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12
13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA

15 Ehud Gersten and Hannah Obradovich,
16 individuals, on behalf of themselves and
all others similarly situated,
17
18 Plaintiffs,
19 v.
20 EQUIFAX INC.

21 Defendant.

CLASS ACTION '17CV1828 H JMA

COMPLAINT FOR DAMAGES

Negligence
Negligence per se
Cal. Bus. & Prof. Code §17200 –
Unlawful Business Practices
Cal. Bus. & Prof. Code §17200 –
Unfair Business Practices
Cal. Bus. & Prof. Code §17200 –
Fraudulent/Deceptive Business
Practices

JURY TRIAL DEMANDED

1 Plaintiffs Ehud Gersten and Hannah Obradovich (collectively, “Plaintiffs” or “Class
2 Representatives”), on behalf of themselves and all others similarly situated, file this Class
3 Action complaint on behalf of roughly 143 million consumers across the United States
4 harmed by Equifax's failure to adequately protect their credit and highly sensitive personal
5 information, including but not limited to names, Social Security numbers, birth dates,
6 addresses, and driver's license numbers. This complaint’s allegations are based on personal
7 knowledge as to Plaintiffs’ conduct and is made on information and belief as to the acts of
8 others.

9 **I. INTRODUCTION**

10 1. Defendant Equifax Inc. (“Defendant,” “Equifax,” or the “Company”) is one
11 of the three largest consumer credit reporting agencies in the United States.

12 2. Plaintiff Gersten has been a consumer of Defendant Equifax’s services and
13 entrusted Defendant with his personal information since approximately 2001. Plaintiff
14 Obradovich has been a consumer of Defendant Equifax’s services and entrusted Defendant
15 with her personal information since approximately 2003. They bring this action on a class
16 basis alleging negligence, negligence per se, and violations of the California Unfair
17 Competition Law, and seeking redress for affected Equifax consumers.

18 3. As Plaintiffs and the Class entrusted Defendant with their sensitive personal
19 information, Equifax owed them a duty of care to take adequate measures to protect the
20 information entrusted to it, and to inform Plaintiffs and the Class of data breaches that
21 could expose them to harm. Equifax failed to do so.

22 4. Upon information and belief, between May 2017 and July 2017, Defendant
23 was the subject of a data breach in which unauthorized individuals accessed Equifax’s
24 database and the names, Social Security numbers, addresses, and other Personal Identifying
25 Information (“PII”) stored therein (hereinafter the “Data Breach”). Equifax discovered the
26 unauthorized access on July 29, 2017, but failed to alert Plaintiffs and the Class until
27 September 7, 2017.

1 5. The Data Breach has already caused substantial injury. The potential for harm
2 caused by insufficient safeguarding of PII is profound. With data such as that leaked in
3 the Data Breach, identity thieves can cause irreparable and long-lasting damage to
4 individuals, from filing for loans and opening fraudulent bank accounts to selling valuable
5 PII to the highest bidder.

6 6. Equifax knew and should have known the risks associated with inadequate
7 security, and with delayed reporting of the breach. Defendant knew and should have
8 known of the inadequacy of its own data security. Equifax has experienced similar such
9 breaches of PII on smaller scales in the past, including in 2013, 2016, and even as recently
10 as January 2017. Over the years, Equifax has jeopardized the PII and, as a result, financial
11 information of hundreds of thousands of Americans.

12 7. Yet, despite this long history of breaches, Defendant has failed to prevent the
13 Data Breach that has, upon information and belief, exposed the personal information of
14 over 100 million Americans. The damage done to these individuals may follow them for
15 the rest of their lives, as they will have to monitor closely their financial accounts to detect
16 any fraudulent activity and incur out-of-pocket expenses for years to protect themselves
17 from identity theft now and in the future.

