Abelson and Julie Creswell, *Data Breach at Anthem May Forecast a Trend*, N.Y. Times,
28 Feb. 6, 2015, <https://www.nytimes.com/2015/02/07/business/data-breach-at-anthem-may-lead-to-others.html> (last visited July 2, 2018).

1 20. “Multi-factor authentication” adds an extra layer of protection by requiring two or
2 more of the different types of authentication before accessing secured data. For example, along with
3 the person’s username and password, the user may also be required to enter a temporary key or
4 password sent via e-mail or text message in order to gain access to the system.²

5 21. Adidas may also have failed to implement behavior analytics technology which
6 would have detected unusual transfers of large amounts of data from its computer systems. Because
7 of this, the hackers were perhaps able to navigate inside and transfer data from Adidas’ computer
8 database for a length of time until the unusual activity was finally detected. At least one expert has
9 opined that the failure to notice the “ex-filtration” of large amounts of data from its system over this
10 period of time is a “pretty shocking” situation.³

11 22. Although Adidas has received periodic warnings from enforcement sources and
12 cybersecurity experts – and observed multiple high-profile data breaches involving, for example,
13 Target Corp., The Home Depot, Inc., and JPMorgan Chase, among others – Adidas entrusted its
14 members’ personal information within a process that failed to maintain reasonable security
15 procedures or implement basic safeguards to protect personal information.

16 **Effect on Victims of Adidas’ Failure to Protect Members’ Information**

17 23. The ramifications of Adidas’ failure to protect the personal information of its
18 members are severe. Identity thieves can use the information taken in the breach to perpetrate a
19 variety of crimes that harm victims. For instance, identity thieves may commit various types of
20 government fraud such as immigration fraud, obtaining a driver’s license or identification card in the
21 victim’s name but with another’s picture, and/or using the victim’s information to obtain government
22 benefits.

23 24. Under SSA policy, individuals cannot obtain a new Social Security number if there is
24 evidence of ongoing problems due to misuse of the Social Security number. Even then, the SSA
25 recognizes that “a new number probably will not solve all your problems. This is because other

26 ² J.K. Wall, *Anthem’s IT system had cracks before hack*, Indianapolis Business Journal,
27 <https://www.ibj.com/articles/51789-anthems-it-system-had-cracks-before-hack> (last visited July 2,
28 2018).

³ *Id.*

1 governmental agencies (such as the IRS and state motor vehicle agencies) and private businesses
2 (such as banks and credit reporting companies) will have records under your old number. Along
3 with other personal information, credit reporting companies may use the number to identify your
4 credit record. So using a new number will not guarantee you a fresh start.

5 25. Identity thieves can also use a victim's confidential personal information to commit
6 any number of frauds, such as obtaining a job, procuring a house, or even giving false information to
7 police during an arrest. Personal information can be used to submit false insurance claims, obtain
8 prescription drugs or medical devices for black-market resale. As a result, Plaintiff and members of
9 the class now face an immediate risk of identity theft and other problems associated with the
10 disclosure of personal information and will need to monitor their credit for an indefinite duration.

11 26. The processes of discovering and dealing with the repercussions of identify theft are
12 time consuming and difficult. The Department of Justice's Bureau of Justice statistics found that
13 "among victims who had personal information used for fraudulent purposes, 29% spent a month or
14 more resolving problems."⁴ Likewise, credit-monitoring services are not preventative, meaning they
15 cannot catch identity theft until after it happens.

16 27. Additionally, there is commonly lag time between when harm occurs and when it is
17 discovered, and also between when personal information is stolen and when it is used. According to
18 the U.S. Government Accountability Office, which conducted a study regarding data breaches:

19 [L]aw enforcement officials told us that in some cases, stolen data may be held for up
20 to a year or more before being used to commit identity theft. Further, once stolen
21 data have been sold or posted on the Web, fraudulent use of that information may
22 continue for years. As a result, studies that attempt to measure the harm resulting
23 from data breaches cannot necessarily rule out all future harm.

24 28. There is a strong probability that Plaintiff and the Class could be at risk of fraud and
25 identity theft for extended periods of time.

26 29. Additionally, the FBI has recently been investigating "fraudulent tax returns filed in
27 several states through the popular software [Intuit] TurboTax, the latest instance of creative tricks

28 ⁴ Erika Harrell and Lynn Langton, *Victims of Identity Theft*, 2012 (Bureau of Justice Statistics),
Dec. 2013 <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=4911> (last visited July 2, 2018).

1 cybercriminals are using to profit from stolen data.”⁵ Indeed, TurboTax had to temporarily suspend
2 electronic filings of state tax returns “after spotting an uptick in people using stolen personal
3 information to file fraudulent returns and claim tax refunds.”⁶

4 30. As a result of Defendant’s negligent security practices and delay in notifying affected
5 customers, Plaintiff and other similarly situated former Adidas customers now face years of constant
6 surveillance of their financial and personal records, monitoring, and loss of rights. Plaintiff and
7 members of the class (defined below) are subject to an increased and concrete risk of identity theft as
8 a direct result of Defendant’s exposure of their confidential personal information.

9 **CLASS ACTION ALLEGATIONS**

10 31. Pursuant to California Code of Civil Procedure section 382 and California Rules of
11 Court 3.765, Plaintiff seeks certification of the following class of individuals.

12 All current and former consumers who made purchases on or through Adidas.com
13 who are California citizens and whose personal and/or confidential information was
14 compromised as a result of the data breach announced by Adidas on or about June 28,
2018.

15 32. Excluded from the Class is Adidas, including any entity in which Adidas has a
16 controlling interest, is a parent or subsidiary, or which is controlled by Adidas, as well as the
17 officers, directors, affiliates, legal representatives, heirs, predecessors, successors, and assigns of
18 Adidas. Also excluded are the judges and court personnel in this case and members of their
immediate families.

