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

17
 18 MICHAEL FORD and RUDOLPH
 19 DUBROVSZKY, individually and on behalf
 of all others similarly situated,

20 Plaintiff,

21 v.

22 24/7, INC., a California Corporation,
 23 BEST BUY CO., INC., a Minnesota
 24 corporation, and DELTA AIRLINES,
 INC., a Delaware corporation,

25 Defendants.
 26
 27
 28

CASE NO.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiffs, Michael Ford (“Ford” or the “Best Buy Plaintiff”) and Rudolph
2 Dubrovsky (“Dubrovsky” or the “Delta Plaintiff”), on behalf of themselves and all others
3 similarly situated, file this Class Action Complaint against Defendants, 24/7, Inc. (“24/7”),
4 Best Buy Co., Inc. (“Best Buy”), and Delta Airlines, Inc. (“Delta”) (collectively
5 “Defendants”), and based upon personal knowledge with respect to themselves and on
6 information and belief derived therefrom, among other things, investigation of counsel and
7 review of public documents as to all other matters, allege as follows:

8 SUMMARY OF THE CASE

9 1. Plaintiffs bring this class action against Defendants for their failure to secure
10 and safeguard customers’ payment card data (“PCD”) and other personally identifiable
11 information (“PII”) that Defendants collected during customer service support contact with
12 Best Buy and Delta , and for failing to provide timely, accurate, and adequate notice to
13 Plaintiffs and the Class and Subclass members that their PCD and PII (hereinafter,
14 collectively, “Customer Data”) had been compromised and stolen.

15 2. 24/7 is a customer experience software and services company headquartered
16 in San Jose, California, with approximately 12,000 employees. 24/7 offers sales and
17 service-oriented software, as well as voice and chat agent services, for sales and support.
18 Best Buy and Delta have used 24/7 for such services since at least, and likely well before,
19 September 27, 2017—the purported beginning of the data breach described herein.

20 3. Best Buy is a retail company with over 1,000 stores throughout the United
21 States providing technology products, services, and solutions. Best Buy offers “expert
22 service” more than 1.5 billion times every year to consumers, small business owners, and
23 educators who visit and patronize Best Buy stores. Best Buy also provides the “Geek
24 Squad” service to further facilitate its goal of providing technology products, services, and
25 solutions. Best Buy markets and makes these products and services through various
26 distribution channels including, *inter alia*, its website and over the phone.

27 4. Delta provides air transportation for passengers in the United States and
28 abroad. Delta offers its services through a system of hubs from Atlanta, Boston, Detroit,

1 Los Angeles, Minneapolis-St. Paul, New York, Salt Lake City, Seattle, and a number of
2 international gateways. Delta sells tickets through various distribution channels including,
3 *inter alia*, its website, mobile application, and over the phone.

4 5. In the last few years, retailers such as Target, Home Depot, Neiman Marcus,
5 and Brooks Brothers have experienced streams of attacks on their data security.
6 Implementing measures to prevent those attacks, as well as quickly identifying them, is a
7 normal, expected part of the business—except in Defendants’ case.

8 6. On April 4, 2018, Delta acknowledged that customers using Delta’s online
9 chat services, which were outsourced to 24/7, were subject to a data breach. In its
10 statement, Delta stated its customers who used its customer support services during
11 September and October of 2017 were potential victims of a breach in which their Customer
12 Data was “exposed” and compromised (the “Data Breach”).¹ The Data Breach included
13 payment information and other Customer Data.²

14 7. On April 5, 2018, Best Buy acknowledged that customers who used Best
15 Buy’s outsourced chat services for customer support were similarly potential victims of the
16 Data Breach and their Customer Data was stolen. Best Buy only acknowledged the Data
17 Breach, however, after 24/7 informed Best Buy of the Data Breach, and after other
18 companies—namely Delta and Sears—acknowledged the same Data Breach.³

19 8. This private Customer Data was compromised due to Best Buy’s and
20 Delta’s, as well as their agent 24/7’s, acts and omissions and their failure to properly
21 protect the Customer Data.

22 9. Defendants could have prevented this Data Breach. Data breaches in the last
23 few years have been the result of infiltration of computer systems in which Customer Data
24 is exchanged. While many retailers, restaurant chains, and other companies using such

25 ¹ Delta, *Updated: Statement on [24]7.ai cyber incident*, <https://news.delta.com/updated-statement-247ai-cyber-incident> (last visited April 30, 2018).

26 ² *Id.*; AP, *Delta says customers’ payment info breached in cyberattack*, <https://nypost.com/2018/04/04/delta-says-customers-payment-info-breached-in-cyberattack/> (last visited April 30, 2018).

27 ³ Brian Heater, *Best Buy Customer Info may have been Exposed in Data Breach*, TechCrunch,
28 <https://techcrunch.com/2018/04/06/best-buy-customer-info-may-have-been-exposed-in-data-breach/> (last visited April 30, 2018).

1 systems have responded to recent breaches by adopting technology that helps make
2 communication and transactions more secure, Defendants did not.

3 10. In addition to Defendants' failures to prevent the Data Breach, 24/7 also
4 failed to disclose the Data Breach for approximately six (6) months, despite detecting and
5 allegedly remedying the breach on October 12, 2017.⁴

6 11. The Data Breach was the inevitable result of Defendants' inadequate
7 approach to data security and the protection of the Customer Data that it collected during
8 the course of their business.

9 12. 24/7 acknowledges that it collects personal information, including: first and
10 last names; organization names; email addresses; phone numbers; physical addresses; dates
11 of birth; gender; professional title; account information; credit/debit card numbers; and
12 other information 24/7 needs to provide client-specified services.⁵ Indeed, 24/7 claims to
13 follow "industry standards to protect the security of [users'] Personal Information and
14 [24/7] respects [users'] choices for such information's intended use."⁶ 24/7 allegedly uses
15 "a combination of reasonable and appropriate physical, technical, and administrative
16 safeguards to prevent unauthorized access or disclosure of [users'] Personal Information
17 [... and] retains Personal Information and Interaction Data only as required or permitted by
18 local law and while it has a legitimate business purpose."⁷ Finally, 24/7 represents that it
19 "uses standard security protocols, and mechanisms to exchange the transmission of
20 sensitive Personal Information **such as credit card details and login credentials.**"⁸

21 13. Best Buy has recognized that:

22 Protecting customers' privacy is critical to Best Buy's growth
23 and success. Customers entrust [Best Buy] with their personal
24 information and it is [Best Buy's] responsibility to safeguard
that data at all times. If Best Buy protects [its customers']

25 ⁴ *Id.*

26 ⁵ 24/7, Inc., Platform Privacy Policy, available at: <https://www.247.ai/privacy-policy#platform-policy> (last
visited April 30, 2018).

27 ⁶ *Id.*

28 ⁷ *Id.*

⁸ *Id.*

1 personal information, customers are more likely to become,
2 and remain, loyal to [Best Buy's] brand. If this trust is broken,
3 Best Buy risks negative publicity, fines and lawsuits, lost sales,
4 and damage to [Best Buy's] business and reputation.”⁹

5 14. Delta acknowledges that “Information Security is important to Delta,” and:

6 [Delta has] established appropriate physical, electronic and
7 managerial safeguards to protect the information we collect
8 from or about our users. These safeguards are regularly
9 reviewed to protect against unauthorized access, disclosure and
10 improper use of your information, and to maintain the accuracy
11 and integrity of that data.¹⁰

12 15. Delta further acknowledges that it collects: names, address, and telephone
13 numbers; dates of birth; gender; redress numbers; known traveler numbers; email
14 addresses; cell phone numbers; credit and debit card numbers, associated billing addresses,
15 and expiration dates; emergency contacts, medical needs, and dietary requests; and other
16 personal identifiable information.¹¹ Delta last updated this privacy policy on January 7,
17 2013.¹²

18 16. Delta further informs customers that it may engage third parties to process
19 information and assist in improving the customer service experience, but “requires that
20 these third parties comply with Delta’s Privacy Policy” when processing customers’ private
21 and sensitive Customer Data.¹³

22 17. Unfortunately, Defendants, did not hold true to their security promises,
23 despite any efforts to place the ultimate onus on consumers.

24 18. Instead, Defendants disregarded the rights of Plaintiffs and the Class and
25 Subclass members, by, through themselves and their agent 24/7, intentionally, willfully,
26 recklessly, or negligently failing to take adequate and reasonable measures to ensure
27 Defendants’ data systems were protected, failing to disclose to their customers the material

28 ⁹ Best Buy Code of Business Ethics, Privacy Policy, *available at*:
<https://secure.ethicspoint.com/domain/media/en/gui/26171/code.html?section=7&sub=4> (last visited April 30,
2018).

¹⁰ Delta, Cookies, Privacy & Security, *available at*: https://www.delta.com/content/www/en_US/privacy-and-security.html (last visited April 30, 2018)

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

1 fact that they did not have adequate computer systems and security practices to safeguard
2 Customer Data, failing to take available steps to prevent and stop the breach from ever
3 happening, failing to timely monitor and detect the Data Breach, and failing to timely
4 notify consumers of the Data Breach.