18 8. In the case of Defendant’s Data Breach, the potential repercussions for
19 consumers are particularly egregious. Privacy researchers and fraud analysts have called
20 this attack “as bad as it gets.” “On a scale of 1 to 10 in terms of risk to consumers,” it is a
21 10.¹

22 9. Defendant failed to inform millions of consumers of the Data Breach until
23 September 7, 2017, over a month after Defendant first discovered it on July 29. While
24 Defendant took no steps in that time to inform the public in the interim, Defendant did not
25 hesitate to protect itself; at least three Equifax senior executives, including CFO John
26

27 ¹ <https://www.nytimes.com/2017/09/07/business/equifax-cyberattack.html>
28

1 Gamble, upon information and belief, sold shares worth \$1.8 million in the days following
2 the Data Breach.²

3 10. To provide relief to the millions of people whose PII has been compromised
4 by the Data Breach, Plaintiffs bring this action on behalf of themselves and all others
5 similarly situated. They seek to recover actual and statutory damages, equitable relief,
6 restitution, reimbursement of out-of-pocket losses, other compensatory damages, credit
7 monitoring services with accompanying identity theft insurance, and injunctive relief
8 including an order requiring Equifax to improve its data security and bring to an end its
9 long history of breaches at the cost of consumers.

10 **II. THE PARTIES**

11 **A. PLAINTIFF EHUD GERSTEN**

12 11. Plaintiff Ehud Gersten is an individual consumer residing in San Diego, CA.
13 Mr. Gersten first engaged, or authorized the engagement of, Equifax when he applied for
14 credit in 2003. As a result, Equifax has had records of his entire financial history over the
15 last 14 years, including his social security number, birthdate, and all personal addresses.

16 **B. PLAINTIFF HANNAH OBRADOVICH**

17 12. Plaintiff Hannah Obradovich is an individual consumer residing in San Diego,
18 CA. Ms. Obradovich first engaged, or authorized the engagement of, Equifax when she
19 applied for credit in approximately 2001. As a result, Equifax has had records of her entire
20 financial history over the last 16 years, including her social security number, birthdate, and
21 all personal addresses.

22 **C. DEFENDANT EQUIFAX**

23 13. Defendant Equifax Inc. is a multi-billion dollar corporation formed under the
24 laws of the State of Delaware with its corporate headquarters at 1550 Peachtree Street NE,
25 Atlanta, GA 30309. It provides credit information services to millions of businesses,
26

27
28 ² <https://www.bloomberg.com/news/articles/2017-09-07/three-equifax-executives-sold-stock-before-revealing-cyber-hack>

1 governmental units, and consumers across the globe. Equifax operated through various
2 subsidiaries, each of which entities acted as agents of Equifax, or in the alternative, in
3 concert with Equifax.

4 **III. JURISDICTION AND VENUE**

5 14. This Court has jurisdiction under 28 U.S.C. § 1332 because the parties are
6 citizens of different states and the amount in controversy exceeds \$5 million exclusive of
7 interest and costs, and this is a class action in which more than two-thirds of the proposed
8 classes, on the one hand, and Defendant, on the other, are citizens of different states.

9 15. The Southern District of California has personal jurisdiction over Defendant
10 because Defendant does business in California and in this district; Defendant advertises in
11 a variety of media throughout the United States, including California; and many of the acts
12 complained of and giving rise to the claims alleged herein occurred in California in this
13 district. Defendant intentionally avails itself of the markets within this state to render the
14 exercise of jurisdiction by this Court just and proper.

15 16. Venue is proper pursuant to 28 U.S.C. Section 1391 because Defendants
16 conduct substantial business in San Diego, a substantial part of the events and omissions
17 giving rise to the claims alleged herein occurred in this district, and a substantial part of
18 property that is the subject of the action is situated.

19 **IV. FACTUAL ALLEGATIONS**

20 17. Equifax has collected and stored personal and credit information from Class
21 members, including Plaintiffs.

22 18. Equifax owed a duty to Plaintiffs and the Classes, who entrusted Defendant
23 with their private information, to use reasonable care to protect their PII from unauthorized
24 access by third parties and to detect and stop data breaches, to comply with laws
25 implemented to preserve the privacy of this information, and to notify them promptly if
26 their information was disclosed to an unauthorized third party.

1 19. Equifax knew or should have known that its failure to meet this duty would
2 cause substantial harm to Plaintiffs and the Classes, including serious risks of credit harm
3 and identity theft for years to come.