19 33. The members of the class are so numerous that the joinder of all members is
20 impractical. While the exact number of class members is unknown to Plaintiff at this time, based on
21 the information and belief, it is significant.

22 34. There are questions of law and fact common to the classes, which predominate over
23 any questions affecting only individual class members. These common questions of law and fact,
24 include without limitation:
25

26 ⁵ Shan Li, *FBI probes rash of fraudulent state tax returns filed through TurboTax*, LA Times,
27 Feb. 11, 2015 <http://www.latimes.com/business/la-fi-turbotax-fbi-20150212-story.html> (last visited
28 July 2, 2018).

⁶ *Id.*

- 1 (a) Whether Adidas owed a duty to Plaintiff and members of the class to adequately
- 2 protect their personal information and to provide timely and accurate notice of the
- 3 data breach to Plaintiff and members of the class;
- 4 (b) Whether Adidas knew or should have known that its computer systems and related
- 5 products were vulnerable to attack;
- 6 (c) Whether Adidas' conduct, including its entrustment of the personal information of
- 7 Plaintiff and the class to Adidas, resulted in or was a proximate cause of the breach of
- 8 its systems, resulting in the loss of many consumers' personal information;
- 9 (d) Whether Plaintiff and members of the class suffered injury, including ascertainable
- 10 losses, as a result of Adidas' conduct including negligent entrustment and failure to
- 11 act;
- 12 (e) Whether Adidas' storage, protection, and sharing protocols were reasonable under
- 13 industry standards;
- 14 (f) Whether Adidas violated California Civil Code section 1798.81.5 by failing to
- 15 implement reasonable security procedures and practices;
- 16 (g) Whether Adidas violated California Civil Code section 1798.82 by failing to
- 17 promptly notify class members that their personal information had been
- 18 compromised;
- 19 (h) Whether Plaintiff and members of the class may obtain injunctive relief against
- 20 Adidas under Civil Code section 1798.84 and under California's Unfair Competition
- 21 Law, Cal. Bus. and Prof. Code. section 17200, *et seq.*;
- 22 (i) Whether Plaintiff and members of the class are entitled to recover damages and/or
- 23 statutory damages;
- 24 (j) Whether Plaintiff and members of the class are entitled to equitable relief, including
- 25 injunctive relief, restitution, disgorgement and/or other equitable relief.

26 35. All members of the proposed class are readily ascertainable by objective criteria.
27 Adidas has access to addresses and other contact information of members of the class, which can be
28 used for providing notice to many class members.

1 36. Adidas' liability can be determined by facts common to all members of the class.

2 37. Plaintiff's claims are typical of those of other class members because Plaintiff's
3 information, like that of other members of the class, was misused and/or disclosed by Defendant and
4 requires responsive efforts.

5 38. Plaintiff will fairly and adequately represent and protect the interests of the members
6 of the class. Plaintiff's counsel is competent and experienced in litigating class actions.

7 39. A class action is superior to other available methods for the fair and efficient
8 adjudication of this controversy since joinder of all members is impracticable. Furthermore,
9 adjudication of this controversy through a class action will avoid the possibility of inconsistent and
10 potentially conflicting adjudication of the asserted claims. There will be no difficulty in the
11 management of this action as a class action.

12 40. Damages for any individual class members may be insufficient to justify the cost of
13 individual litigation, so that in the absence of class treatment, Adidas' violations of law inflicting
14 substantial damages in the aggregate would go un-remedied without certification of the Class.

15 41. Class certification is appropriate because Adidas has acted or has refused to act on
16 grounds generally applicable to the class, so that final injunctive relief or corresponding declaratory
17 relief is appropriate as to the class as a whole.

18 **FIRST CAUSE OF ACTION**
19 **Negligence**
20 **(On Behalf of Plaintiff and the Class)**

21 42. Plaintiff incorporates by reference all preceding paragraphs as if fully set forth herein.

22 43. In collecting the Personal Information of its current and former users/customers,
23 Adidas owed Plaintiff and members of the Class a duty to exercise reasonable care in safeguarding
24 and protecting that information. This duty included, among other things, maintaining and testing the
25 security systems of any entities who were granted access to the Personal Information of its members
26 prior to sharing such information and taking other reasonable security measures to protect and
27 adequately secure the personal data of Plaintiff and the Class from unauthorized access and use.
28 Adidas' security system and procedures for handling the Personal Information of its members were

1 intended to affect Plaintiff and members of the Class. Adidas was aware that by taking such sensitive
2 Personal Information of its members, it had a responsibility to take reasonable security measures to
3 protect the data from being stolen and, in the event of theft, easily accessed.

4 44. The duty Adidas owed to Plaintiff and members of the Class to protect their Personal
5 Information is also underscored by the Adidas response, which recognize the importance of
6 maintaining the confidentiality of Personal Information and were established to protect individuals
7 from the improper disclosure of their Personal Information.

8 45. Additionally, Adidas had a duty to timely disclose to Plaintiff and members of the
9 Class that their personal information had been or was reasonably believed to have been
10 compromised. Timely disclosure is appropriate so that Plaintiff and members of the Class could,
11 among other things, report the theft of sensitive numbers to the Internal Revenue Service, monitor
12 their credit reports for identity fraud, undertake appropriate measures to avoid unauthorized charges
13 on their debit card or credit card accounts, and change or cancel their debit or credit card PINS
14 (personal identification numbers) to prevent or mitigate the risk of fraudulent cash withdrawals or
15 unauthorized transactions.

16 46. There is a close causal connection between Adidas' failure to take reasonable security
17 standards to protect its current and former members' Personal Information and the injury to Plaintiff
18 and members of the Class. When individuals have their Personal Information stolen, they are placed
19 at risk for identity theft, and immediately need credit monitoring services and purchase credit reports
20 to determine whether identify theft has occurred.

