

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

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

13 Attorneys for Plaintiff:
14 **TAWFIQ S. GAILANI**

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

17 TAWFIQ S. GAILANI, individually and)
18 on behalf of others similarly situated,)
19 Plaintiff,)

20 vs.)

21 VIVINT SOLAR INC.,)
22 Defendant.)
23)
24)
25)
26)
27)
28)

Case No. '17CV368 CAB MDD

CLASS ACTION COMPLAINT FOR DAMAGES

(1) Violations of the Fair Credit Reporting Act 15 U.S.C. § 1681, et seq.; and
(2) Violations of Cal. Civ. Code § 1785.19

DEMAND FOR JURY TRIAL

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

1 Plaintiff TAWFIQ S. GAILANI alleges as follows:

2 **INTRODUCTION**

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

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

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

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

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

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

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

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

PARTIES

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

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

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

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

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

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

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

19 **JURISDICTION AND VENUE**

20 15. This Court has jurisdiction under 28 U.S.C. section 1331, and 28 U.S.C.
21 section 1367 for supplemental state claims.

22 16. This action arises out of Defendant’s violations of the FCRA. Because
23 Defendant does business within the State of California, County of San Diego,
24 personal jurisdiction is established.

25 17. Venue is proper pursuant to 28 U.S.C. section 1391(b).

26 **THE FCRA’S PRIVACY PROTECTIONS**

27 18. Congress enacted the FCRA in 1970 to ensure fair and accurate credit
28 reporting, promote efficiency in the banking system, and protect consumer privacy.

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

1 19. In order to protect consumer privacy, the FCRA prohibits users from
2 obtaining consumer reports unless the user has a permissible purpose for procuring
3 the report, as defined in the statute. Specifically, the FCRA, 15 U.S.C. section
4 1681b(f), provides:

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

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

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

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

20 **RELEVANT FACTS**

21 23. On February 15, 2017, upon review of his Trans Union credit report,
22 Plaintiff discovered that Defendant VIVINT accessed his Trans Union credit file on
23 March 5, 2015. In connection therewith, Defendant made a general or specific
24 certification to Trans Union that Defendant sought the information because Plaintiff
25 had initiated a credit transaction with Defendant and Plaintiff needed to review
26 Plaintiff’s credit account with Defendant to determine whether Plaintiff continued to
27 meet the terms of said account.

28 24. Plaintiff never conducted any business nor incurred any additional
financial obligations to Defendant VIVINT. Further, Defendant did not offer Plaintiff

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

1 credit or otherwise make a firm offer of credit.

2 25. 15 U.S.C. section 1681b delineates the only permissible uses of, or
3 access to, consumer reports, including “to use the information in connection with a
4 credit transaction involving the consumer on whom the information is to be furnished
5 and involving the extension of credit to, or review or collection of an account of, the
6 consumer.” *See* 15 U.S.C. § 1681b(a)(3)(A).

7 26. Defendant’s inquiry for Plaintiff’s consumer report information, without
8 Plaintiff’s consent, falls outside the scope of any permissible use or access included in
9 15 U.S.C. section 1681b.

10 27. Therefore, Defendant violated 15 U.S.C. section 1681b by using
11 Plaintiff’s consumer report for an impermissible use that falls outside the scope of 15
12 U.S.C. section 1681b.

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

22 29. Defendant VIVINT’S actions were willful under 15 U.S.C. section
23 1681n because Defendant was aware of the FCRA’s prohibitions on impermissibly
24 pulling consumers’ credit reports. *See Doe v. Sentech Employment Services, Inc.*,
25 (2016 WL 2851427, *6 (E.D. Mich. May 16, 2016) citing *Singleton v. Domino’s*
26 *Pizza, LLC*, 2012 WL 245965, *4 (D. Md. Jan. 25, 2012) [“Assertions that a
27 defendant is aware of the FCRA, but failed to comply with its requirements, are
28 sufficient to support an allegation of willfulness and to avoid dismissal.”].

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

1 30. The FCRA was enacted in 1970; Defendant has had over 40 years to
2 become compliant.

3 31. Defendant violated a clear statutory mandate set forth in 15 U.S.C.
4 section 1681q.

5 32. Plaintiff suffered an invasion of a legally protected interest when
6 Defendant accessed his highly confidential personal information on his credit report
7 at a time when Defendant had no right to do so, an invasion of Plaintiff's right to
8 privacy. The FCRA, through 15 U.S.C. section 1681b, protects consumers like
9 Plaintiff from this precise behavior.

10 33. The FCRA expressly provides that Congress made the following finding:
11 "There is a need to insure that consumer reporting agencies exercise their grave
12 responsibilities with fairness, impartiality and a respect for the consumer's right to
13 privacy." *See* 15 U.S.C. § 1681a(4).