4 20. Prior to May 2017, Equifax had experienced at least three major cybersecurity
5 incidents in which consumers' personal information was compromised and accessed by
6 unauthorized third parties. Given the company's prior history of cyberattacks and its
7 reputation as an industry leader in data breach security, Equifax could have and should
8 have invested more money and resources into ensuring the security of its data.

9 21. Beginning in mid-May 2017, because Equifax negligently failed to maintain
10 adequate safeguards, unauthorized third parties managed to exploit a weakness in Equifax's
11 US website application to gain access to sensitive data for roughly two months. Among
12 the information stolen, the data breach jeopardized credit card numbers for approximately
13 209,000 consumers and documents with personal information used in disputes for
14 approximately 182,000 consumers.

15 22. Equifax delayed informing Plaintiffs, the Class, and the public of the Data
16 Breach. On September 7, 2017, Equifax announced to the public that the it had discovered
17 "unauthorized access" to company data, which jeopardized sensitive information for
18 millions of its consumers.

19 23. As of this date, Equifax has yet to disclose to consumers whether their specific
20 personal data was impacted by this massive security breach. In fact, the dedicated website
21 Equifax created to help consumers figure out if their information has been impacted only
22 offers an enrollment date for its credit monitoring program.³

23 24. As a direct, proximate, and foreseeable result of Equifax's failure to meet its
24 duty of care, including by failing to maintain adequate security measures and failing to
25 provide adequate notice of the Data Breach, Plaintiffs and the class have suffered and will
26 continue to suffer substantial injury, including inconvenience, distress, injury to their rights
27

28 ³ www.equifaxsecurity2017.com

1 to the privacy of their information, increased risk or fraud, identity theft, and financial
2 harm, the costs of monitoring their credit to detect incidences of this, and other losses
3 consistent with the access of their PII by unauthorized sources.

4 25. Armed with the stolen information, unauthorized third parties now possess
5 keys that unlock consumers' medical histories, bank accounts, employee accounts, and
6 more. Abuse of sensitive credit and personal information can result in considerable harm
7 to victims of security breaches. Criminals can take out loans, mortgage property, open
8 financial accounts and credit cards in a victim's name, obtain government benefits, file
9 fraudulent tax returns, obtain medical services, and provide false information to police
10 during an arrest, all under the victim's name. Furthermore, this valuable information can
11 also be sold to others with similar nefarious intentions.

12 26. A breach of this scale requires Plaintiffs and class members to incur the
13 burden of scrupulously monitoring their financial accounts and credit histories to protect
14 themselves against identity theft and other fraud and will incur out-of-pocket expenses to
15 protect against such theft. This includes obtaining credit reports, enrolling in credit
16 monitoring services, freezing lines of credit, and more. Where identity theft is detected,
17 Plaintiffs and Class members will incur the burden of correcting their financial records, to
18 the extent that that is even possible. Plaintiffs and Class members will likely spend
19 considerable effort and money for the rest of their lives on monitoring and responding to
20 the repercussions of this cyberattack.

21 **V. CLASS ACTION ALLEGATIONS**

22 27. Plaintiffs bring this action pursuant to Fed. R. Civ. P. 23 seeking injunctive
23 and monetary relief for Equifax's systemic failure to safeguard personal information of
24 Plaintiffs and Class members.

25 **A. CLASS DEFINITIONS**

26 28. Plaintiffs seek relief in their individual capacities and as representatives of all
27 others who are similarly situated.
28

1 29. The “Nationwide Class” is defined as all persons residing in the United States
2 whose personal data Equifax collected and stored and whose personal information was
3 placed at risk and/or disclosed in the Data Breach affecting Equifax from May to July 2017.

4 30. The “California Class” is defined as all persons residing in California whose
5 personal data Equifax collected and stored and whose personal information was placed at
6 risk and/or disclosed in the Data Breach affecting Equifax from May to July 2017.

7 31. Excluded from either class are all attorneys for the class, officers, and
8 members of Equifax, including officer and members of any entity with an ownership
9 interest in Equifax, any judge who sits on this case, and all jurors and alternate jurors who
10 sit on this case.