21 47. Adidas is morally to blame for not protecting the data of its members by failing to
22 take reasonable security measures. If Adidas had taken reasonable security measures in the storage
23 and sharing of its members' Personal Information, data thieves would not have been able to access
24 the Personal Information of Plaintiff and members of the Class.

25 48. The policy of preventing future harm weighs in favor of finding a special relationship
26 between Adidas and members of the Class. Adidas' members rely on Adidas' written representation
27 to keep their Personal Information safe. Indeed, Plaintiff and members of the Class are in fact are
28 required to share their Personal Information with Adidas to make purchases. If companies like

1 Adidas are not held accountable for failing to take reasonable security measures to protect their
2 customers' Personal Information and ensure that companies with which it shares such information do
3 the same, then they will not take the steps that are necessary to protect against future cyber-attacks
4 and data breaches.

5 49. It was foreseeable that if Adidas did not take better and/or more reasonable measures
6 to ensure that the companies with which it shared its members' Personal Information did not enact
7 and maintain reasonable safeguards to protect such information, that the Personal Information of
8 Plaintiff and members of the Class would be stolen. Major companies, like Adidas, face a higher
9 threat of security breaches than other companies, due in part to the large amounts and type of data
10 they possess and the value of such information on the black market. Adidas should have known to
11 take precautions to secure its members' Personal Information and ensure that the companies with
12 which it shares such information do the same, especially in light of recent data breaches and
13 extensive warnings regarding cyberattacks and network vulnerability in the industry.

14 50. Adidas breached its duty to exercise reasonable care in protecting the Personal
15 Information of Plaintiff and the Class by seemingly failing to ensure that the companies with which
16 it shared members' Personal Information implemented and maintained adequate security measures to
17 safeguard such information, including encryption, implementation of multi-factor authentication, and
18 usage of behavior monitoring technology to detect unusual activity and transfers of data.

19 51. Adidas further breached its duty to immediately notify Plaintiff and members of the
20 Class about the data breach.

21 52. But for Adidas' failure to ensure that the companies with which it shared members'
22 Personal Information implemented and maintained adequate security measures to safeguard such
23 information, including encryption, implementation of multi-factor authentication, and usage of
24 behavior monitoring technology to detect unusual activity and transfers of data, the Personal
25 Information of Plaintiff and members of the Class would not have been stolen, and they would not
26 be at a heightened risk of identity theft for the future.

27 53. Adidas' negligence was a substantial factor in causing harm to Plaintiff and members
28 of the Class.

1 implemented and maintained adequate security measures to safeguard such information, including
2 encryption, implementation of multi-factor authentication, and usage of behavior monitoring
3 technology to detect unusual activity and transfers of data.

4 68. The damages sustained by Plaintiff and members of the class as described herein
5 were the direct and proximate result of Adidas' breaches of its implied contracts. Indeed, Plaintiff
6 and members of the Class have been damaged by Adidas' breach of its implied contractual
7 obligations because their Personal Information has been compromised and they are at an increased
8 risk for future identity theft and fraudulent activity on their accounts. Plaintiff and members of the
9 Class have been deprived of the value of their Personal Information and have lost money and
10 property as a result of Adidas' unlawful and unfair conduct.

11 69. Plaintiff, individually and on behalf of the Class, seeks (a) damages suffered by
12 members of the Class, (b) equitable relief, and (c) injunctive relief requiring Adidas to implement
13 safeguards consistent with its contractual promises.

14 **FOURTH CAUSE OF ACTION**
15 **Violation of the California Customer Records Act**
16 **California Civil Code Section 1798.80 *et seq.***
17 **(On Behalf of Plaintiff and the Class)**

18 70. Plaintiff incorporates by reference all preceding paragraphs as if fully set forth
19 herein.

20 71. The California Legislature enacted Civil Code section 1798.81.5 "to ensure that
21 personal information about California residents is protected." The statute requires that any business
22 that "owns or licenses personal information about a California resident shall implement and maintain
23 reasonable security procedures and practices appropriate to the nature of the information, to protect
24 the personal information from unauthorized access, destruction, use, modification, or disclosure."
25 Cal. Civil Code § 1798.81.5(b).

26 72. Likewise, "[a] person or business that conducts business in California, and that owns
27 or licenses computerized data that includes personal information, shall disclose a breach of the
28 security of the system following discovery or notification of the breach in the security of the data to
a resident of California whose unencrypted personal information was, or is reasonably believed to

1 have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient
2 time possible and without unreasonable delay[.]" Cal. Civil Code § 17982(a).

3 73. "Personal information" is defined by the statute as "any information that identifies,
4 relates to, describes, or is capable of being associated with, a particular individual, including, but not
5 limited to, his or her name, signature, social security number, physical characteristics or description,
6 address, telephone number, passport number, driver's license or state identification card number,
7 insurance policy number, education, employment, employment history, bank account number, credit
8 card number, debit card number, or any other financial information, medical information, or health
9 insurance information." Cal. Civil Code § 1798.80(e). "Personal information" under Civil Code
10 section 1798.81.5(d)(1)(A) also includes "an individual's first name or first initial and his or her last
11 name in combination with" the individual's social security number.

12 74. Adidas is a "business" within the meaning of Civil Code section 1798.80(a). Plaintiff
13 and members of the Class are "individual[s]" within the meaning of the Civil Code section
14 1798.80(d).

15 75. Adidas violated sections 1798.81.5(b) and 17982(a) of the California Customer
16 Records Act by (1) failing to implement security measures designed to prevent this attack even
17 though the industry has been repeatedly warned about the risk of cyber-attacks; (2) failing to ensure
18 that the companies with which it shared members' Personal Information implemented and
19 maintained adequate security measures to safeguard such information, including encryption,
20 implementation of multi-factor authentication, and usage of behavior monitoring technology to
21 detect unusual activity and transfers of data; and (3) failing to promptly notify all affected former
22 and current members that their personal information had been acquired (or was reasonably believed
23 to have been acquired) by unauthorized persons in the data breach.