14 34. Plaintiff was affected personally because when he realized the behavior
15 of Defendant described above (pulling his credit report without any authorization),
16 Plaintiff felt that his privacy had been invaded and that his personal and private
17 information had been disclosed to Defendant, who had no right to Plaintiff's
18 information.

19 35. The injury suffered by Plaintiff is concrete because, on information and
20 belief, Defendant's violation of 15 U.S.C. section 1681b caused Plaintiff's credit
21 score to drop directly impacting Plaintiff's credit availability and finances. Plaintiff
22 also suffered from Defendant's invasion of Plaintiff's privacy. In enacting 15 U.S.C.
23 section 1681b, Congress specifically sought to protect consumers from invasions of
24 privacy and created restrictions on access to consumers' sensitive financial
25 information in their credit reports.

26 36. Further, Defendant VIVINT increased the risk that Plaintiff and the class
27 members will be injured if there is a data breach on Defendant's computer systems by
28 acquiring additional highly sensitive information about Plaintiff and the class

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

1 members and saving that information onto its computer system. Data breaches are
2 increasingly common¹ and companies, like the Defendant, are frequent targets of
3 cybercriminals.²

4 37. As such, Plaintiff is entitled to the remedies available under 15 U.S.C.
5 section 1681n and 15 U.S.C. section 1681o.

6 **CLASS ALLEGATIONS**

7 38. Plaintiff brings this action on his own behalf, and on behalf of all others
8 similarly situated.

9 39. Plaintiff defines the **FCRA Class** as follows:

10 **CLASS A**

11 All persons with addresses within California whose consumer
12 credit report from any of these three major credit agencies
13 (Experian, Trans Union, and Equifax) were accessed by
14 Defendant at a time when Defendant did not have a credit
15 relationship with said person of the kind specified in 15 U.S.C.
16 section 1681b(a)(3)(A)-(F) in the two years predating the filing
of this Complaint and continuing through the date the class list
is prepared.

17 **CLASS B**

18 All persons with addresses within California whose consumer
19 credit report from any of these three major credit agencies
20 (Experian, Trans Union, and Equifax) were accessed by
21 Defendant at a time when Defendant did not have a credit
22 relationship with said person of the kind specified in 15 U.S.C.
23 section 1681b(a)(3)(A)-(F) in the five years predating the filing
of this Complaint and continuing through the date the class list
is prepared.

24 ///

25 ///

26 ///

27 ¹ See Data Breaches, Kerbs, available at <http://krebsonsecurity.com/category/data-breaches/>

28 ² See <http://www.esecurityplanet.com/network-security/capital-one-acknowledges-insider-breach.html>; Also see http://ago.vermont.gov/assets/files/Consumer/Security_Breach/2013-12-30%20Capital%20One%20Security%20Breach%20Notice%20Ltr%20to%20Consumer.pdf.

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

1 40. Plaintiff defines the **CCRAA Class** as follows:

2 **CLASS A**

3 All persons with addresses within California whose consumer
4 credit report from any of these three major credit agencies
5 (Experian, Trans Union, and Equifax) were accessed by
6 Defendant at a time when Defendant did not have a credit
7 relationship with said person of the kind specified in 15 U.S.C.
8 section 1681b(a)(3)(A)-(F) in the two years predating the filing
9 of this Complaint and continuing through the date the class list
10 is prepared.

11 **CLASS B**

12 All persons with addresses within California whose consumer
13 credit report from any of these three major credit agencies
14 (Experian, Trans Union, and Equifax) were accessed by
15 Defendant at a time when Defendant did not have a credit
16 relationship with said person of the kind specified in 15 U.S.C.
17 section 1681b(a)(3)(A)-(F) in the five years predating the filing
18 of this Complaint and continuing through the date the class list
19 is prepared.

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

24 42. Plaintiff and members of the Classes were harmed by the acts of
25 Defendant in at least the following ways: Defendant VIVINT, either directly or
26 through its agents, engaged in illegal and deceptive practices, when it submitted an
27 unauthorized consumer report inquiry under 15 U.S.C. section 1681 *et seq.* Plaintiff
28 and the Classes' members were damaged thereby.

43. This suit seeks only recovery of actual and statutory damages on behalf
of the Classes, and it expressly is not intended to request any recovery for personal
injury and claims related thereto. Plaintiff reserves the right to expand the Classes'

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

1 definitions to seek recovery on behalf of additional persons as warranted as facts are
2 learned in further investigation and discovery.