11 **B. REQUIREMENTS OF RULE 23(a) AND RULE 23(b)(2) and (b)(3)**

12 **i. Numerosity and Impracticability of Joinder**

13 32. The proposed Classes are so numerous that joinder of all members is
14 impracticable.

15 33. Upon information and belief, there are more than 143 million members of the
16 proposed Nationwide Class, and tens of millions of members in the California Class.

17 34. The Class members are readily ascertainable. Equifax has access to addresses
18 and personal contact information for millions of members of the Classes, which can be
19 used for providing notice to Class members.

20 **ii. Common Questions of Law and Fact**

21 35. Every Class member suffered injuries as alleged in this complaint as a result
22 of Defendant’s negligence and unlawful, unfair, and deceptive/fraudulent behavior. The
23 prosecution of Plaintiffs' claims will require the adjudication of numerous questions of law
24 and fact common to the Classes. The common questions of law and fact predominate over
25 any questions affecting only individual Class members. The common questions include:

- 26 a. Whether Defendant engaged in the wrongful conduct alleged herein;
27 b. Whether Defendant owed a duty to Plaintiffs and Class Members to
28 adequately protect their personal information;

- c. Whether Defendant breached their duties to protect the personal information of Plaintiffs and Class members;
- d. Whether Defendant knew or should have known that their data security systems and processes were unreasonably vulnerable to attack;
- e. Whether Plaintiffs and Class members suffered legally cognizable damages as a result of Defendant's conduct, including increased risk of identity theft and loss of value of personal information; and
- f. Whether Plaintiffs and Class members are entitled to equitable relief including injunctive relief.

iii. Typicality of Claims and Relief Sought

36. Plaintiffs have suffered the same violations and similar injuries as other Class members arising out of and caused by Defendant's common course of conduct. All Class members were subject to the same acts and omissions by Defendant, as alleged herein, resulting in the breach of personal information.

37. Plaintiffs possess and assert each of the claims they assert on behalf of the proposed Classes. They seek similar relief as other Class members.

iv. Adequacy of Representation

38. Plaintiffs' interests are coextensive with those of the members of the proposed Classes. Each suffered risk of loss and credit harm and identity theft caused by Equifax's wrongful conduct and negligent failure to safeguard their data, the injuries suffered by Plaintiffs and the Class members are identical (i.e. the costs to monitor and repair their credit through a third-party service), and Plaintiffs' claims for relief are based upon the same legal theories as are the claims of the other Class members. Plaintiffs are willing and able to represent the proposed Classes fairly and vigorously.

39. Plaintiffs have retained counsel sufficiently qualified, experienced, and able to conduct this litigation and to meet the time and fiscal demands required to litigate a class action of this size and complexity.

1 **v. Efficiency of Class Prosecution of Class Claims**

2 40. A class action is superior to other available methods for the fair and efficient
3 adjudication of the controversy – particularly where individual class members lack the
4 financial resources to vigorously prosecute a lawsuit against a large corporation such as
5 Equifax.

6 41. Class action treatment will permit a large number of similarly situated persons
7 to prosecute their common claims in a single forum simultaneously, efficiently, and
8 without the unnecessary duplication of efforts and expense that numerous individual
9 actions engender.

10 42. The prosecution of separate actions by individual members of the Class would
11 create a risk of inconsistent and/or varying adjudications with respect to the individual
12 members of the Classes, establishing incompatible standards of conduct for Defendant and
13 resulting in the impairment of Class members' rights and the disposition of their interests
14 through actions to which they were not parties.

15 43. The issues in this class action can be decided by means of common, classwide
16 proof. In addition, the Court can, and is empowered to, fashion methods to efficiently
17 manage this action as a class action.

18 **C. Requirements of Rule 23(b)(2)**

19 44. Equifax has acted or refused to act on grounds generally applicable to
20 Plaintiffs and the proposed Classes by failing to take necessary steps to safeguard Plaintiffs'
21 and Class members' personal information.

22 45. Equifax's systemic conduct justifies the requested injunctive and declaratory
23 relief with respect to the Classes.