5 19. In addition, 24/7, as the agent of Best Buy and Delta, exacerbated the
6 damages Plaintiffs and the Class and Subclass members suffered by failing to timely detect
7 the infiltration and failing to timely notify customers their Customer Data had been
8 compromised. If 24/7 had detected the malware earlier and promptly notified Best Buy,
9 Delta, and the public of the Data Breach, the resulting losses would have been far less
10 significant.

11 20. As a result of Defendants' Data Breach, the Customer Data of Plaintiffs and
12 the Class and Subclass members has been exposed to criminals for misuse, the obvious
13 reason for which this information was taken . The damages Plaintiffs and the Class and
14 Subclass members suffered as a direct result of the Data Breach include:

- 15 a. unauthorized charges on their debit and credit card accounts;
- 16 b. theft of their personal and financial information;
- 17 c. costs associated with the detection and prevention of identity theft and
18 unauthorized use of their financial accounts;
- 19 d. damages arising from the inability to use their debit or credit card
20 accounts because their account were suspended or otherwise rendered
21 unusable as a result of fraudulent charges stemming from the Data
22 Breach;
- 23 e. loss of use of and access to their account funds and costs associated with
24 inability to obtain money from their accounts or being limited in the
25 amount of money they were permitted to obtain from their accounts,
26 including missed payments on bills and loans, late charges and fees, and
27 adverse effects on their credit including decreased credit scores and
28 adverse credit notations;

1 f. costs associated with time spent and the loss of productivity or the
2 enjoyment of one's life from taking time to address and attempt to
3 ameliorate, mitigate and deal with the actual and future consequences of
4 the Data Breach, including finding fraudulent charges, cancelling and
5 reissuing cards, purchasing credit monitoring and identity theft
6 protection services, imposition of withdrawal and purchase limits on
7 compromised accounts, and the stress, nuisance and annoyance of
8 dealing with all issues resulting from the Data Breach;

9 g. the imminent and certainly impending injury flowing from potential
10 fraud and identity theft posed by their credit card and personal
11 information being placed in the hands of criminals and already misused
12 via the sale of Plaintiffs' and the Class and Subclass members'
13 information on the Internet black market;

14 h. money paid for merchandise purchased at Best Buy stores during the
15 period of the Data Breach, in that Plaintiff and the Class and Subclass
16 members would not have shopped at Best Buy had Defendants disclosed
17 that they lacked adequate systems and procedures to reasonably
18 safeguard customers' Customer Data, or Plaintiff and the Class and
19 Subclass members would have taken measures to protect their Customer
20 Data had Defendants made such disclosures;

21 i. damages to and diminution in value of their Customer Data entrusted to
22 Defendants for the sole purpose of purchasing merchandise from Best
23 Buy; and

24 j. the loss of Plaintiffs' and the Class and Subclass members' privacy.

25 21. The damages to Plaintiffs and the Class and Subclass members were
26 directly and proximately caused by Defendants' failure to implement or maintain adequate
27 data security measures for Customer Data.

28 22. The damages to Plaintiffs and the Class and Subclass members were also

1 directly and proximately caused by Defendants' failure to inform customers that their
2 Customer Data was subject to collection and storage by the outsourced customer service
3 corporation 24/7.

4 23. Further, Plaintiffs retain a significant interest in ensuring that their
5 Customer Data, which, while stolen, remains in the possession of Defendants, is protected
6 from further breaches, and seek to remedy the harms they have suffered on behalf of
7 themselves and other similarly situated consumers whose Customer Data was stolen as a
8 result of the Data Breach.

9 24. Plaintiffs, on behalf of themselves and other similarly situated consumers,
10 seek to recover damages, equitable relief including injunctive relief to prevent a
11 reoccurrence of the Data Breach and resulting injury, restitution, disgorgement, reasonable
12 costs and attorneys' fees, and all other remedies this Court deems proper.

13 **JURISDICTION AND VENUE**

14 25. This Court has subject matter jurisdiction over this action pursuant to the
15 Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d), because the aggregate amount
16 in controversy exceeds \$5,000,000, exclusive of interests and costs, there are more than
17 100 class members, and at least one class member is a citizen of a state different from
18 Defendants.

19 26. This Court has personal jurisdiction over 24/7 because 24/7: 1) is
20 headquartered in this District; 2) conducts substantial business in the District; and 3)
21 committed the acts and omissions complained of in the District.

22 27. This Court has personal jurisdiction over Best Buy because Best Buy: 1)
23 conducts substantial business in this District; and 2) committed the acts and omissions
24 complained of in this District.

25 28. This Court has personal jurisdiction over Delta because Delta: 1) conducts
26 substantial business in this District; and 2) committed the acts and omissions complained of
27 in this District.

1 37. The compromise of the Best Buy Plaintiff's payment card occurred even
2 though he had physical possession of the card at all times. He was required to expend time
3 communicating with the card issuer attempting to resolve the issues caused by the theft of
4 his credit card and other personal information used to accomplish the fraudulent activity.

5 38. The Best Buy Plaintiff would not have used his payment card, Best Buy's
6 online store, and Best Buy's agent 24/7's customer service client to make purchases at and
7 communicate with Best Buy had 24/7 and Best Buy told him they lacked adequate
8 computer systems and data security practices to safeguard customers' Customer Data from
9 theft. Indeed, the Best Buy Plaintiff would not have shopped at Best Buy at all during the
10 period of the Data Breach and, thus, he suffered actual injury and damages in paying
11 money for the purchase of merchandise from Best Buy that he would not have paid had
12 24/7 and Best Buy made such disclosures.

13 39. The Best Buy Plaintiff suffered actual injury from having his Customer Data
14 compromised and stolen in and as a result of the Data Breach.

15 40. The Best Buy Plaintiff also suffered actual injury in the form of damages to
16 and diminution in the value of his Customer Data—a form of intangible property that he
17 entrusted to Best Buy and its agent 24/7 as a form of payment for merchandise and that was
18 compromised in and as a result of the Data Breach.

19 41. The Best Buy Plaintiff further suffered actual injury in the form of time
20 spent dealing with fraud resulting from the Data Breach, disputing the fraudulent charges,
21 and monitoring his account for additional fraud.

22 42. Additionally, the Best Buy Plaintiff has suffered imminent and impending
23 injury arising from the substantially increased risk of future fraud, identity theft, and
24 misuse posed by his Customer Data being placed in the hands of criminals who have
25 already misused such information, as evidenced by the compromise of his payment card.

26 43. Moreover, the Best Buy Plaintiff has a continuing interest in ensuring that
27 his private information, which remains in the possession of 24/7 and Best Buy, is protected
28 and safeguarded from future breaches.

1 **B. The Delta Plaintiff's Transactions**

2 44. The Delta Plaintiff makes purchases with Delta through Delta's mobile
3 application and website, and uses the online chat function to communicate with customer
4 service. For his purchases, he uses a credit card.

5 45. Recently, the Delta Plaintiff reviewed his financial statements and identified
6 numerous transactions that were determined to be fraudulent activity. Due to this fraudulent
7 activity, he changed his passwords and signed up for fraud protection services.

8 46. The compromise of the Delta Plaintiff's payment card occurred even though
9 he had physical possession of the card at all times. He was required to expend time
10 communicating with the card issuer attempting to resolve the issues caused by the theft of
11 his credit card and other personal information used to accomplish the fraudulent activity.

12 47. The Delta Plaintiff would not have used his payment card, Delta's website
13 and mobile app, and Delta's agent 24/7's customer service client to make Delta purchases
14 and communicate with Delta had 24/7 and Delta told him they lacked adequate computer
15 systems and data security practices to safeguard customers' Customer Data from theft.
16 Indeed, the Delta Plaintiff would not have patronized Delta at all during the period of the
17 Data Breach and, thus, he suffered actual injury and damages in paying money for the
18 purchase of air travel from Delta that he would not have paid had 24/7 and Delta made such
19 disclosures.

20 48. The Delta Plaintiff suffered actual injury from having his Customer Data
21 compromised and stolen in and as a result of the Data Breach.

22 49. The Delta Plaintiff also suffered actual injury in the form of damages to and
23 diminution in the value of his Customer Data—a form of intangible property that he
24 entrusted to Delta and its agent 24/7 as a form of payment for merchandise and that was
25 compromised in and as a result of the Data Breach.

26 50. The Delta Plaintiff further suffered actual injury in the form of time spent
27 dealing with fraud resulting from the Data Breach, disputing the fraudulent charges,
28 signing up for third-party monitoring, and monitoring his account for additional fraud.

1 51. Additionally, the Delta Plaintiff has suffered imminent and impending
2 injury arising from the substantially increased risk of future fraud, identity theft, and
3 misuse posed by his Customer Data being placed in the hands of criminals who have
4 already misused such information, as evidenced by the compromise of his payment card.