24 76. In addition to the other harm set forth herein, Adidas' failure to timely notify
25 members of the breach has caused damage to Plaintiff and the Class who have had to buy theft
26 identity protection services or take other measures to remediate the breach caused by Adidas'
27 negligence.

28

1 77. By violating Civil Code sections 1798.81.5 and 1798.82, Adidas "may be enjoined"
2 under Civil Code section 1798.84(e).

3 78. Accordingly, Plaintiff requests that the Court enter an injunction requiring Adidas to
4 implement and maintain reasonable security procedures to protect employees' and members' data in
5 compliance with the California Customer Records Act, including, but not limited to: 1) ordering that
6 Adidas, consistent with industry standard practices, engage third party security auditors/penetration
7 testers as well as internal security personnel to conduct testing, including simulated attacks,
8 penetration tests, and audits on Adidas' systems on a periodic basis; (2) ordering that Adidas engage
9 third party security auditors and internal personnel, consistent with industry standard practices, to
10 run automated security monitoring; (3) ordering that Adidas audit, test, and train its security
11 personnel regarding any new or modified procedures; (4) ordering that Adidas, consistent with
12 industry standard practices, conduct regular database scanning and securing checks; (5) ordering that
13 Adidas, consistent with industry standard practices, periodically conduct internal training and
14 education to internal security personnel how to identify and contain a breach when it occurs and
15 what to do in response to a breach; (6) ordering Adidas to meaningfully educate its members and
16 employees about the threats they face as a result of the loss of their personal information to third
17 parties, as well as the steps they must take to protect themselves; and (7) ordering Adidas to ensure
18 that the companies with which it shares members' Personal Information implement and maintain
19 adequate security measures to safeguard members' Personal Information, including the measures
20 outlined above, as well as the use of encryption to protect members' Personal Information,
21 implementation of multi-factor authentication to access such information, and implementation of
22 behavior monitoring technology to detect unusual activity and transfers of data, prior to sharing such
23 information.

24 79. Plaintiff further requests that the Court require Adidas to (1) identify and notify all
25 members of the Class who have not yet been informed of the data breach; and (2) to notify affected
26 customers of any future data breaches by email within 24 hours of Adidas' discovery of a breach or
27 possible breach and by mail within 72 hours.

1 public policy as reflected in statutes such as the Information Practices Act of 1977 and Cal. Civ.
2 Code § 1798, *et seq.* which seek to protect customer data and ensure that entities who solicit or are
3 entrusted with personal data utilize reasonable security measures.

4 86. In failing to protect members' Personal Information (and unduly delaying informing
5 them of the data breach), Adidas has engaged in unfair business practices by engaging in conduct
6 that undermines or violates the stated policies underlying the California Customer Records Act and
7 the Information Practices Act of 1977. In enacting the California Customer Records Act, the
8 Legislature stated that: "[i]dentity theft is costly to the marketplace and to consumers" and that
9 "victims of identity theft must act quickly to minimize the damage; therefore expeditious notification
10 of possible misuse of a person's personal information is imperative." 2002 Cal. Legis. Serv. Ch. 1054
11 (A.B. 700). Adidas' conduct also undermines California public policy as reflected in other statutes
12 such as the Information Practices Act of 1977, Cal. Civ. Code § 1798, *et seq.*, which seeks to protect
13 individuals' data and ensure that entities who solicit or are entrusted with personal data utilize
14 reasonable security measures.

15 87. As a direct and proximate result of Adidas' unlawful and unfair business practices as
16 alleged herein, Plaintiff and members of the Class have suffered injury in fact. Plaintiff and members
17 of the Class have been injured in that their Personal Information has been compromised and they are
18 at an increased risk for future identity theft and fraudulent activity on their financial accounts.
19 Members of the Class have also lost money and property by purchasing credit-monitoring set-vices
20 they would not otherwise had to but for Adidas' unlawful and unfair conduct.

21 88. As a direct and proximate result of Adidas' unlawful and unfair business practices as
22 alleged herein, Plaintiff and members of the Class face an increased risk of identity theft and medical
23 fraud, based on the theft and disclosure of their Personal Information.

24 89. Because of Adidas' unfair and unlawful business practices, Plaintiff and members of
25 the Class are entitled to relief, including restitution for costs incurred associated with the data breach
26 and disgorgement of all profits accruing to Adidas because of its unlawful and unfair business
27 practices, declaratory relief, and a permanent injunction enjoining Adidas from its unlawful and
28 unfair practices.

1 c. That the Court award Plaintiff and members of the Class equitable, injunctive and
2 declaratory relief as maybe appropriate under applicable law set forth above;

3 d. That the Court award Plaintiff and members of the Class actual damages,
4 compensatory damages, statutory damages, and statutory penalties, to the full extent permitted by
5 law, in an amount to be determined;

6 e. That the Court award Plaintiff and members of the Class pre-judgment and post-
7 judgment interest;

8 f. That the Court award Plaintiff and members of the Class reasonable attorneys' fees
9 and costs as allowable by law; and

10 g. That the Court award Plaintiff and members of the Class such other, favorable relief
11 as allowable under law or at equity.