24 46. Injunctive, declaratory, and affirmative relief are predominant forms of relief
25 sought in this case. Entitlement to declaratory, injunctive, and affirmative relief flows
26 directly and automatically from proof of Equifax's failure to safeguard consumers' personal
27 information. In turn, entitlement to declaratory, injunctive, and affirmative relief forms the
28

1 factual and legal predicate for the monetary and non-monetary remedies for individual
2 losses caused by Equifax's failure to secure such information.

3 **D. Rule 23(c)(4) Issue Certification**

4 47. Additionally, or in the alternative, the Court may grant “partial” or “issue”
5 certification under Rule 23(c)(4). Resolution of common questions of fact and law would
6 materially advance the litigation for all Class members.

7 **VI. COUNTS**

8 **COUNT I**

9 **NEGLIGENCE**

10 **(On Behalf of Nationwide and California Classes)**

11 48. Plaintiffs incorporate all preceding and subsequent paragraphs by reference.

12 49. Equifax owed a duty to Plaintiffs and Class Members to exercise reasonable
13 care in safeguarding their sensitive personal information. This duty included, among other
14 things, designing, maintaining, monitoring, and testing Equifax’s security systems,
15 protocols, and practices to ensure that Class Members’ information adequately secured
16 from unauthorized access.

17 50. Equifax owed a duty to Class Members to implement intrusion detection
18 processes that would detect a data breach in a timely manner.

19 51. Equifax also had a duty to delete any PII that was no longer needed to serve
20 client needs.

21 52. Equifax owed a duty to disclose the material fact that its data security practices
22 were inadequate to safeguard Class Member’s PII.

23 53. Equifax also had independent duties under state laws that required Equifax to
24 reasonably safeguard Plaintiffs’ and Class Members’ PII and promptly notify them about
25 the Data Breach.

26 54. Equifax had a special relationship with Plaintiffs and Class Members from
27 being entrusted with their PII, which provided an independent duty of care. Moreover,
28 Equifax had the ability to protect its systems and the PII it stored on them from attack.

1 55. Equifax breached its duties by, among other things: (a) failing to implement
2 and maintain adequate data security practices to safeguard Class Member's PII; (b) failing
3 to detect and end the Data Breach in a timely manner; (c) failing to disclose that
4 Defendant's data security practices were inadequate to safeguard Class Member's PII; and
5 (d) failing to provide adequate and timely notice of the breach.

6 56. But for Equifax's breach of its duties, Class Member's PII would not have
7 been accessed by unauthorized individuals.

8 57. Plaintiffs and Class Members were foreseeable victims of Equifax's
9 inadequate data security practices. Equifax knew or should have known that a breach of
10 its data security systems would cause damages to Class Members.

11 58. As a result of Equifax's negligence, Plaintiffs and Class Members suffered
12 and will continue to suffer injury, which includes but is not limited to inconvenience and
13 exposure to a heightened, imminent risk of fraud, identity theft, and financial harm.
14 Plaintiffs and Class Members must more closely monitor their financial accounts and credit
15 histories to guard against identity theft. Class Members also have incurred, and will
16 continue to incur on an indefinite basis, out-of-pocket costs for obtaining credit reports,
17 credit freezes, credit monitoring services, and other protective measures to deter or detect
18 identity theft. The unauthorized acquisition of Plaintiffs' and Class Member's PII has also
19 diminished the value of the PII. Through its failure to timely discover and provide clear
20 notification of the Data Breach to consumers, Equifax prevented Plaintiffs and Class
21 Members from taking meaningful, proactive steps to secure their PII.

22 59. The damages to Plaintiffs and the Class Members were a direct, proximate,
23 reasonably foreseeable result of Equifax's breaches of its duties.