5 52. Moreover, the Delta Plaintiff has a continuing interest in ensuring that his
6 private information, which remains in the possession of 24/7 and Delta, is protected and
7 safeguarded from future breaches.

8 **C. Defendants Collect and Store PII for their Own Financial Gain**

9 53. Founded in 2000,¹⁴ 24/7 operates a variety of customer services products
10 with artificial intelligence technologies with additional offices in Toronto, London,
11 Stockholm, and Sydney, and numerous clients in retail, education, financial services,
12 healthcare, insurance, travel and hospitality, and utilities.¹⁵

13 54. Since its founding, 24/7 has aggressively expanded, including private
14 funding from Sequoia Capital—a venture capital firm controlling \$1.4 trillion in assets—in
15 2003, as well as a partnership with Microsoft in 2012, in which Microsoft combined its
16 “interactive self-service assets” with 24/7’s technologies.¹⁶

17 55. At all relevant times, Defendants were well-aware, or reasonably should
18 have been aware, that the Customer Data collected, maintained, and stored in their agent
19 24/7’s computer systems is highly sensitive, susceptible to attack, and could be used for
20 wrongful purposes by third parties, such as identity theft and fraud.

21 56. It is well known and the subject of many media reports that Customer Data
22 is highly coveted and a frequent target of hackers. Despite the frequent public
23 announcements of data breaches by other retailers, Defendants maintained an insufficient
24 and inadequate system to protect Plaintiff’s and the Class and Subclass members’

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26 ¹⁴ [24]7 Company Profile, Forbes, <https://www.forbes.com/companies/24-7/> (last visited April 30, 2018);

27 ¹⁵ [24]7 Company Overview, <https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=4532786> (last visited April 30, 2018)

28 ¹⁶ *Microsoft picks stake in Sequoia-backed 24/7 Inc*, Reuters, <https://in.reuters.com/article/microsoft-picks-stake-in-sequoia-backed-idINDEE81807U20120209> (last visited May 1, 2018)

1 Customer Data.

2 57. Customer Data is a valuable commodity because it contains not only
3 payment card numbers but PII as well. A “cyber blackmarket” exists in which criminals
4 openly post stolen payment card numbers, and other personal information on a number of
5 underground Internet websites. Customer Data is “as good as gold” to identity thieves
6 because they can use victims’ personal data to open new financial accounts and take out
7 loans in another person’s name, incur charges on existing accounts, or clone ATM, debit,
8 or credit cards.

9 58. Legitimate organizations and the criminal underground alike recognize the
10 value in PII contained in a merchant’s data systems; otherwise, they would not aggressively
11 seek or pay for it. For example, in “one of 2013’s largest breaches . . . not only did hackers
12 compromise the [card holder data] of three million customers, they also took registration
13 data [containing PII] from 38 million users.”¹⁷

14 59. At all relevant times, Defendants knew, or reasonably should have known,
15 of the importance of safeguarding Customer Data and of the foreseeable consequences that
16 would occur if Defendants’, and particular 24/7’s (as an agent of each Defendant), data
17 security systems were breached, including, specifically, the significant costs that would be
18 imposed on their customers as a result of a data breach.

19 60. Defendants were, or reasonably should have been, fully aware of the
20 significant volume of daily credit and debit card transactions and PII provided in customer
21 service interactions and purchase and, thus, the significant number of individuals who
22 would be harmed by a breach of Defendants’ systems.

23 61. Unfortunately, and as alleged below, despite all of this publicly available
24 knowledge of the continued compromises of Customer Data in the hands of other third
25 parties, such as retailers, Defendants’ approach to maintaining the privacy and security
26

27 ¹⁷ Verizon 2014 PCI Compliance Report, available at:
28 http://www.cisco.com/c/dam/en_us/solutions/industries/docs/retail/verizon_pci2014.pdf (hereafter “2014
Verizon Report”), at 54 (last visited April 30, 2018).

1 Plaintiffs' and the Class and Subclass members' Customer Data was lackadaisical, cavalier,
2 reckless, or at the very least, negligent.

3 **D. Defendants Had Notice of Data Breaches Involving Malware on POS Systems**

4 62. A wave of data breaches causing the theft of retail payment card information
5 has hit the United States in the last several years.¹⁸ In 2016, the number of U.S. data
6 breaches surpassed 1,000, a record high and a forty percent increase in the number of data
7 breaches from the previous year.¹⁹ The amount of payment card data compromised by data
8 breaches is massive. For example, it is estimated that over 100 million cards were
9 compromised in 2013 and 2014.²⁰

10 63. Most of the massive data breaches occurring within the last several years
11 involved malware placed on computer systems that retail merchants and their agents use.

12 64. These massive data breaches involve compromising payment systems at
13 physical retail outlets, phishing schemes to gain access to internal servers and information,
14 as well as exploiting other vulnerabilities in companies' websites and electronically stored
15 data systems.

16 **E. Defendants' Data Breach**

17 65. On April 4, 2018, Delta announced the Data Breach, and on April 5, 2018,
18 Best Buy followed. According to their respective statements, Best Buy and Delta were
19 informed of the Data Breach on March 28, 2018.

20 66. 24/7 possibly knew of the Data Breach as early as September 26, 2017, and
21 definitively on October 12, 2017, when 24/7 allegedly fixed the security issues.²¹

22
23
24 ¹⁸ *Data Breaches Increase 40 Percent in 2016, Finds New Report From Identity Theft Resource Center and*
25 *CyberScout*, Identity Theft Resource Center (Jan. 19, 2017), <http://www.prnewswire.com/news-releases/data-breaches-increase-40-percent-in-2016-finds-new-report-from-identity-theft-resource-center-and-cyberscout-300393208> (last visited April 13, 2018).

26 ¹⁹ *Id.*

27 ²⁰ Symantec, *A Special Report On Attacks On Point-of-Sale Systems*, p. 3 (Nov. 20, 2014), available at:
28 <https://origin-www.symantec.com/content/dam/symantec/docs/white-papers/attacks-on-point-of-sale-systems-en.pdf> (last visited April 13, 2018).

²¹

1 67. Despite knowing of the Data Breach as of October 12, 2017—over six (6)
2 months ago—24/7 has not provided much-if-any details regarding the degree and extent of
3 the Data Breach, despite handling chat services for Best Buy, Delta, Sears, and a number of
4 other companies.

5 **F. The Data Breach Caused Harm and Will Result in Additional Fraud**

6 68. Without detailed disclosure of the nature and scope of the Data Breach,
7 consumers, including Plaintiffs and the Class and Subclass members, have been left
8 exposed—unknowingly and unwittingly—for months to continued misuse and ongoing risk
9 of misuse of their personal information without being able to take necessary precautions to
10 prevent imminent harm.

11 69. The ramifications of Defendants’ failure to keep Plaintiffs’ and the Class
12 and Subclass members’ Costumer Data secure are severe.

13 70. The FTC defines identity theft as “a fraud committed or attempted using the
14 identifying information of another person without authority.”²² The FTC describes
15 “identifying information” as “any name or number that may be used, alone or in
16 conjunction with any other information, to identify a specific person.”²³

17 71. Personal identifying information is a valuable commodity to identity thieves
18 once the information has been compromised. As the FTC recognizes, once identity thieves
19 have personal information, “they can drain your bank account, run up your credit cards,
20 open new utility accounts, or get medical treatment on your health insurance.”²⁴

21 72. Identity thieves can use personal information, such as Plaintiffs’ and the
22 Class and Subclass members’, which Defendants failed to keep secure, to perpetrate a
23 variety of crimes that harm victims. For instance, identity thieves may commit various
24 types of government fraud such as: immigration fraud; obtaining a driver’s license or
25 identification card in the victim’s name but with another’s picture; using the victim’s

26 _____
27 ²² 17 C.F.R. § 248.201 (2013).

28 ²³ *Id.*

²⁴ Federal Trade Commission, *Warning Signs of Identity Theft*, available at:
<https://www.consumer.ftc.gov/articles/0271-warning-signs-identity-theft> (last visited April 13, 2018).

1 information to obtain government benefits; or filing a fraudulent tax return using the
2 victim's information to obtain a fraudulent refund.

3 73. Javelin Strategy and Research reports that identity thieves have stolen \$112
4 billion in the past six years.²⁵

5 74. Reimbursing a consumer for a financial loss due to fraud does not make that
6 individual whole again. On the contrary, identity theft victims must spend numerous hours
7 and their own money repairing the impact to their credit. After conducting a study, the
8 Department of Justice's Bureau of Justice Statistics ("BJS") found that identity theft
9 victims "reported spending an average of about 7 hours clearing up the issues" and
10 resolving the consequences of fraud in 2014.²⁶

11 75. There may be a time lag between when harm occurs versus when it is
12 discovered, and also between when PII or PCD is stolen and when it is used. According to
13 the U.S. Government Accountability Office ("GAO"), which conducted a study regarding
14 data breaches:

15 [L]aw enforcement officials told us that in some cases, stolen
16 data may be held for up to a year or more before being used to
17 commit identity theft. Further, once stolen data have been sold
18 or posted on the Web, fraudulent use of that information may
19 continue for years. As a result, studies that attempt to measure
20 the harm resulting from data breaches cannot necessarily rule
21 out all future harm.²⁷

22 76. Plaintiffs and the Class and Subclass members now face years of constant
23 surveillance of their financial and personal records, monitoring, and loss of rights.
24 Plaintiffs and the Class and Subclass members are incurring and will continue to incur
25 such damages in addition to any fraudulent credit and debit card charges incurred by them

26 ²⁵ See <https://www.javelinstrategy.com/coverage-area/2016-identity-fraud-fraud-hits-inflection-point> (last
visited April 13, 2018).