12 **JURY DEMAND**

13 Plaintiff demands a trial by jury on all issues so triable.

14
15 Respectfully submitted,

16 FINKELSTEIN & KRINSK LLP

17
18 Dated: July 3, 2018

19 By: s/ Jeffrey R. Krinsk
20 Jeffrey R. Krinsk, Esq. (SBN 109234)
jrk@classactionlaw.com
21 Trenton R. Kashima, Esq. (SBN 291405)
22 trk@classactionlaw.com
23 550 West C Street, Ste. 1760
San Diego, California 92101
24 Telephone: (619) 238-1333
25 Facsimile: (619) 238-5425

26 *Attorneys for Plaintiff*

EXHIBIT 2B

Duke v. adidas America, Inc.,
Case No. 37-2018-00033037-CU-BT-CTL
SUMMONS

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**
adidas AMERICA, INC.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

07/03/2018 at 03:12:07 PM
Clerk of the Superior Court
By Jacqueline J. Walters, Deputy Clerk

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
CHRISTIAN DUKE, on behalf of himself and all others similarly
situated

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): San Diego Superior Court
330 W. Broadway, San Diego, CA 92101
Hall of Justice

CASE NUMBER:
(Número del Caso): 37-2018-00033037-CU-BT-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Finkelstein & Krinsk LLP, Jeffrey Krinsk, 550 W. C St., #1760, SD, CA 92101 (619) 238-1333

DATE: 07/05/2018
(Fecha)

Clerk, by J. Walters Deputy
(Secretario) J. Walters (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación usa el formulario Proof of Service of Summons, (POS-010)).



- NOTICE TO THE PERSON SERVED:** You are served
- as an individual defendant.
 - as the person sued under the fictitious name of (specify):
 - on behalf of (specify): adidas America, Inc.
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
 - by personal delivery on (date):

EXHIBIT 2C

Duke v. adidas America, Inc.,
Case No. 37-2018-00033037-CU-BT-CTL
CIVIL CASE COVER SHEET

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Finkelstein & Krinsk LLP Jeffrey R. Krinsk (109234)/Trenton R. Kashima (291405) 550 West C Street, Suite 1760, San Diego, CA 92101 San Diego, CA 92101 TELEPHONE NO.: (619) 238-1333 FAX NO.: (619) 238-5425 ATTORNEY FOR (Name): Plaintiff Christian Duke	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 07/03/2018 at 03:12:07 PM Clerk of the Superior Court By Jacqueline J. Walters, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 W. Broadway MAILING ADDRESS: 330 W. Broadway CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Hall of Justice	
CASE NAME: Christian Duke v. adidas America, Inc.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
	CASE NUMBER: 37-2018-00033037-CU-BT-CTL JUDGE: Judge Randa Trapp DEPT:

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

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

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

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 5: Negligence, Breach of Contract, Viol. Cal. Civ. Code/Bus. & Prof. Code

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

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

Date: July 3, 2018
 Jeffrey R. Krinsk

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

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

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

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

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

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

CASE TYPES AND EXAMPLES

Auto Tort

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

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

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

Non-PI/PD/WD (Other) Tort

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

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

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

Real Property

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

Unlawful Detainer

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

Judicial Review

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

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

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

Miscellaneous Civil Complaint

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

Miscellaneous Civil Petition

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

EXHIBIT 2D

Duke v. adidas America, Inc.,

Case No. 37-2018-00033037-CU-BT-CTL

**PROOF OF SERVICE OF
SUMMONS & COMPLAINT**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) Jeffrey R. Krinsk, Esq. SBN: 109234 FINKELSTEIN & KRINSK 550 West C Street Suite 1760 San Diego, CA 92101 TELEPHONE NO.: (619) 238-1333 FAX NO. (619) 238-5425 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): :	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 08/22/2018 at 10:39:00 AM Clerk of the Superior Court By E-Filing Deputy Clerk
SAN DIEGO/SAN DIEGO SUPERIOR COURT STREET ADDRESS: 330 W. BROADWAY CITY AND ZIP CODE: SAN DIEGO, CA 92101-3409 BRANCH NAME: CENTRAL DIVISION	CASE NUMBER: 37-2018-00033037-CU-BT-CTL
PLAINTIFF/PETITIONER: Chrstian Duke, etal. DEFENDANT/RESPONDENT: adidas America, Inc.	Ref. No. or File No.: Duke v Adidas
PROOF OF SERVICE OF SUMMONS	

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. summons
 - b. complaint
 - c. Alternative Dispute Resolution (ADR) package
 - d. Civil Case Cover Sheet
 - e. cross-complaint
 - f. other (specify documents): **Notice of Case Assignment and Case Management Conference on Mandatory eFile Case**
3. a. Party served (specify name of party as shown on documents served):
adidas America, Inc.
 - b. Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
DWT California ,Inc., as Agent for Service - by leaving with Travis Parker, Authorized to Accept
4. Address where the party was served: **865 S Figueroa St Ste 2400**
Los Angeles, CA 90017-2566
5. I served the party (check proper box)
 - a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **8/8/2018** (2) at (time): **1:20 PM**
 - b. **by substituted service.** On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3b):
 - (1) **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., §415.20). I mailed the documents on (date): from (city): or a declaration of mailing is attached.
 - (5) I attach a **declaration of diligence** stating actions taken first to attempt personal service.