24 60. Therefore, Plaintiffs and Class Members are entitled to damages in an amount
25 to be proven at trial.
26
27
28

COUNT II

NEGLIGENCE PER SE

(On behalf of the Nationwide and California Classes)

61. Plaintiffs incorporate all preceding and subsequent paragraphs by reference.

62. Because Equifax was aware of a breach of its security system (that was reasonably likely to have caused unauthorized persons to acquire Plaintiffs' and California Subclass Member's PII), Equifax had an obligation to disclose the Data Breach in a timely and accurate fashion. Defendant's failure to maintain adequate security of this computerized PII, the resulting Data Breach, and Defendant's failure to promptly disclose the fact of the Data Breach violates California law, including the California Financial Information Privacy Act, Cal. Fin. Code § 4050 et seq. and/or the California Customer Records Act, Cal. Civ. Code § 1798.80, et seq. *See also e.g.* Cal. Civ. Code § 1798.82(a-b). Defendant's failure to comply with these applicable laws and regulations, constitutes negligence per se.

63. But for Equifax's violation of the applicable laws and regulations, Class Members' PII would not have been accessed by unauthorized individuals.

64. As a result of Equifax's failure to comply with applicable laws and regulations, Plaintiffs and Class Members suffered injury, which includes but is not limited to exposure to a heightened, imminent risk of fraud, identity theft, and financial harm. Plaintiffs and Class Members must more closely monitor their financial accounts and credit histories to guard against identity theft. Class Members also have incurred, and will continue to incur on an indefinite basis, out-of-pocket costs for obtaining credit reports, credit freezes, credit monitoring services, and other protective measures to deter or detect identity theft. The unauthorized acquisition of Plaintiffs' and Class Members' PII has also diminished the value of the PII.

65. The damages to Plaintiffs and the Class Members were a proximate, reasonably foreseeable result of Equifax's breaches of its the applicable laws and regulations.

1 of their legally protected interest in the confidentiality and privacy of their Private
2 Information, and additional losses described above.

3 72. Equifax knew or should have known that its computer systems and data
4 security practices were inadequate to safeguard Nationwide and California Members'
5 Private Information and that the risk of a data breach or theft was highly likely.

6 73. Equifax's actions in engaging in the above-named unlawful practices and acts
7 were negligent, knowing and willful, and/or wanton and reckless with respect to the rights
8 of members of the Nationwide and California.

9 74. Nationwide and California Members seek relief under Cal. Bus. & Prof. Code
10 § 17200, et. seq., including, but not limited to, restitution to Plaintiff and Nationwide and
11 California Class Members of money or property that Equifax may have acquired by means
12 of its unlawful, and unfair business practices, restitutionary disgorgement of all profits
13 accruing to Equifax because of its unlawful and unfair business practices, declaratory
14 relief, attorney's fees and costs (pursuant to Cal. Code Civ. Proc. §1021.5), and injunctive
15 or other equitable relief.

16 **COUNT IV**

17 **VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW – BUSINESS**
18 **& PROFESSIONS CODE §17200 – UNFAIR BUSINESS PRACTICES**

19 **(On Behalf of the Nationwide and California Classes)**

20 75. Plaintiffs incorporate all preceding and subsequent paragraphs by reference.

21 76. Equifax has violated Cal. Bus. and Prof. Code §17200 et seq. by engaging in
22 unlawful, unfair or fraudulent business acts and practices and unfair, deceptive, untrue or
23 misleading advertising that constitute acts of "unfair competition" as defined in Cal. Bus.
24 Prof. Code §17200.

25 77. Equifax engaged in unfair acts and practices with respect to its services by
26 establishing the sub-standard security practices and procedures described herein; by
27 soliciting and collecting Plaintiffs' and Nationwide and California Class Members' Private
28 Information with knowledge that the information would not be adequately protected; and

1 by storing Plaintiffs' and Nationwide and California Class Members' Private Information
2 in an unsecure electronic environment in violation of California's data breach laws.

3 78. In addition, Equifax engaged in unfair acts and practices with respect to its
4 services by failing to discover and then disclose the Data Breach to Nationwide and
5 California Class Members in a timely and accurate manner, and by failing to take proper
6 action following the Data Breach to enact adequate privacy and security measures and
7 protect Plaintiffs' and Nationwide and California Class Members' Private Information
8 from further unauthorized disclosure, release, data breaches, and theft.

9 79. As a direct and proximate result of Equifax's unfair practices and acts,
10 Plaintiffs and the Nationwide and California Members were injured and lost money or
11 property, including but not limited to the price received by Equifax for its services, the loss
12 of their legally protected interest in the confidentiality and privacy of their Private
13 Information, and additional losses described above.