27 ²⁶ Victims of Identity Theft, 2014 (Sept. 2015) available at: <http://www.bjs.gov/content/pub/pdf/vit14.pdf> (last
visited April 13, 2018).

28 ²⁷ GAO, Report to Congressional Requesters, at 29 (June 2007), available at
<http://www.gao.gov/new.items/d07737.pdf> (last visited April 13, 2018).

1 and the resulting loss of use of their credit and access to funds, whether or not such
2 charges are ultimately reimbursed by the credit card companies.

3 **G. Plaintiffs and the Class and Subclass Members Suffered Damages**

4 77. Plaintiffs' and the Class and Subclass members' Customer Data is private
5 and sensitive in nature, and Defendants left that Customer Data inadequately protected.
6 Defendants did not obtain Plaintiffs' and the Class and Subclass members' consent to
7 disclose their Customer Data to any other person as required by applicable law and industry
8 standards.

9 78. The Data Breach was a direct and proximate result of Defendants' failure to
10 properly safeguard and protect Plaintiffs' and the Class and Subclass members' Customer
11 Data from unauthorized access, use, and disclosure, as required by various state and federal
12 regulations, industry practices, and the common law, including Defendants' failure to
13 establish and implement appropriate administrative, technical, and physical safeguards to
14 ensure the security and confidentiality of Plaintiffs' and the Class and Subclass members'
15 Customer Data to protect against reasonably foreseeable threats to the security or integrity
16 of such information.

17 79. Defendants had the resources to prevent a breach, especially with the
18 partnerships with Sequoia Capital and Microsoft.

19 80. Had Defendants employed security measures recommended by experts in
20 the field, Defendants would have prevented intrusion into their computer systems and,
21 ultimately, the theft of their customers' Customer Data.

22 81. As a direct and proximate result of Defendants' wrongful actions and
23 inaction and the resulting Data Breach, Plaintiffs and the Class and Subclass members
24 have been placed at an imminent, immediate, and continuing increased risk of harm from
25 identity theft and identity fraud, requiring them to take the time which they otherwise
26 would have dedicated to other life demands such as work and effort to mitigate the actual
27 and potential impact of the Data Breach on their lives including, *inter alia*, by placing
28 "freezes" and "alerts" with credit reporting agencies, contacting their financial institutions,

1 closing or modifying financial accounts, closely reviewing and monitoring their credit
2 reports and accounts for unauthorized activity, and filing police reports. This time has been
3 lost forever and cannot be recaptured. In all manners of life in this country, time has
4 constantly been recognized as compensable, for many consumers it is the way they are
5 compensated, and even if retired from the work force, consumers should be free of having
6 to deal with the consequences of a retailer's slippage, as is the case here.

7 82. Defendants' wrongful actions and inaction directly and proximately caused
8 the theft and dissemination into the public domain of Plaintiffs' and the Class and
9 Subclass members' Customer Data, causing them to suffer, and continue to suffer,
10 economic damages and other actual harm for which they are entitled to compensation,
11 including:

- 12 a. theft of their personal and financial information;
- 13 b. unauthorized charges on their debit and credit card accounts;
- 14 c. the imminent and certainly impending injury flowing from potential
15 fraud and identity theft posed by their credit/debit card and personal
16 information being placed in the hands of criminals and already misused
17 via the sale of Plaintiffs' and the Class and Subclass members'
18 information on the Internet black market;
- 19 d. the untimely and inadequate notification of the Data Breach;
- 20 e. the improper disclosure of their Customer Data;
- 21 f. loss of privacy;
- 22 g. the monetary amount of purchases at Best Buy and Delta during the
23 period of the Data Breach in that Plaintiffs and the Class and Subclass
24 members would not have patronized Best Buy and Delta, or at least
25 would not have used their payment cards for online purchases, had
26 Defendants disclosed that Defendants lacked adequate systems and
27 procedures to reasonably safeguard customers' financial and personal
28

1 information and had Defendants provided timely and accurate notice of
2 the Data Breach;

3 h. ascertainable losses in the form of out-of-pocket expenses and the value
4 of their time reasonably incurred to remedy or mitigate the effects of the
5 Data Breach;

6 i. ascertainable losses in the form of deprivation of the value of their PII
7 and PCD, for which there is a well-established national and international
8 market;

9 j. ascertainable losses in the form of the loss of cash back or other benefits
10 as a result of their inability to use certain accounts and cards affected by
11 the Data Breach;

12 k. loss of use of and access to their account funds and costs associated with
13 the inability to obtain money from their accounts or being limited in the
14 amount of money they were permitted to obtain from their accounts,
15 including missed payments on bills and loans, late charges and fees, and
16 adverse effects on their credit including adverse credit notations; and,

17 l. the loss of productivity and value of their time spent to address attempt
18 to ameliorate, mitigate and deal with the actual and future consequences
19 of the data breach, including finding fraudulent charges, cancelling and
20 reissuing cards, purchasing credit monitoring and identity theft
21 protection services, imposition of withdrawal and purchase limits on
22 compromised accounts, and the stress, nuisance and annoyance of
23 dealing with all such issues resulting from the Data Breach.

24 83. Best Buy and Delta—but not 24/7—have stated that affected
25 customers will be offered credit monitoring or identity theft protection services,
26 but have not come forth with any details as to how to sign up, the type of
27 coverage, the scope of coverage, or the length of coverage. As a result, Plaintiffs
28 and the Class and Subclass members are left to their own actions to protect

1 themselves from the financial damage Defendants have allowed to occur. The
2 additional cost of adequate and appropriate coverage, or insurance, against the
3 losses and exposure that Defendants' actions have created for Plaintiffs and the
4 Class and Subclass members is ascertainable and is a determination appropriate
5 for the trier of fact.

6 84. While Plaintiffs' and the Class and Subclass members' Customer
7 Data has been stolen, Defendants continue to hold Customer Data of consumers,
8 including Plaintiffs, the Class members, and the subclass members. Particularly
9 because Defendants have demonstrated an inability to prevent a breach or stop it
10 from continuing even after being detected, Plaintiffs and the Class and Subclass
11 members have an undeniable interest in ensuring that their Customer Data is
12 secure, remains secure, is properly and promptly destroyed, and is not subject to
13 further theft.

14 **CHOICE OF LAW**

15 85. California, which seeks to protect the rights and interests of California and
16 other U.S. residents against a company doing business in California, has a greater interest
17 in the claims of Plaintiffs and the Class and Subclass members than any other state and is
18 most intimately concerned with the claims and outcome of this litigation.

19 86. The principal place of business of 24/7—which both Best Buy and Delta
20 entrusted to provide services as their agent—is located at 910 East Hamilton Avenue, Suite
21 240, Campbell, CA 95008, is the “nerve center” of 24/7's business activities—the place
22 where high-level officers direct, control, and coordinate 24/7's activities, including data
23 security, and where: a) major policy; b) advertising; c) distribution; d) accounts receivable
24 departments; and e) financial and legal decisions originate.

25 87. Data security assessments and other IT duties related to computer systems
26 and data security occur at 24/7's California headquarters.

27 88. Furthermore, 24/7's response, and corporate decisions surrounding such
28 response, to the Data Breach were made from and in California.

1 customer service platform and whose Customer
2 Data was compromised as a result of the Data
Breach.

3 94. Excluded from the Class are Defendants and any entities in which any
4 Defendant or their subsidiaries or affiliates have a controlling interest; Defendants'
5 officers, agents, and employees; and all persons who make a timely election to be excluded
6 from the Nationwide Class and any subclasses. Also excluded from the Class are the judge
7 assigned to this action, and any member of the judge's immediate family.

8 95. **Numerosity:** The members of each Class are so numerous that joinder of all
9 members of any Class would be impracticable. Plaintiffs reasonably believe that the
10 Nationwide Class members number in the hundreds of thousands of people or more in the
11 aggregate, and well over 1,000 in the smallest of the classes. Similarly, Plaintiffs
12 reasonably believe that the Best Buy and Delta Subclass members number in the hundreds
13 of thousands of people or more in the aggregate, and well over 1,000 in the smallest of
14 classes. The names and addresses of the Class and Subclass members are identifiable
15 through documents Defendants maintain.

16 96. **Commonality and Predominance:** This action involves common questions
17 of law or fact, which predominate over any questions affecting individual Class and
18 Subclass members, including:

- 19 i. Whether Defendants owed a legal duty to Plaintiffs and the Class and
20 Subclass members to exercise due care in collecting, storing, and
21 safeguarding their Customer Data;
- 22 ii. Whether Defendants breached a legal duty to Plaintiffs and the Class
23 and Subclass members to exercise due care in collecting, storing, and
24 safeguarding their Customer Data;
- 25 iii. Whether Defendants knew or should have known of the susceptibility
26 of their computer systems to a data breach;
- 27 iv. Whether Defendants' security measures to protect their computer
28 systems were reasonable in light of industry data security

1 recommendations, and other measures data security experts
2 recommended;

3 v. Whether Defendants willfully, recklessly, or negligently failed to
4 maintain and execute reasonable procedures designed to prevent
5 unauthorized access to Plaintiffs' and the Class and Subclass
6 members' Customer Data;

7 vi. Whether Plaintiffs' and the Class and Subclass members' Customer
8 Data was accessed, exposed, compromised, or stolen in the Data
9 Breach;

10 vii. Whether Defendants were negligent in failing to implement reasonable
11 and adequate security procedures and practices;

12 viii. Whether Defendants' failure to implement adequate data security
13 measures allowed the breach of their computer systems to occur;

14 ix. Whether Defendants' conduct constituted deceptive trade practices
15 under California law;

16 x. Whether Defendants' conduct, including their failure to act, resulted in
17 or was the proximate cause of the breach of their systems, resulting in
18 the loss of Plaintiffs' and the Class and Subclass members' Customer
19 Data;

20 xi. Whether Defendants failed to timely notify the public of the Data
21 Breach;

22 xii. Whether Defendants' conduct violated Cal. Civ. Code § 1750, *et seq.*;

23 xiii. Whether Defendants' conduct was an unlawful or unfair business
24 practice under Cal. Bus. & Prof. Code § 17200, *et seq.*;

25 xiv. Whether Defendants' conduct violated § 5 of the Federal Trade
26 Commission Act, 15 U.S.C. § 45, *et seq.*;

1 xv. Whether Plaintiffs and the Class and Subclass members are entitled to
2 equitable relief, including, but not limited to, injunctive relief and
3 restitution; and

4 xvi. Whether Plaintiffs and the Class and Subclass members are entitled to
5 actual, statutory, or other forms of damages, and other monetary relief.

6 97. Defendants engaged in a common course of conduct giving rise to the legal
7 rights sought to be enforced by Plaintiff individually and on behalf of the Class and
8 Subclass members. Similar or identical statutory and common law violations, business
9 practices, and injuries are involved. Individual questions, if any, pale by comparison, in
10 both quantity and quality, to the numerous common questions that dominate this action.

11 98. **Typicality:** Plaintiffs' claims are typical of the Class and Subclass
12 members' claims because, among other things, Plaintiffs and the Class and Subclass
13 members were injured through Defendants' substantially uniform misconduct. Plaintiffs are
14 advancing the same claims and legal theories on behalf of themselves and the Class and
15 Subclass members, and there are no defenses that are unique to Plaintiffs' claims.
16 Plaintiffs' and the Class and Subclass members' claims arise from the same operative facts
17 and are based on the same legal theories.

18 99. **Adequacy of Representation:** Plaintiffs are adequate representatives of the
19 Nationwide Class and the respective subclasses because their interests do not conflict with
20 the interests of the other class and subclass members they seek to represent; Plaintiffs have
21 retained counsel competent and experienced in complex class action litigation; and
22 Plaintiffs will prosecute this action vigorously. The Class and subclass members' interests
23 will be fairly and adequately protected by Plaintiffs and their counsel.

24 100. **Superiority:** A class action is superior to any other available means for the
25 fair and efficient adjudication of this controversy, and no unusual difficulties are likely to
26 be encountered in the management of this matter as a class action. The damages, harm, or
27 other financial detriment suffered individually by Plaintiffs and the Class and Subclass
28 members are relatively small compared to the burden and expense that would be required

1 to litigate their claims on an individual basis against Defendants, making it impracticable
2 for the Class and Subclass members to individually seek redress for Defendants' wrongful
3 conduct. Even if the Class and Subclass members could afford individual litigation, the
4 court system could not. Individualized litigation would create a potential for inconsistent or
5 contradictory judgments and increase the delay and expense to all parties and the court
6 system. By contrast, the class action device presents far fewer management difficulties and
7 provides the benefits of single adjudication, economies of scale, and comprehensive
8 supervision by a single court.

9 101. Further, Defendants have acted or refused to act on grounds generally
10 applicable to the Class and Subclass and, accordingly, final injunctive or corresponding
11 declaratory relief with regard to the members of the Class as a whole is appropriate under
12 Rule 23(b)(2) of the Federal Rules of Civil Procedure.

13 102. Likewise, particular issues under Rule 23(c)(4) are appropriate for
14 certification because such claims present only particular, common issues, the resolution of
15 which would advance the disposition of this matter and the parties' interests therein. Such
16 particular issues include, but are not limited to:

- 17 a. Whether the Class and Subclass members' Customer Data was
18 accessed, exposed, compromised, or stolen in the Data Breach;
- 19 b. Whether (and when) Defendants knew about the Data Breach before it
20 was announced to the public and whether Defendants failed to timely
21 notify the public of the Data Breach;
- 22 c. Whether Defendants misrepresented the safety of their many systems
23 and services, specifically the security thereof, and their ability to safely
24 store Plaintiffs and the Class and Subclass members' Customer Data;
- 25 d. Whether Defendants concealed crucial information about their
26 inadequate data security measures from Plaintiffs and the Class and
27 Subclass members;

- 1 e. Whether Defendants failed to comply with their own policies and
2 applicable laws, regulations, and industry standards relating to data
3 security;
- 4 f. Whether Defendants' acts, omissions, misrepresentations, and
5 practices were and are likely to deceive consumers;
- 6 g. Whether Defendants knew or should have known that they did not
7 employ reasonable measures to keep Plaintiffs' and the Class and
8 Subclass members' Customer Data secure and prevent the loss or
9 misuse of that information;
- 10 h. Whether Defendants failed to implement and maintain reasonable
11 security procedures and practices for Plaintiffs' and the Class and
12 Subclass members' Customer Data in violation of Section 5 of the
13 FTC Act;
- 14 i. Whether Defendants failed to provide timely notice of the Data
15 Breach, to Plaintiff and the Class and Subclass members;
- 16 j. Whether Defendants conduct violated Cal. Bus. & Prof. Code § 22575,
17 *et seq.*;
- 18 k. Whether Defendants owed a duty to Plaintiffs and the Class and
19 Subclass members to safeguard their Customer Data and to implement
20 adequate data security measures;
- 21 l. Whether Defendants failed to adhere to their posted privacy policies
22 concerning the care they would take to safeguard Plaintiffs' and the
23 Class and Subclass members' Customer Data in violation of Cal. Bus.
24 & Prof. Code § 22576;
- 25 m. Whether Defendants negligently and materially failed to adhere to
26 their posted privacy policies concerning the safeguarding of Plaintiffs'
27 and the Class and Subclass members' Customer Data in violation of
28 Cal. Bus. & Prof. Code § 22576;

- 1 n. Whether Defendants breached that duty;
- 2 o. Whether an implied contract existed between Defendants and Plaintiffs
- 3 and the Class and Subclass members, and the terms of any such
- 4 implied contract; and,
- 5 p. Whether Defendants breached the implied contract.

6 **CLAIMS ALLEGED ON BEHALF OF THE CLASS**

7 **First Claim for Relief**

8 **Violation of California’s Unfair Competition Law (“UCL”)**

9 **Unlawful Business Practice**

10 **(Cal. Bus. & Prof. Code § 17200, *et seq.*)**

11 **(On Behalf of Plaintiffs, the Nationwide Class,**

12 **the Best Buy Subclass, and the Delta Subclass)**

13 103. Plaintiffs repeat, reallege, and incorporate by reference the allegations

14 contained in paragraphs 1 through 102 as though fully stated herein.

15 104. By reason of the conduct alleged herein, Defendants engaged in unlawful

16 “business practices” within the meaning of the UCL.

17 105. Since at least September 2017, 24/7 has been the customer support provider

18 and agent of Best Buy and Delta to provide customer service support to their respective

19 customers. 24/7 is the agent of both Best Buy and Delta.

20 106. 24/7 stored the Customer Data of Plaintiffs and the Class and Subclass

21 members on behalf of Best Buy and Delta in its computer systems. Defendants falsely

22 represented to Plaintiffs and the Class and Subclass members that their Customer Data was

23 secure and would remain private.

24 107. Defendants knew or should have known they did not employ reasonable,

25 industry standard, and appropriate security measures that complied “with federal

26 regulations” and that would have kept Plaintiffs’ and the Class and Subclass members’

27 Customer Data secure and prevented the loss or misuse of that Customer Data.

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1 108. Even without these misrepresentations, Plaintiffs and the Class and Subclass
2 members were entitled to assume, and did assume Defendants would take appropriate
3 measures to keep their Customer Data safe. Defendants did not disclose at any time that
4 Plaintiffs' Customer Data was vulnerable to hackers because Defendants' data security
5 measures were inadequate and outdated, and Defendants were the only ones in possession
6 of that material information, which they had a duty to disclose. Defendants violated the
7 UCL by misrepresenting, both by affirmative conduct and by omission, the safety of their
8 computer systems, specifically the security thereof, and their ability to safely store
9 Plaintiffs' and the Class and Subclass members' Customer Data. Defendants also violated
10 the UCL by failing to implement reasonable and appropriate security measures or follow
11 industry standards for data security, failing to comply with their own posted privacy
12 policies, and by failing to immediately notify Plaintiffs and the Class and Subclass
13 members of the Data Breach. If Defendants had complied with these legal requirements,
14 Plaintiffs and the Class and Subclass members would not have suffered the damages related
15 to the Data Breach, and consequently from, Defendants' failure to timely notify Plaintiffs
16 and the Class and Subclass members of the Data Breach.
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19 109. Defendants' acts, omissions, and misrepresentations as alleged herein were
20 unlawful and in violation of, *inter alia*, Section 5(a) of the Federal Trade Commission Act.

21 110. Plaintiffs and the Class and Subclass members suffered injury in fact and
22 lost money or property as the result of Defendants' unlawful business practices. In
23 particular, Plaintiffs and the Class and Subclass members have suffered from improper or
24 fraudulent charges to their credit/debit card accounts; and other similar harm, all as a result
25 of the Data Breach. In addition, their Customer Data was taken and is in the hands of those
26 who will use it for their own advantage, or is being sold for value, making it clear that the
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1 hacked information is of tangible value. Plaintiffs and the Class and Subclass members
2 have also suffered consequential out of pocket losses for procuring credit freeze or
3 protection services, identity theft monitoring, and other expenses relating to identity theft
4 losses or protective measures.

5 111. As a result of Defendants' unlawful business practices, violations of the
6 UCL, Plaintiffs and the Class and Subclass members are entitled to injunctive relief.

7
8 **Second Claim for Relief**
9 **Violation of California's Unfair Competition Law ("UCL")**
10 **Unfair Business Practice**
11 **(Cal. Bus. & Prof. Code § 17200, *et seq.*)**
12 **(On Behalf of Plaintiffs, the Nationwide Class,**
13 **the Best Buy Subclass, and the Delta Subclass)**

14 112. Plaintiffs repeat, reallege, and incorporate by reference the allegations
15 contained in paragraphs 1 through 102 as though fully stated herein.

16 113. By reason of the conduct alleged herein, Defendants engaged in unfair
17 "business practices" within the meaning of the UCL.

18 114. Defendants stored Plaintiffs' and the Class and Subclass members'
19 Customer Data in their electronic and consumer information databases. Defendants
20 represented to Plaintiffs and the Class and Subclass members that their Customer Data
21 databases were secure and that Plaintiffs' and the Class and Subclass members' Customer
22 Data would remain private. Best Buy and Delta, themselves and through their agent 24/7,
23 engaged in unfair acts and business practices by representing that they had secure computer
24 systems when they did not.

25 115. Even without these misrepresentations, Plaintiffs and the Class and Subclass
26 members were entitled to, and did, assume Defendants would take appropriate measures to
27 keep their Customer Data safe. Defendants did not disclose at any time that Plaintiffs'
28 Customer Data was vulnerable to hackers because Defendants' data security measures were

1 inadequate and outdated, and Defendants were the only ones in possession of that material
2 information, which they had a duty to disclose.

3 116. Defendants knew or should have known they did not employ reasonable
4 measures that would have kept Plaintiffs' and the Class and Subclass members' Customer
5 Data secure and prevented the loss or misuse of Plaintiffs' and the Class and Subclass
6 members' Customer Data.

7 117. Defendants violated the UCL by misrepresenting, both by affirmative
8 conduct and by omission, the security of their systems and services, and their ability to
9 safely store Plaintiffs' and the Class and Subclass members' Customer Data. Defendants
10 also violated the UCL by failing to implement and maintain reasonable security procedures
11 and practices appropriate to protect Customer Data, and by failing to immediately notify
12 Plaintiffs and the Class and Subclass members of the Data Breach.

13 118. Defendants also violated their commitment to maintain the confidentiality
14 and security of Plaintiffs' and the Class and Subclass members' Customer Data, and failed
15 to comply with their own policies and applicable laws, regulations, and industry standards
16 relating to data security.

17 119. **Defendants engaged in unfair business practices under the “balancing**
18 **test.”** The harm caused by Defendants' actions and omissions, as described in detail above,
19 greatly outweigh any perceived utility. Indeed, Defendants' failure to follow basic data
20 security protocols and misrepresentations to consumers about Defendants' data security
21 cannot be said to have had any utility at all. All of these actions and omissions were clearly
22 injurious to Plaintiffs and the Class and Subclass members, directly causing the harms
23 alleged below.
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1 **120. Defendants engaged in unfair business practices under the “tethering**
2 **test.”** Defendants’ actions and omissions, as described in detail above, violated
3 fundamental public policies expressed by the California Legislature. *See, e.g.*, Cal. Civ.
4 Code § 1798.1 (“The Legislature declares that ... all individuals have a right of privacy in
5 information pertaining to them.... The increasing use of computers ... has greatly magnified
6 the potential risk to individual privacy that can occur from the maintenance of personal
7 information.”); Cal. Civ. Code § 1798.81.5(a) (“It is the intent of the Legislature to ensure
8 that personal information about California residents is protected.”); Cal. Bus. & Prof. Code
9 § 22578 (“It is the intent of the Legislature that this chapter [including the Online Privacy
10 Protection Act] is a matter of statewide concern.”) Defendants’ acts and omissions, and the
11 injuries caused by them, are thus “comparable to or the same as a violation of the law ...”
12 *Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co.* (1999) 20 Cal.4th
13 163, 187.
14

15 **121. Defendants engaged in unfair business practices under the “FTC test.”**
16 The harm caused by Defendants’ actions and omissions, as described in detail above, is
17 substantial in that it affects hundreds of thousands of Class and Subclass members and has
18 caused those persons to suffer actual harms. Such harms include a substantial risk of
19 identity theft, disclosure of Plaintiffs’ and the Class and Subclass members’ Customer Data
20 to third parties without their consent, diminution in value of their Customer Data,
21 consequential out of pocket losses for procuring credit freeze or protection services,
22 identity theft monitoring, and other expenses relating to identity theft losses or protective
23 measures. This harm continues given the fact that Plaintiffs’ and the Class and Subclass
24 members’ Customer Data remains in Defendants’ possession, without adequate protection,
25 and is also in the hands of those who obtained it without their consent. Defendants’ actions
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1 and omissions violated, *inter alia*, Section 5(a) of the Federal Trade Commission Act, 15
2 U.S.C. § 45. *See, e.g., F.T.C. v. Wyndham Worldwide Corp.*, 10 F. Supp. 3d 602, 613
3 (D.N.J. 2014), *aff'd*, 799 F.3d 236 (3d Cir. 2015); *In re LabMD, Inc.*, FTC Docket No.
4 9357, FTC File No. 102-3099 (July 28, 2016) (failure to employ reasonable and
5 appropriate measures to secure personal information collected violated § 5(a) of FTC Act);
6 *In re BJ's Wholesale Club, Inc.*, FTC Docket No. C-4148, FTC File No. 042-3160 (Sept.
7 20, 2005) (same); *In re CardSystems Solutions, Inc.*, FTC Docket No. C-4168, FTC File
8 No. 052-3148 (Sept. 5, 2006) (same); *see also United States v. ChoicePoint, Inc.*, Civil
9 Action No. 1:06-cv-0198-JTC (N.D. Ga. Oct. 14, 2009) (“failure to establish and
10 implement, and thereafter maintain, a comprehensive information security program that is
11 reasonably designed to protect the security, confidentiality, and integrity of personal
12 information collected from or about consumers” violates § 5(a) of FTC Act); 15 U.S.C. §
13 45(n) (defining “unfair acts or practices” as those that “cause[] or [are] likely to cause
14 substantial injury to consumers which [are] not reasonably avoidable by consumers
15 themselves and not outweighed by countervailing benefits to consumers or to
16 competition.”).

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19 122. Plaintiffs and the Class and Subclass members suffered injury in fact and
20 lost money or property as the result of Defendants’ unfair business practices. In particular,
21 Plaintiffs and the Class and Subclass members have suffered from improper or fraudulent
22 charges to their credit/debit card accounts; and other similar harm, all as a result of the Data
23 Breach. In addition, their Customer Data was taken and is in the hands of those who will
24 use it for their own advantage, or is being sold for value, making it clear that the hacked
25 information is of tangible value. Plaintiffs and the Class and Subclass members have also
26 suffered consequential out of pocket losses for procuring credit freeze or protection
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1 services, identity theft monitoring, and other expenses relating to identity theft losses or
2 protective measures.

3 123. As a result of Defendants' unfair business practices, violations of the UCL,
4 Plaintiffs and the Class and Subclass members are entitled to injunctive relief.

5 **Third Claim for Relief**
6 **Negligence**
7 **(On Behalf of Plaintiffs, the Nationwide Class,**
8 **the Best Buy Subclass, and the Delta Subclass)**

9 124. Plaintiffs repeat, reallege, and incorporate by reference the allegations
10 contained in paragraphs 1 through 102 as though fully stated herein.

11 125. Upon accepting and storing Plaintiffs' and the Class and Subclass members'
12 Customer Data in their computer systems and on their networks, Defendants undertook and
13 owed a duty to Plaintiffs and the Class and Subclass members to exercise reasonable care
14 to secure and safeguard that information and to use commercially reasonable methods to do
15 so. Defendants knew that the Customer Data was private and confidential, and should be
16 protected as private and confidential. 24/7 owed this duty to the Nationwide Class, as well
17 as the Best Buy and Delta Subclasses; Best Buy owed this duty to the Best Buy Subclass;
18 and Delta owed this duty to the Delta Subclass.

19 126. Defendants owed these respective duties of care not to subject Plaintiffs and
20 the Class and Subclass members, along with their Customer Data, to an unreasonable risk
21 of harm because they were foreseeable and probable victims of any inadequate security
22 practices.

23 127. Defendants owed a duty to Plaintiffs and the Class and Subclass members to
24 exercise reasonable care in safeguarding and protecting their Customer Data and keeping it
25 from being compromised, lost, stolen, misused, and or/disclosed to unauthorized parties.
26 This duty included, among other things, designing, maintaining, and testing Defendants'
27 security systems to ensure Plaintiffs' and the Class and Subclass members' Customer Data
28 was adequately secured and protected. Defendants further had a duty to implement
processes that would detect a breach of their data system in a timely manner. 24/7 owed

1 these duties to the Nationwide Class, as well as the Best Buy and Delta Subclasses; Best
2 Buy owed these duties to the Best Buy Subclass; and Delta owed these duties to the Delta
3 Subclass.

4 128. Defendants knew that Plaintiffs' and the Class and Subclass members'
5 Customer Data was personal and sensitive information that is valuable to identity thieves
6 and other criminals. Defendants also knew of the serious harms that could happen if
7 Plaintiffs' and the Class and Subclass members' Customer Data was wrongfully disclosed,
8 that disclosure was not fixed, or Plaintiffs and the Class and Subclass members were not
9 told about the disclosure in a timely manner.

10 129. By being entrusted by Plaintiffs and the Class and Subclass members to
11 safeguard their respective Customer Data, Defendants had special relationships with
12 Plaintiffs and the Class and Subclass members; Plaintiffs and the Class and Subclass
13 members utilized 24/7 product, and patronized Best Buy and Delta, and accepted Best
14 Buy's and Delta's respective offers to use payment cards as an approved form of payment
15 through 24/7's customer support platform. Plaintiffs and the Class and Subclass members
16 did so with the understanding that Defendants would take appropriate measures to protect
17 their respective Customer Data and would inform Plaintiffs and the Class and Subclass
18 members of any breaches or other security concerns that might call for action. But,
19 Defendants did not. Defendants not only knew their data security was inadequate, they also
20 knew they didn't have the tools to detect and document intrusions or exfiltration of
21 Customer Data. Defendants are morally culpable, given their wholly inadequate safeguards,
22 as well as their refusal to notify Plaintiffs and the Class and Subclass members of breaches
23 or security vulnerabilities.

24 130. Defendants breached their respective duties to exercise reasonable care in
25 safeguarding and protecting Plaintiffs' and the Class and Subclass members' Customer
26 Data by failing to adopt, implement, and maintain adequate security measures to safeguard
27 that information, and allowing unauthorized access to Plaintiffs' and the Class and Subclass
28 members' Customer Data.

1 131. Defendants also breached their respective duties to timely disclose that
2 Plaintiffs' and the Class and Subclass members' Customer Data had been, or was
3 reasonably believed to have been, stolen, exposed, or compromised.

4 132. Defendants' failure to comply with industry further evidences Defendants'
5 negligence in failing to exercise reasonable care in safeguarding and protecting Plaintiffs'
6 and the Class and Subclass members' Customer Data.

7 133. But for Defendants' respective wrongful and negligent breach of their
8 respective duties owed to Plaintiffs and the Class and Subclass members, their Customer
9 Data would not have been compromised, stolen, and viewed by unauthorized persons.
10 Defendants' respective negligence was a direct and legal cause of the theft of Plaintiffs'
11 and the Class and Subclass members' Customer Data, as well as the resulting damages.

12 134. The injury and harm Plaintiffs and the Class and Subclass members suffered
13 was the reasonably foreseeable result of Defendants' respective failure to exercise
14 reasonable care in safeguarding and protecting Plaintiffs' and the Class and Subclass
15 members' Customer Data. Defendants knew their computer systems and technologies for
16 accepting and securing Plaintiffs' and the Class and Subclass members' Customer Data had
17 numerous security vulnerabilities.

18 135. Defendants' respective misconduct as alleged herein was willful and with
19 conscious disregard of Plaintiffs' and the Class and Subclass members' rights or safety, and
20 despicable conduct that has subjected Plaintiffs and the Class and Subclass members to
21 cruel and unjust hardship in conscious disregard of their rights.

22 136. As a result of Defendants' respective misconduct, Plaintiffs' and the Class
23 and Subclass members' Customer Data was compromised, placing them at a greater risk of
24 identity theft and subjecting them to identity theft, and their Customer Data was disclosed
25 to third parties without their consent. Plaintiff and the Class and Subclass members also
26 suffered diminution in value of their Customer Data in that it is now easily available to
27 hackers on the dark web. Plaintiffs and the Class and Subclass members have also suffered
28 consequential out of pocket losses for procuring credit freeze or protection services,

1 identity theft monitoring, and other expenses relating to identity theft losses or protective
2 measures.

3 **Fourth Claim for Relief**
4 **Breach of Implied Contract**
5 **(On Behalf of Plaintiffs, the Best Buy Subclass, and the Delta Subclass)**

6 137. Plaintiffs repeat, reallege, and incorporate by reference the allegations
7 contained in paragraphs 1 through 102 as though fully stated herein.

8 138. Best Buy solicited and invited the Best Buy Plaintiff and the Best Buy
9 Subclass members to use the electronic customer support platform to make purchases using
10 their credit or debit cards. The Best Buy Plaintiff and the Best Buy Subclass members
11 accepted Best Buy's offer and used their credit or debit cards to patronize Best Buy during
12 the period of the Data Breach.

13 139. Delta solicited and invited the Delta Plaintiff and the Delta Subclass
14 members to use the electronic customer support platform to make purchases using their
15 credit or debit cards. The Delta Plaintiff and the Delta Subclass members accepted Delta's
16 offer and used their credit or debit cards to patronize Delta during the period of the Data
17 Breach.

18 140. When Plaintiffs and the Subclass members respectively patronized Best Buy
19 and Delta using payment cards, they provided their Customer Data, including but not
20 limited to the PII of their debit and credit cards. In so doing, Plaintiffs and the Subclass
21 members entered into implied contracts with Best Buy and Delta, respectively, pursuant to
22 which Best Buy and Delta, respectively, agreed to safeguard and protect such information
23 and to timely and accurately notify Plaintiffs and the Subclass members if their data had
24 been breached and compromised.

25 141. Each purchase Plaintiffs and the Subclass members made at Best Buy or
26 Delta, respectively, using their credit or debit card was made pursuant to the mutually
27 agreed-upon implied contract with that Defendant, under which that Defendant agreed to
28 safeguard and protect the Customer Data of Plaintiffs and the Subclass members, including

1 Plaintiffs' and the Subclass members' PII and credit or debit cards, and to timely and
2 accurately notify them if such information was compromised or stolen.

3 142. Plaintiffs and the Subclass members would not have provided and entrusted
4 their Customer Data, including PII and credit and debit card information, to the respective
5 Defendant to make purchases in the absence of the implied contract between them and the
6 respective Defendant.

7 143. Plaintiffs and the Subclass members fully performed their obligations under
8 the respective implied contracts with Defendants.

9 144. Defendants breached the respective implied contracts made with Plaintiffs
10 and the Subclass members by failing to safeguard and protect Plaintiffs' and the Subclass
11 members' Customer Data by failing to provide timely and accurate notice to them that their
12 Customer Data was compromised as a result of the Data Breach.

13 145. As a direct and proximate result of Defendants' breaches of the implied
14 contracts, Plaintiffs and the Subclass members sustained actual losses and damages,
15 including nominal damages, as described in detail above. These breaches of implied
16 contracts were a direct and legal cause of the injuries and damages to Plaintiffs and the
17 Subclass members, as described above.

18 **Fifth Claim for Relief**
19 **Negligence Per Se**
20 **(On Behalf of Plaintiffs, the Nationwide Class,**
21 **the Best Buy Subclass, and the Delta Subclass)**

22 146. Plaintiffs repeat, reallege, and incorporate by reference the allegations
23 contained in paragraphs 1 through 102 as though fully stated herein.

24 147. Section 5 of the FTC Act prohibits "unfair . . . practices in or affecting
25 commerce," including, as interpreted and enforced by the FTC, the unfair act or practice by
26 businesses, such as Defendants, of failing to use reasonable measures to protect Customer
27 Data.

28 148. Defendants violated Section 5 of the FTC Act by failing to use reasonable
measures to protect Customer Data and not complying with applicable industry standards.

1 Defendants' conduct was particularly unreasonable given the nature and amount of
2 Customer Data they obtained and stored, and the foreseeable consequences of a data breach
3 at Best Buy and Delta, including, specifically, the immense damages that would result to
4 Plaintiffs and the Class and Subclass members.

5 149. Defendants' violation of Section 5 of the FTC Act constitutes negligence
6 *per se*.

7 150. Plaintiffs and the Class and Subclass members are within the class of
8 persons the FTC Act was intended to protect.

9 151. The harm that occurred as a result of the Data Breach is the type of harm the
10 FTC Act was intended to guard against. The FTC has pursued enforcement actions against
11 businesses, which, as a result of their failure to employ reasonable data security measures
12 and avoid unfair and deceptive practices, caused the same harm as that Plaintiffs and the
13 Class and Subclass members suffered.

14 152. As a direct and proximate result of Defendants' negligence *per se*, Plaintiffs
15 and the Class and Subclass members have suffered, and continue to suffer, injuries and
16 damages arising from Plaintiffs' and the Class and Subclass members' inability to use their
17 debit or credit cards because those cards were cancelled, suspended, or otherwise rendered
18 unusable as a result of the Data Breach and/or false or fraudulent charges stemming from
19 the Data Breach, including but not limited to late fees charged and foregone cash back
20 rewards; damages from lost time and effort to mitigate the actual and potential impact of
21 the Data Breach on their lives including, inter alia, by placing "freezes" and "alerts" with
22 credit reporting agencies, contacting their financial institutions, closing or modifying
23 financial accounts, closely reviewing and monitoring their credit reports and accounts for
24 unauthorized activity, and filing police reports and damages from identity theft, which may
25 take months if not years to discover and detect, given the far-reaching, adverse and
26 detrimental consequences of identity theft and loss of privacy.

Sixth Claim for Relief
Unjust Enrichment
(On Behalf of Plaintiffs, the Nationwide Class,
the Best Buy Subclass, and the Delta Subclass)

1
2
3 153. Plaintiffs repeat, reallege, and incorporate by reference the allegations
4 contained in paragraphs 1 through 102 as though fully stated herein.

5 154. Plaintiffs and the Class and Subclass members conferred a monetary benefit
6 on Defendants. Specifically, the Best Buy Plaintiff and the Best Buy Subclass patronized
7 and provided Best Buy with their payment information through Best Buy's agent 24/7. In
8 exchange, the Best Buy Plaintiff and the Best Buy Subclass members should have received
9 from Best Buy the goods and services that were the subject of the transaction and should
10 have been entitled to have Best Buy and its agent 24/7 protect their Customer Data with
11 adequate data security.

12 155. Also, the Delta Plaintiff and the Delta Subclass members patronized and
13 provided Delta with their payment information through Delta's agent 24/7. In exchange,
14 the Delta Plaintiff and the Delta Subclass members should have received from Delta the
15 goods and services that were the subject of the transaction and should have been entitled to
16 have Delta and its agent 24/7 protect their Customer Data with adequate data security.

17 156. Further, the Plaintiffs and the Class members provided 24/7 with their
18 payment information and Customer Data, to be provided to 24/7's principals. In exchange,
19 the Plaintiffs and the Class members should have received from 24/7's principals the goods
20 and services that were the subject of the transaction and should have been entitled to have
21 those principals and their agent 24/7 protect their Customer Data with adequate data
22 security.

23 157. Defendants knew that the respective Plaintiffs and the Class and Subclass
24 members conferred those benefits on the respective Defendant, and the respective
25 Defendant accepted or retained that benefit. Defendants profited from the purchases and
26 used Plaintiffs' and the Class and Subclass members' Customer Data for business purposes.
27
28

- 1 b. Finding that Defendants' conduct was negligent, deceptive, unfair, and
2 unlawful as alleged herein;
- 3 c. Enjoining Defendants from engaging in further negligent, deceptive, unfair,
4 and unlawful business practices alleged herein;
- 5 d. Awarding Plaintiffs and the Class and Subclass members actual,
6 compensatory, consequential, and/or nominal damages;
- 7 e. Awarding Plaintiffs and the Class and Subclass members statutory damages
8 and penalties, as allowed by law;
- 9 f. Requiring Defendants to provide appropriate credit monitoring services to
10 Plaintiffs and the Class and Subclass members;
- 11 g. Compelling Defendants to use appropriate cyber security methods and
12 policies with respect to data collection, storage, and protection, and to
13 disclose with specificity to the Class and Subclass members the type of
14 Customer Data compromised;
- 15 h. Awarding Plaintiffs and the Class and Subclass members pre-judgment and
16 post-judgment interest;
- 17 i. Awarding Plaintiffs and the Class and Subclass members reasonable
18 attorneys' fees, costs and expenses, and;
- 19 j. Granting such other relief as the Court deems just and proper.

20
21 Dated: May 10th, 2018

/s/ Joshua H. Watson

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Telephone: (813) 223-5505
Facsimile: (813) 223-5402

Attorneys for Plaintiff and the Proposed Class

* *pro hac vice* application to be submitted

CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
MICHAEL FORD and RUDOLPH DUBROVSZKY
(b) County of Residence of First Listed Plaintiff Kendall County, TX
(c) Attorneys (Firm Name, Address, and Telephone Number)
CLAYEO C. ARNOLD, A PROFESSIONAL LAW CORPORATION
865 Howe Avenue, Sacramento, California 95825, Telephone: (916) 777-7777

DEFENDANTS
24/7, INC., BEST BUY CO., INC., and DELTA AIRLINES, INC.
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question
4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
4 4
5 5
6 6

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

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

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation-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):
Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d)
Brief description of cause:
Violation of California's Unfair Competition Law

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.
DEMAND \$ 5,000,000.00
CHECK YES only if demanded in complaint:
JURY DEMAND: X Yes No

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

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)
SAN FRANCISCO/OAKLAND
X SAN JOSE
EUREKA-MCKINLEYVILLE

DATE 05/10/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Joshua H. Watson

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

MICHAEL FORD and RUDOLPH DUBROVSZKY,
individually and on behalf of all others similarly
situated,

Plaintiff(s)

v.

24/7, INC., a California Corporation, BEST BUY CO.,
INC., a Minnesota corporation, and DELTA
AIRLINES, INC., a Delaware corporation,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) 24/7, INC.
Registered Agent JAY NASH
248 SILVER OAK DR
PASO ROBLES CA 93446

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

Clayeo C. Arnold, California SBN 65070
Joshua H. Watson, California SBN 238058
CLAYEO C. ARNOLD, A PROFESSIONAL LAW CORPORATION
865 Howe Avenue
Sacramento, California 95825
Telephone: (916) 777-7777
Facsimile: (916) 924-1829

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

MICHAEL FORD and RUDOLPH DUBROVSZKY,
individually and on behalf of all others similarly
situated,

Plaintiff(s)

v.

24/7, INC., a California Corporation, BEST BUY CO.,
INC., a Minnesota corporation, and DELTA
AIRLINES, INC., a Delaware corporation,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) BEST BUY CO., INC.
Registered Agent CT Corporation System, Inc.
1010 Dale St N
St Paul, MN 55117-5603

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

Clayeo C. Arnold, California SBN 65070
Joshua H. Watson, California SBN 238058
CLAYEO C. ARNOLD, A PROFESSIONAL LAW CORPORATION
865 Howe Avenue
Sacramento, California 95825
Telephone: (916) 777-7777
Facsimile: (916) 924-1829

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

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This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

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Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

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UNITED STATES DISTRICT COURT

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MICHAEL FORD and RUDOLPH DUBROVSZKY,
individually and on behalf of all others similarly
situated,

Plaintiff(s)

v.

24/7, INC., a California Corporation, BEST BUY CO.,
INC., a Minnesota corporation, and DELTA
AIRLINES, INC., a Delaware corporation,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) DELTA AIRLINES, INC.
Registered Agent Corporation Service Company
251 Little Falls Drive
Wilmington, DE 19808

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

Clayeo C. Arnold, California SBN 65070
Joshua H. Watson, California SBN 238058
CLAYEO C. ARNOLD, A PROFESSIONAL LAW CORPORATION
865 Howe Avenue
Sacramento, California 95825
Telephone: (916) 777-7777
Facsimile: (916) 924-1829

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

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I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Customer Service Chat Co. 24/7 Named Alongside Best Buy, Delta Airlines in Data Breach Class Action](#)