PETITIONER: Chrstian Duke, etal. RESPONDENT: adidas America, Inc.	CASE NUMBER: 37-2018-00033037-CU-BT-CTL
--	--

- c. by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): _____ (2) from (city): _____
- (3) with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4) to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. by other means (specify means of service and authorizing code section):

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. as an individual defendant.
- b. as the person sued under the fictitious name of (specify):
- c. as occupant.
- d. On behalf of (specify): **adidas America, Inc.**
under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation)
<input type="checkbox"/> 416.20 (defunct corporation)
<input type="checkbox"/> 416.30 (joint stock company/association)
<input type="checkbox"/> 416.40 (association or partnership)
<input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.95 (business organization, form unknown)
<input type="checkbox"/> 416.60 (minor)
<input type="checkbox"/> 416.70 (ward or conservatee)
<input type="checkbox"/> 416.90 (authorized person)
<input type="checkbox"/> 415.46 (occupant)
<input type="checkbox"/> other: |
|---|---|

7. Person who served papers

- a. Name: **Jose Martinez - Nationwide Legal, LLC REG: 12-234648**
- b. Address: **110 West C. St, Suite 1211 San Diego, CA 92101**
- c. Telephone number: **(619) 232-7500**
- d. The fee for service was: **\$ 280.00**
- e. I am:

- (1) not a registered California process server.
- (2) exempt from registration under Business and Professions Code section 22350(b).
- (3) registered California process server:
- (i) owner employee independent contractor.
- (ii) Registration No.: **2013119507**
- (iii) County: **Los Angeles**

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
or

9. I am a California sheriff or marshal and I certify that the foregoing is true and correct.


Date: **8/8/2018**



Nationwide Legal, LLC
110 West C. St, Suite 1211
San Diego, CA 92101
(619) 232-7500
www.nationwideasap.com

Jose Martinez

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) Jeffrey R. Krinsk, Esq. SBN: 109234 FINKELSTEIN & KRINSK 550 West C Street Suite 1760 San Diego, CA 92101 TELEPHONE NO.: (619) 238-1333 FAX NO.: (619) 238-5425 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FOR COURT USE ONLY	
SAN DIEGO/SAN DIEGO SUPERIOR COURT STREET ADDRESS: 330 W. BROADWAY CITY AND ZIP CODE: SAN DIEGO, CA 92101-3409		REFERENCE NUMBER: Duke v Adidas	
PLAINTIFF: Chrstian Duke, etal. DEFENDANT: adidas America, Inc.			
DECLARATION OF DILIGENCE		CASE NUMBER: 37-2018-00033037-CU-BT-CTL	

I received the within assignment for filing and/or service on July 05, 2018 and that after due and diligent effort I have not been able to serve said person. I attempted service on this servee on the following dates and times:

Servee: **adidas America, Inc.**

Documents: **Summons; Complaint; Alternative Dispute (ADR) package; Civil Case Cover Sheet; Notice of Case Assignment and Case Management Conference on Mandatory eFile Case;**

Address: **865 S Figueroa St Ste 2400
Los Angeles, CA 900172566**

As enumerated below:

7/6/2018 -- 1:30 PM 865 S Figueroa St Ste 2400
Business Los Angeles, CA 900172566

Server arrived at the location and security had to call up to grant access. At 1:35PM, they called back and said the people that would be authorized to accept anything are not in and to try another time. Building security explained to the server that they are extremely paranoid most of the time, and turn people away.

7/9/2018 -- 1:00 PM 865 S Figueroa St Ste 2400
Business Los Angeles, CA 900172566

Receptionist at lobby couldn't allow server access upstairs after being denied by the receptionist

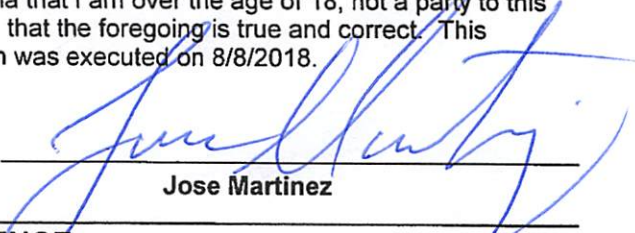
7/11/2018 -- 2:12 PM 865 S Figueroa St Ste 2400
Business Los Angeles, CA 900172566

Per receptionist at lobby, she won't allow server up since "the authorized people are not in the office".



County: **Los Angeles**
 Registration No.: **2013119507**
Nationwide Legal, LLC
110 West C. St, Suite 1211
San Diego, CA 92101

I declare under penalty of perjury under the laws of the State of California that I am over the age of 18, not a party to this action and that the foregoing is true and correct. This declaration was executed on 8/8/2018.

Signature: 
Jose Martinez

DECLARATION OF DILIGENCE

EXHIBIT 3

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS: Christian Duke; (b) County of Residence of First Listed Plaintiff: San Diego County; (c) Attorneys: Jeffrey R. Krinsk (109234) / Trenton R. Kashima (291405) / Finkelstein & Krinsk LLP, 550 West C St., Suite 1760, San Diego, CA 92101; Tel: (619) 238-1333. DEFENDANTS: adidas America, Inc.; County of Residence of First Listed Defendant: (IN U.S. PLAINTIFF CASES ONLY); NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.; Attorneys (If Known): David F. McDowell (125806) / Alexandra E. Laks (291861) / Morrison & Foerster LLP, 707 Wilshire Blvd., Suite 6000, Los Angeles, CA 90017; Tel: (213) 892-5200.

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): Citizen of This State (PTF DEF 1 1), Citizen of Another State (PTF DEF 2 2), Citizen or Subject of a Foreign Country (PTF DEF 3 3), Incorporated or Principal Place of Business In This State (PTF DEF 4 4), Incorporated and Principal Place of Business In Another State (PTF DEF 5 5), Foreign Nation (PTF DEF 6 6).

IV. NATURE OF SUIT (Place an "X" in One Box Only): CONTRACT (110-196), REAL PROPERTY (210-290), CIVIL RIGHTS (440-448), PRISONER PETITIONS (Habeas Corpus, 463-560), LABOR (710-751), IMMIGRATION (462-465), FORFEITURE/PENALTY (625-690), LABOR (710-751), IMMIGRATION (462-465), BANKRUPTCY (422-423), SOCIAL SECURITY (861-865), FEDERAL TAX SUITS (870-871), OTHER STATUTES (375-950).

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. § 1332. Brief description of cause: Purported class action arising out of alleged data security incident.

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

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

DATE: 09/07/2018 SIGNATURE OF ATTORNEY OF RECORD: s/David F. McDowell

FOR OFFICE USE ONLY: RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

1 DAVID F. MCDOWELL (CA SBN 125806)
DMcDowell@mofocom
2 MORRISON & FOERSTER LLP
707 Wilshire Boulevard
3 Los Angeles, California 90017-3543
Telephone: 213.892-5200
4 Facsimile: 213.892-5454

5 ALEXANDRA E. LAKS (CA SBN 291861)
ALaks@mofocom
6 MORRISON & FOERSTER LLP
425 Market Street
7 San Francisco, CA 94105-2482
Telephone: 415.268-7000
8 Facsimile: 415.268-7522

9 Attorneys for Defendant
ADIDAS AMERICA, INC.

10
11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13
14 CHRISTIAN DUKE, on behalf of
himself and all others similarly situated,

15 Plaintiff,

16 v.

17 adidas AMERICA, INC.,

18 Defendant.
19

Case No. **'18CV2081 LAB NLS**

**DECLARATION OF ALLISON
KRUSE IN SUPPORT OF ADIDAS
AMERICA, INC.'S NOTICE OF
REMOVAL OF ACTION TO
FEDERAL COURT**

Complaint Filed: July 3, 2018

1 I, Allison Kruse, declare:

2 1. I am a Senior Manager of Business Analytics at adidas America, Inc.,
3 (“Adidas”). The facts contained in this Declaration are personally known to me in
4 that capacity. I make this declaration in support of Adidas’ Notice of Removal of
5 Action to Federal Court.

6 2. In my role as Senior Manager of Business Analytics, I am a member of
7 Adidas’ eCommerce team. In the ordinary course of business, the eCommerce
8 team analyzes account information on Adidas’ website, adidas.com/US, to support
9 Adidas’ business initiatives.

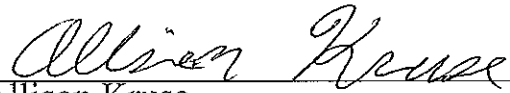
10 3. As a member of the eCommerce team, I have access to customer
11 account information on adidas.com/US which, among other things, can be queried
12 by geographic location (i.e. the state of the consumer associated with the account
13 that made a purchase through adidas.com/US). The data is maintained by Adidas in
14 the ordinary course of business in its Single Consumer View database. I am
15 familiar with that database and understand how queries are run in it as a result of
16 my position as Senior Manager of Business Analytics.

17 4. On or about September 4, 2018, I requested that a member of the
18 Digital Analytics team query the Single Consumer View database to determine the
19 number of adidas.com/US consumers who are California residents. The results of
20 that query show that approximately 2,700,415 adidas.com/US consumers are
21 California residents.

22 I declare under penalty of perjury under the laws of the State of California
23 that the foregoing is true and correct.

24 Executed this 6th of September 2018, in Portland, Oregon.

25
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27
28


Allison Kruse

1 DAVID F. MCDOWELL (CA SBN 125806)
DMcDowell@mofo.com
2 MORRISON & FOERSTER LLP
707 Wilshire Boulevard
3 Los Angeles, California 90017-3543
Telephone: 213.892-5200
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425 Market Street
7 San Francisco, CA 94105-2482
Telephone: 415.268-7000
8 Facsimile: 415.268-7522

9 Attorneys for Defendant
ADIDAS AMERICA, INC.
10

11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

14 CHRISTIAN DUKE, on behalf of
himself and all others similarly situated,

15 Plaintiff,

16 v.

17 adidas AMERICA, INC.,

18 Defendant.
19

Case No. '18CV2081 LAB NLS

**DECLARATION OF KURT
TANDAN IN SUPPORT OF
ADIDAS AMERICA, INC.'S
NOTICE OF REMOVAL OF
ACTION TO FEDERAL COURT**

Complaint Filed: July 3, 2018

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1 I, Kurt Tandan, declare:

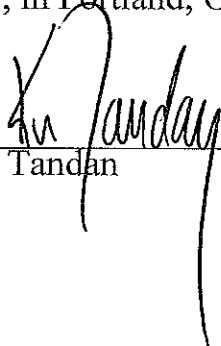
2 1. I am the Associate General Counsel at adidas America, Inc.,
3 (“Adidas”). The facts contained in this Declaration are personally known to me in
4 that capacity. I make this declaration in support of Adidas’ Notice of Removal of
5 Action to Federal Court.

6 2. In my role as Associate General Counsel, I am familiar with Adidas’
7 books and records. Adidas is incorporated under the laws of Oregon. Adidas’
8 principal place of business is in Oregon, where its corporate offices are located and
9 where its core executive and administrative functions are primarily carried out.

10 I declare under penalty of perjury under the laws of the State of California
11 that the foregoing is true and correct.

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Executed this 5th of September, 2018, in Portland, Oregon.


Kurt Tandan

1 DAVID F. MCDOWELL (CA SBN 125806)
DMcDowell@mofocom
2 MORRISON & FOERSTER LLP
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3 Los Angeles, California 90017-3543
Telephone: 213.892-5200
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Telephone: 415.268-7000
8 Facsimile: 415.268-7522

9 Attorneys for Defendant
ADIDAS AMERICA, INC.

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

CHRISTIAN DUKE, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

adidas AMERICA, INC.,

Defendant.

Case No. _____

**DECLARATION OF ALEXANDRA
E. LAKS IN SUPPORT OF ADIDAS
AMERICA, INC.'S NOTICE OF
REMOVAL OF ACTION TO
FEDERAL COURT**

Complaint Filed: July 3, 2018

1 I, Alexandra E. Laks, declare:

2 1. I am a member of the California State Bar and an Associate in the law
3 firm of Morrison & Foerster, LLP, attorneys for Defendant adidas America, Inc.,
4 (“Adidas”). The facts contained in this Declaration are personally known to me in
5 that capacity. I make this declaration in support of Adidas’ Notice of Removal of
6 Action to Federal Court.

7 2. Attached as **Exhibit A** to this declaration is a true and correct copy of
8 website comparing six identity theft protection plans, including the cost of such
9 plans. I accessed this website on September 6, 2018 at
10 https://www.nextadvisor.com/identity_theft_protection_services/compare.php.

11 3. The cost of the identity theft protection plans range from \$27.42 per
12 month to \$14.99 per month. The average cost is \$17.27 per month.

13 I declare under penalty of perjury under the laws of the State of California
14 that the foregoing is true and correct.

15 Executed on this 6th day of September, 2018, in San Francisco, California.

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/s/ Alexandra E. Laks
Alexandra E. Laks

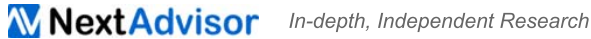
EXHIBITS TO DECLARATION OF ALEXANDRA E. LAKS

Ex.	Description	Page
A	True and correct copy of website comparing six identity theft protection plans, including the cost of such plans. Accessed on September 6, 2018 at https://www.nextadvisor.com/identity_theft_protection_services/compare.php .	1

EXHIBIT A

9/6/2018

Reviews of the Best Identity Theft Protection Services for 2018 | NextAdvisor.com



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Identity Theft Protection Reviews & Prices

Identity theft is the fastest growing crime in the U.S., with more than 13 million victims each year. Just being careful isn't enough to protect your identity. If you are serious about protecting yourself from identity theft, sign up for one of our recommended identity theft protection services. They all provide daily monitoring of the information that is most often compromised by identity thieves. Our top-rated services combine multiple types of monitoring, such as credit reports, public records, credit cards and social security number. Some also include software to protect your computer and even throw in access to your credit scores. Have more questions about identity theft and which service might be best for you? Visit our [identity theft protection blog](#).

Identity Theft Protection Comparison Chart							Updated 06-28-2018
Service Name / Rating	Price	Fraud Monitoring	ID Theft Insurance/ Guarantee	Reports Delivered	Computer Security	Bottom Line	
 ★★★★★ Go To Site Read Review	Free 30-day trial & \$3 discount (all plans); \$16.99/mo individual; \$22.99/mo couple; \$24.99/mo family	Monitors 3-bureau credit reports, credit cards, public records, SSN, bank accounts, applications, Internet security	\$1,000,000 insurance	3 bureau credit scores and a public record report each quarter	ZoneAlarm Internet security suite; anti-keylogging software; ID Vault software	Most complete identity theft protection service we reviewed; 3-bureau credit report monitoring; credit report/score updates every quarter; \$3 discount & free 30-day trial	
 ★★★★★ Go To Site Read Review	2 months free & \$19.99/mo (w/annual prepay) or 30-day free trial & \$19.99/mo (w/monthly plan)	Monitors 3-bureau credit reports, credit applications, SSN, driver's license, passport, non-credit loans, address change, credit card and bank account activity, sex offender registry, court records	\$1,000,000 insurance	Experian credit scores daily; 3-bureau credit reports & scores quarterly	None	Comprehensive credit and identity monitoring (with Premium membership) and unique Experian CreditLock feature combined with competitive pricing and an easy-to-use website	
 ★★★★★ Go To Site Read Review	\$24.74/mo* (w/annual prepay & our 10% discount for the first year)	Monitors 3-bureau credit reports, applications, credit cards, SSN, driver's license, address change, credit card and bank account activity, investment accounts, sex offender registry, court records	\$1,000,000 protection package**	Equifax credit scores monthly; 3-bureau credit reports & scores annually	None	Thorough identity theft protection and 3-bureau credit report monitoring; annual 3-bureau credit reports and scores; monthly Equifax credit scores; somewhat costly even with 10% discount for the first year	
 ★★★★★ Go To Site Read Review	30-day trial for \$1; \$14.99/mo (after our 25% discount)	Monitors 3-bureau credit reports, Internet security, SSN, bank account numbers, debit/credit cards	\$1,000,000 insurance	All 3 bureau reports & scores monthly	Norton Internet Security 2014	Solid credit protection with monthly credit report/score updates as well as social security and financial account monitoring; 30-day trial for \$1; includes computer protection software from Norton	
 ★★★★★ Go To Site Read Review	\$27.42/mo (paid annually); No free trial	Monitors 3-bureau credit reports, credit cards, public records, SSN, bank accounts, driver's license, passports, medical IDs, address change, payday loan applications	\$1,000,000 warranty	3-bureau credit scores updated in real-time; 3-bureau credit reports quarterly	None	Strong identity monitoring paired with comprehensive, 3-bureau FICO score monitoring; on the pricey side	
Service Name / Rating	Price	Fraud Monitoring	ID Theft Insurance/ Guarantee	Reports Delivered	Computer Security	Bottom Line	
 ★★★★★ Go To Site Read Review	\$16.50/mo* (w/annual prepay & our 10% discount for the first year)	Monitors credit and debit cards, SSN, driver's license on Internet black market and address change verification	\$1,000,000 protection package**	None, unless plan is upgraded	None	Valuable identity theft protection and customer support for an affordable price, yet lacks in terms of credit report monitoring; 10% discount for the first year	

All Services Reviewed:

[Credit Cards](#)
[Credit Monitoring](#)
[Credit Repair](#)

[Online Stamps](#)
[Personal Loans](#)
[Savings Accounts](#)

[Virtual Phone](#)
[VoIP](#)

Popular Services Reviewed:

[Credit Cards](#)
[Credit Monitoring](#)

[Identity Theft Protection](#)
[VoIP Services](#)

9/6/2018

Reviews of the Best Identity Theft Protection Services for 2018 | NextAdvisor.com

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Removed to Fed. Court Claims Adidas Hack Caused by Inadequate Data Security Systems](#)