14 80. Equifax knew or should have known that its computer systems and data
15 security practices were inadequate to safeguard Nationwide and California Members'
16 Private Information and that the risk of a data breach or theft was highly likely.

17 81. Equifax's actions in engaging in the above-named unfair practices and acts
18 were negligent, knowing and willful, and/or wanton and reckless with respect to the rights
19 of members of the Nationwide and California.

20 82. Plaintiffs and Nationwide and California Class Members seek relief under
21 Cal. Bus. & Prof. Code § 17200, et. seq., including, but not limited to, restitution to
22 Plaintiffs and Nationwide and California Class Members of money or property that Equifax
23 may have acquired by means of its unlawful, and unfair business practices, restitutionary
24 disgorgement of all profits accruing to Equifax because of its unlawful and unfair business
25 practices, declaratory relief, attorney's fees and costs (pursuant to Cal. Code Civ. Proc.
26 §1021.5), and injunctive or other equitable relief.

COUNT V

**VIOLATION OF CALIFORNIA’S UNFAIR COMPETITION LAW – BUSINESS
& PROFESSIONS CODE §17200 – FRAUDULENT/DECEPTIVE BUSINESS
PRACTICES**

(On Behalf of the Nationwide and California Classes)

83. Plaintiffs incorporate all preceding and subsequent paragraphs by reference.

84. Equifax engaged in fraudulent and deceptive acts and practices with regard to the services provided to Plaintiffs and the Nationwide and California Class Members by representing and advertising that it would maintain adequate data privacy and security practices and procedures to safeguard Plaintiffs’ and Nationwide and California Class Members’ Private Information from unauthorized disclosure, release, data breaches, and theft; and representing and advertising that it did and would comply with the requirements of relevant laws pertaining to the privacy and security of Nationwide and California s Members’ Private Information. These representations were likely to deceive members of the public, including Plaintiffs and the Nationwide and California Class Members, into believing their Private Information was securely stored, when it was not, and that Equifax was complying with relevant law, when it was not.

85. Equifax engaged in fraudulent and deceptive acts and practices with regard to the services provided to the Nationwide and California Class by omitting, suppressing, and concealing the material fact of the inadequacy of the privacy and security protections for Nationwide and California Class Members’ Private Information, as well as the fact of the Data Breach. At the time that Nationwide and California Class members were using Equifax services, Equifax failed to disclose to Nationwide and California Class Members that its data security systems failed to meet legal and industry standards for the protection of their Private Information. Plaintiffs would not have selected Equifax to its services if they had known about its substandard data security practices. These representations were likely to deceive members of the public, including Plaintiffs and the Nationwide and California Class Members, into believing their Private Information was securely stored,

1 when it was not, and that Equifax was complying with relevant law and industry standards,
2 when it was not.

3 93. As a direct and proximate result of Equifax's deceptive practices and acts,
4 Plaintiffs and the Class Members who used Equifax's services were injured and lost money
5 or property, including but not limited to the loss of their legally protected interest in the
6 confidentiality and privacy of their Private Information, and additional losses described
7 above.

8 94. Equifax knew or should have known that its computer systems and data
9 security practices were inadequate to safeguard Nationwide and California Members'
10 Private Information and that the risk of a data breach or theft was highly likely, and that its
11 failure to notify Class members of the theft of their data would cause Class members to
12 sustain the further injury. Equifax's actions in engaging in the above-named unlawful
13 practices and acts were negligent, knowing and willful, and/or wanton and reckless with
14 respect to the rights of Plaintiffs and members of the Nationwide and California Classes.

15 95. Plaintiffs and Nationwide and California Class Members seek relief under
16 Cal. Bus. & Prof. Code § 17200, et. seq., including, but not limited to, restitution to
17 Plaintiffs and Nationwide and California Members of money or property that the Equifax
18 may have acquired by means of its fraudulent and deceptive business practices,
19 restitutionary disgorgement of all profits accruing to Equifax because of its fraudulent and
20 deceptive business practices, declaratory relief, attorney's fees and costs (pursuant to Cal.
21 Code Civ. Proc. §1021.5), and injunctive or other equitable relief.