3 44. The joinder of the Classes' members is impractical and the disposition of
4 their claims in the Class action will provide substantial benefits both to the parties and
5 to the court. The Classes can be identified through Defendant's records or
6 Defendant's agents' records.

7 45. There is a well-defined community of interest in the questions of law and
8 fact involved affecting the parties to be represented. The questions of law and fact to
9 the Classes predominate over questions which may affect individual members of the
10 Classes, including the following:

- 11 a) Whether, within the class period, Defendant or its agents submitted any
12 consumer credit report inquiries;
- 13 b) Whether Defendants procured credit reports without a permissible purpose
14 under the FCRA;
- 15 c) Whether Defendant's conduct was willful under the FCRA;
- 16 d) Whether Defendant accessed or obtained data from consumer filed in
17 violation of the CCRAA;
- 18 e) Whether Plaintiff and the members of the Classes were damaged thereby,
19 and the extent of damages for such violations.

20 46. Plaintiff will fairly and adequately protect the interest of the Classes.

21 47. Plaintiff has retained counsel experienced in consumer litigation,
22 including class action litigation and in handling claims involving violations of the Fair
23 Credit Reporting Act.

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

26 49. A class action is a superior method for the fair and efficient adjudication
27 of this controversy.

28 50. Class-wide damages are essential to induce Defendant to comply with

1 the Federal and State laws alleged in the Complaint.

2 51. The interests of class members in individually controlling the
3 prosecution of separate claims against Defendant is small because the maximum
4 statutory damages in an individual action under the FCRA is minimal. Management
5 of these claims is likely to present significantly fewer difficulties than those presented
6 in many class claims, *e.g.* securities fraud.

7 52. Defendant has acted on grounds generally applicable to the Classes,
8 thereby making appropriate final declaratory relief with respect to each class as a
9 whole.

10 53. Plaintiff contemplates providing notice to the putative class members by
11 direct mail in the form of a postcard and via Internet website.

12 54. Plaintiff requests certification of a hybrid class combining the elements
13 of Fed. R. Civ. P. 23(b)(3) for monetary damages and Fed. R. Civ. P. 23(b)(2) for
14 equitable relief.

15 **FIRST CAUSE OF ACTION**
16 **(Violation of the FCRA: Impermissible Access)**

17 55. Plaintiff incorporates by reference all of the above paragraphs of this
18 Complaint as though fully stated herein.

19 56. The FCRA establishes very specific rules placing limitations upon an
20 entity (or “person”) seeking to obtain a consumer’s credit history
21 or the content of a consumer’s credit file.

22 57. 15 U.S.C. section 1681b(f) states in part the following:

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

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

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

1 58. 15 U.S.C. section 1681b(a)(3) lists the all-inclusive purposes for which a
2 consumer report can be obtained.

3 59. 15 U.S.C. section 1681b(a)(3) states in relevant part as follows:

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

6 (3) To a person which it has reason to believe—

7
8 (A) intends to use the information in connection with a
9 credit transaction involving the consumer on whom the
10 information is to be furnished and involving the extension
11 of credit to, or review or collection of an account of, the
12 consumer[...]

13 60. When requesting Plaintiff’s credit information from Trans Union,
14 Defendant VIVINT had actual knowledge that it did not have a permissible purpose
15 to obtain such credit information concerning Plaintiff.

16 61. For Defendant VIVINT to repeatedly and impermissibly access the credit
17 files of consumers without permission, constitutes willful non-compliance with the
18 FCRA.

19 62. Upon information and belief, Defendant VIVINT obtains credit reports
20 on consumers for one or more of the following reasons: (1) marketing, (2) research,
21 (3) investigation, (4) sale the information to a third party, (5) maliciously violate a
22 consumer’s privacy, or (6) some other impermissible purpose.

23 63. As a result of each and every negligent violation of the FCRA, Plaintiff
24 is entitled to actual damages, pursuant to 15 U.S.C. section 1681o(a)(1); and
25 reasonable attorney’s fees and costs pursuant to 15 U.S.C. section 1681o(a)(2), from
26 Defendant.

27 64. As a result of each and every willful violation of the FCRA, Plaintiff is
28 entitled to actual damages or damages of not less than \$100 and not more than \$1,000
and such amount as the court may allow for all other class members, pursuant to 15

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

1 U.S.C. section 1681n(a)(1)(A); punitive damages as the court may allow, pursuant to
2 15 U.S.C. section 1681n(a)(2); and reasonable attorney’s fees and costs pursuant to
3 15 U.S.C. section 1681n(a)(3) from Defendant.

4 **SECOND CAUSE OF ACTION**
5 **(Violation of the CCRAA: Impermissible Access)**

6 65. Plaintiff incorporates by reference all of the above paragraphs of this
7 Complaint as though fully stated herein.

8 66. Plaintiff did not authorize Defendant to do a pull of his credit reports.

9 67. Defendant lacked any permissible purpose to obtain the credit reports
10 under Cal. Civil Code section 1785.11.

11 68. Defendant knowingly and willfully access or obtained data from the
12 consumer files of Plaintiff and the class members in violation of Cal. Civil Code
13 section 1785.19. Upon information and belief, Defendant VIVINT obtains credit
14 reports on consumers for one or more of the following reasons: (1) marketing, (2)
15 research, (3) investigation, (4) sale the information to a third party, (5) maliciously
16 violate a consumer’s privacy, or (6) some other impermissible purpose.

17 69. Plaintiff is entitled to civil penalties of not more than \$2,500 for each and
18 every one of these violations pursuant to Cal. Civil Code section 1785.19. Plaintiff is
19 further entitled to actual damages and punitive damages of not less than \$100 and not
20 more than \$5,000 for each violation. Plaintiff, the Damages Class, and the Injunctive
21 Relief Two-Year Subclass, are entitled also to injunctive relief, and to recover their
22 costs and attorneys’ fees, pursuant to Cal. Civil Code section 1785.31.

23 **REQUEST FOR PRESERVATION OF EVIDENCE**

- 24 1. Preserve all forms of electronic data, regardless of where the data exists,
25 without modification to or deletion of any potentially discoverable data;
26 2. Suspend all procedures that may alter or delete computer data;
27 3. Prevent deleting, overwriting, defragmenting, or compressing the data;
28 4. Preserve all archived back-up tapes and ensure that (a) if archive tapes

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

1 are rotated, the relevant tapes are removed from the rotation; (b) if backups are made
2 to hard drives, preserve the hard drive as well;

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

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

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

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

14 **REQUEST FOR JURY TRIAL**

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

17 **PRAYER FOR DAMAGES AND OTHER REMEDIES**

- 18 1. An order certifying the Class as requested herein;
- 19 2. An order appointing the Plaintiff as the representative of the Class;
- 20 3. An order certifying Plaintiff’s counsel as Class Counsel;
- 21 4. An order requiring Defendant, at its own cost, to notify all members of
22 the Classes of the unlawful acts discussed herein;
- 23 5. Declaring that Defendant violated the FCRA;
- 24 6. An Order requiring return of Class members’ confidential consumer
25 report and destruction of any copy;
- 26 7. Declaring that Defendant acted willfully, in knowing or reckless
27 disregard of Plaintiff’s rights and its obligations under the FCRA;
- 28 8. Declaring that Defendant violated the CCRAA;

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

9. Awarding actual damages, punitive damages, civil penalties, costs, and attorney’s fees as provided under the CCRAA;
10. Awarding appropriate injunctive relief under the CCRAA, including an injunction requiring that Defendant cease its unlawful practices and ensure that consumer reporting agencies remove Defendant’s unauthorized credit inquiries from Plaintiff’s and the Class members’ credit reports;
11. Injunctive relief requiring Defendant to refrain from further impermissible consumer credit pulls in compliance with 15 U.S.C. section 1681b;
12. Actual damages suffered by Plaintiff and each Class member, pursuant to 15 U.S.C. section 1681o(a)(1), against Defendant;
13. Statutory damages of not less than \$100 and not more than \$1,000 to Plaintiff and each Class member, pursuant to 15 U.S.C. section 1681n(a)(1), against Defendant;
14. An award of costs of litigation and reasonable attorney’s fees, pursuant to 15 U.S.C. sections 1681n(a)(3) and 1681o(a)(2); and
15. Any and all other relief that this Court deems just and proper.

Respectfully Submitted,

DATED: February 23, 2017

MASHIRI LAW FIRM

A Professional Corporation

By: /s/ Alex Asil Mashiri

Alex Asil Mashiri

Attorney for Plaintiff

TAWFIQ S. GAILANI

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

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS
TAWFIQ S. GAILANI
(b) County of Residence of First Listed Plaintiff San Diego, California
(c) Attorneys (Firm Name, Address, and Telephone Number)
MASHIRI LAW FIRM, A Professional Corporation
11251 Rancho Carmel Dr. # 500694, San Diego, CA 92150
Tel: 858 348-4938

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

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 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. Includes various legal categories like Insurance, Motor Vehicle, Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. section 1681 et. seq.
Brief description of cause:
Violation of the Fair Credit Reporting Act

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 10,000,000.00
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

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

DATE 02/23/2017 SIGNATURE OF ATTORNEY OF RECORD s/ Alex Asil Mashiri

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Print Save As... Reset

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Alleges Vivint Solar Procured Credit Reports Without Authorization](#)