22 **VII. PRAYER FOR RELIEF ON INDIVIDUAL AND CLASS ACTION CLAIMS**

23 WHEREFORE, the Plaintiffs and Class Representatives, on their own behalf and on
24 behalf of the respective Classes, pray that this Court:

25 96. Certify this case as a class action maintainable under Federal Rules of Civil
26 Procedure Rule 23(a), (b)(2) and/or (b)(3), on behalf of the proposed Classes; designate the
27 proposed Class Representatives as a representatives; and designate Plaintiffs' counsel of
28 record as Class Counsel for each Class;

1 97. Declare and adjudge that Defendants’ policies, practices, and/or procedures
2 challenged herein are illegal and in violation of the rights of the respective Plaintiffs, Class
3 Representative, and members of the Nationwide and California Classes.

4 98. Issue a permanent injunction against Defendant and its partners, officers,
5 trustees, owners, employees, agents, attorneys, successors, assigns, representatives, and
6 any and all persons acting in concert with them from engaging in any conduct violating the
7 rights of Plaintiffs, Class Representative, members of the Nationwide and California
8 Classes, and those similarly situated as secured by law.

9 99. Order injunctive relief requiring Defendants to (1) strengthen their data
10 security systems that maintain PII to comply with the applicable state laws alleged herein
11 and best practices under industry standards; (2) engage third-party auditors and internal
12 personnel to conduct security testing and audits on Defendant’s systems on a periodic basis;
13 (3) promptly correct any problems or issues detected by such audits and testing; and (4)
14 routinely and continually conduct training to inform internal security personnel how to
15 prevent, identify and contain a breach, and how to appropriately respond;

16 100. Award compensatory, consequential, incidental, and statutory damages,
17 restitution, and disgorgement to Plaintiffs, Class Representative, and members of the
18 Classes, in an amount to be determined at trial.

19 101. Order Defendant to make whole the Plaintiffs, Class Representative, and
20 members of the Classes by providing them with any other monetary and affirmative relief;

21 102. Order Defendant to pay all costs associated with Class notice and
22 administration of Class-wide relief;

23 103. Award litigation costs and expenses, including, but not limited to, reasonable
24 attorneys’ fees, to the Plaintiffs, Class Representative, and members of the Nationwide and
25 California Classes;

26 104. Award Plaintiffs, Class Representative, and members of the Nationwide and
27 California Classes all pre-judgment interest and post-judgment interest available under
28 law;

1 105. Award Plaintiffs, Class Representative, and members of the Nationwide and
2 California Classes any other appropriate equitable relief;

3 106. Order that this Court retain jurisdiction of this action until such time as the
4 Court is satisfied that the Defendant has remedied the practices complained of herein and
5 are determined to be in full compliance with the law; and

6 107. Award additional and further relief as this Court may deem just and proper.

7 **VIII. JURY DEMANDED**

8 Plaintiffs demand a trial by jury on all issues triable of right by jury.

9
10 /s/ Ed Chapin
11 Ed Chapin (SBN 53287)
12 Kevin Sharp (*Pro Hac Vice* forthcoming)
13 Danielle Fuschetti (SBN 294064)
14 SANFORD HEISLER SHARP, LLP

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Attorneys for Plaintiffs and the Classes

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

Gersten, Ehud; and Obradovich, Hannah

(b) County of Residence of First Listed Plaintiff San Diego (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Kevin Sharp, 611 Commerce St, Ste 3100, Nashville, TN 37203; Ed Chapin, 655 West Broadway, Ste 1700, San Diego, CA 92101; Danielle Fuschetti, 111 Sutter St., Ste 975, San Francisco, CA 94104

DEFENDANTS

Equifax Inc.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

'17CV1828 H JMA

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation).

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

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, 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 (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 18:1332 Diversity - personal injury (jrd)

Brief description of cause: Negligence, Unlawful/Unfair/Fraudulent/Deceptive Business Practices

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 09/08/2017 SIGNATURE OF ATTORNEY OF RECORD

Ed Chapin

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE