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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

SOUKSAMLANE JERMAN,	:
	: Civil Case No. 17-602
Plaintiff,	:
	:
v.	: <b>CLASS ACTION COMPLAINT</b>
	:
EQUIFAX INFORMATION	: <b>TRIAL BY JURY IS DEMANDED</b>
SERVICES, LLC,	:
	:
Defendant.	:
_____	:

**CLASS ACTION COMPLAINT**

Plaintiff, Souksamlane Jerman, *on behalf of herself and all consumers similarly situated*, files this Complaint against Defendant Equifax Information Services, LLC (“Equifax”). In support thereof, Plaintiff alleges as follows:

**PRELIMINARY STATEMENT**

1. This is an action for actual, statutory and punitive damages, costs, and attorney’s fees brought against Equifax pursuant to the Fair Credit Reporting Act

(“FCRA”), 15 U.S.C. § 1681 *et seq.* Before the enactment of the FCRA, inaccurate and misleading information was identified as “the most serious problem in the credit reporting industry.” 115 Cong. Rec. 2411 (Jan. 31, 1969). With this problem in mind, Congress enacted the FCRA in 1970 to ensure the “confidentiality, accuracy, relevancy, and proper utilization” of credit reports. 15 U.S.C. § 1681(b).

2. To accomplish Congress’ goals, the FCRA contains a variety of requirements to protect consumers, including § 1681e(b), which is one of the cornerstone provisions of the FCRA. Whenever a consumer reporting agency (“CRA”) prepares a consumer report, § 1681e(b) requires the CRA to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates. 15 U.S.C. § 1681e(b). This section imposes a high, and often disregarded, standard on CRAs. *See, e.g., Burke v. Experian Info. Sols., Inc.*, 2011 WL 1085874, at \*4 (E.D. Va. Mar. 18, 2011) (breaking down the requirements of § 1681e(b), and explaining that “ ‘assure’ means ‘to make sure or certain: put beyond all doubt,’” “[m]aximum’ means the ‘greatest in quantity or highest degree attainable[,]’ and ‘possible’ means something ‘falling within the bounds of what may be done, occur or be conceived’” (quoting *Webster’s Third New International Dictionary* 133, 1396, 1771 (1993))).

3. Equifax is a consumer-reporting agency that compiles and maintains

files on consumers on a nationwide basis. As part of this process, Equifax uses an automated and systematic procedure to gather and report derogatory public records in credit reports, such as tax liens and judgments recorded with the Hawaii Bureau of Conveyances. However, Equifax does not follow similar procedures to gather updated information when the tax lien or judgment is released, satisfied, vacated, or otherwise removed. Equifax's failure to timely gather updated information from the Bureau of Conveyances is a violation of 15 U.S.C. § 1681e(b) because Equifax has not implemented reasonable procedures to ensure the maximum possible accuracy in the preparation of the consumer reports that it furnished regarding Plaintiff and the class members.

### **JURISDICTION**

4. The Court has jurisdiction under the FCRA, 15 U.S.C. § 1681p and 28 U.S.C. § 1331. Venue is proper in this Court under 28 U.S.C. § 1391(b) as Plaintiff is a resident of Hawaii and a substantial part of the events giving rise to the claim occurred in this District.

### **PARTIES**

5. Plaintiff is a natural person and a "consumer" as defined by § 1681a(c) of the FCRA.

6. Equifax is a foreign limited liability company authorized to do business

in Hawaii. Equifax is a “consumer reporting agency” as defined in 15 U.S.C. §1681a(f). Equifax is regularly engaged in the business of assembling, evaluating, and disbursing information concerning consumers for the purpose of furnishing consumer reports, as defined in 15 U.S.C. §1681a(d) to third parties.

### **FACTUAL ALLEGATIONS**

#### **A. Equifax’s Procedures.**

7. Unlike credit accounts, Equifax affirmatively seeks out and purchases public records data, including Hawaii tax liens and civil judgments, to include this derogatory information in the credit reports it sells.

8. Equifax proactively gathers and disseminates this derogatory information even though there is nothing in the FCRA that affirmatively requires it to do so.

9. Equifax does not follow reasonable procedures to gather information when the tax liens or judgments are released, satisfied, vacated, appealed, or similarly dismissed, with the same rigor and process that it employs to gather information initially.

10. Upon information and belief, Equifax uses a third party as a vendor to collect information regarding judgments and tax liens.

11. Upon information and belief, Equifax’s vendor was obligated to collect

and provide all affirmative tax liens and judgments under its contract with Equifax. However, in contrast, the vendor was only obligated to updates and dispositions if the vendor determined it was “commercially reasonable” to do so.

12. As a matter of common policy, Equifax and its vendors rarely collect any tax lien or judgment disposition information.

13. In short, Equifax published public records data that it knew would be inaccurate if a release, satisfaction, dismissal, vacatur, or appeal had occurred—relying on consumers to clean up their own files via the dispute process after learning of the inaccuracy rather than paying to have these dispositions collected with the same vigor that it collected records of the initial entry of judgment.

14. As a matter of common practice, Equifax does not routinely collect this information even though Equifax has been sued repeatedly for its failure to adopt reasonable procedures to timely gather and report updated public record information. *See, e.g., Soutter v. Equifax Info. Servs., LLC*, 307 F.R.D. 183, 191 (E.D. Va. 2015); *Ceccone v. Equifax Info. Servs., LLC*, 2015 WL 221720, at \*1 (D.D.C. Jan. 15, 2015); *Williams v. Experian Info. Solutions, Inc.*, Case No. 1:13-cv-1102 (E.D. Va. 2013); *Beattie v. Experian Info. Solutions, Inc.*, Case No. 1:13-cv-1195 (E.D. Va. 2013); *Gudauskas v. Equifax Info. Servs., LLC*, Case No. 1:14-cv-01307 (E.D. Va. 2014); *Knuth v. Toyota Motor Credit Corp.*, 1:15-cv-349 (E.D. Va. 2015).

15. Upon information and belief, the methods and processes used by Equifax to gather releases, satisfactions, vacatures, and dismissals from the Hawaii Bureau of Conveyances was materially the same for the previous five years.

16. At all times pertinent to this Complaint, Equifax's conduct regarding the collection of disposition information was willful and carried out in reckless disregard for a consumer's rights as set forth under the FCRA. By example only and without limitation, Equifax's conduct is willful because it was intentionally accomplished through intended procedures; it had knowledge of its violation through other lawsuits in other jurisdictions but it did nothing to rectify the problem in Hawaii; and as Equifax's diligence in collecting and reporting derogatory information is believed by it to be of greater economic value to its paying customers than "disposition" information that demonstrated that the debt was no longer owed to those customers.

17. As a result of Equifax's conduct, Plaintiff and the putative class members suffered particularized and concrete injuries, including damages to their reputations, reductions to their credit scores, and increased risks that they would be denied credit.

**B. Plaintiff's Experience.**

18. In June 2017, Plaintiff obtained a copy of her credit report from Equifax

and discovered that Equifax was reporting an outstanding tax lien against her recorded with the Hawaii Bureau of Conveyances.

19. As described above, Equifax's reporting of the tax lien was inaccurate and occurred because Equifax failed to follow reasonable procedures to assure maximum possible accuracy in the preparation of the credit reports it publishes and maintains regarding consumers.

20. In Plaintiff's instance, if Equifax had followed such procedures, Equifax would have reported an update to the public record showing that the tax lien had been released on July 23, 2012.

21. Indeed, the information regarding the release of Plaintiff's tax lien was publically available on the Internet through the Document Search & Ordering System maintained by the Hawaii Bureau of Conveyances—an easily accessible database to Equifax.

22. However, consistent with its procedures, Equifax made no effort to update and correct the tax lien information from July 23, 2012, through July 2017.

23. During this time, Equifax published Plaintiff's credit report to multiple third parties, damaging her reputation and causing increased interest rates, including when Plaintiff applied for credit with Bank of Hawaii in February 2016.

**COUNT ONE:**  
**15 U.S.C. §1681e(b)**  
**Class Claim**

24. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.

25. **The 1681e(b) Class.** Pursuant to Fed. R. Civ. P. 23, Plaintiff brings this action individually and on behalf of a class initially defined as follows (“the 1681e(b) Class”):

All natural persons who meet every one of the following definitional requirements: (1) the computer database of the Hawaii Bureau of Conveyances shows that the person was subject to a tax lien or judgment; (2) the computer database of the Hawaii Bureau of Conveyances shows that the tax lien or judgment was released, satisfied, withdrawn, vacated, or otherwise dismissed on or before December 20, 2013; and (3) Equifax’s records note that a credit report containing the outstanding judgment or lien was furnished at least thirty (30) days after the disposition was filed in the office of the Hawaii Bureau of Conveyances.

26. **Numerosity.** Upon information and belief, Plaintiff alleges that the FCRA Class is so numerous that joinder of the claims of all class members is impractical. The names and addresses of the class members are identifiable through documents maintained by Equifax and through publically available records of the Hawaii Bureau of Conveyances, and the class members may be notified of the pendency of this action by published and/or mailed notice.

27. **Existence and Predominance of Common Questions of Law and**



**Fact.** Common questions of law and fact exist as to all putative class members. These questions predominate over the questions affecting only individual members. These common legal and factual questions include, among other things: (a) whether Equifax adopted procedures that collected and reported updates to liens that were less systematic and effective than those it used to initially collect and report the liens; (b) whether this conduct constituted a violation of the FCRA; and (c) whether the violation was negligent, reckless, knowing, or intentionally committed in conscious disregard of the rights of Plaintiff and putative class members.

28. **Typicality.** Plaintiff's claims are typical of the claims of each putative class member and all are based on the same facts and legal theories. Plaintiff, as every putative class member, alleges a violation of the same FCRA provision, 15 U.S.C. §1681e(b). This claim challenges the credit reporting procedures of Equifax and does not depend on any individualized facts. Upon information and belief, Equifax obtains all of its Hawaii Bureau of Conveyances records under the same contract from the same vendor. Equifax's notice and knowledge of the challenged reporting problem is the same for Plaintiff as for the putative class. For purposes of class certification, Plaintiff seeks only statutory and punitive damages. Plaintiff would seek individual or actual damages only if class certification is

denied. In addition, Plaintiff is entitled to relief under the same causes of action as the other members of the class.

29. **Adequacy.** Plaintiff will fairly and adequately protect the interests of the class. Plaintiff has retained counsel experienced in handling actions involving unlawful practices against consumers and class actions. Neither Plaintiff nor her counsel have any interests that might cause them not to vigorously pursue this action. Plaintiff is aware of her responsibilities to the putative class and has accepted such responsibilities.

30. Certification of the class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that:

a. As alleged above, the questions of law or fact common to the members of the classes predominate over any questions affecting an individual member. Each of the common facts and legal questions in the case overwhelm the more modest individual damages issues. The statutory and punitive damages sought by each member are such that the individual prosecution would prove burdensome and expensive given the complex and extensive litigation necessitated by Equifax's conduct. Further, those individual issues that do exist can be effectively streamlined and resolved in a manner that minimizes the individual complexities and differences in proof in the case.

b. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Consumer claims generally are ideal for class treatment as they involve many, if not most, consumers who are otherwise disempowered and unable to afford and bring such claims individually. Further, most consumers affected by Equifax's conduct described above are likely unaware of their rights under the law or of whom they could find to represent them in federal litigation. Individual litigation of the uniform issues in this case would be a waste of judicial resources. The issues at the core of this case are class wide and should be resolved at one time. One win for one consumer would set the law for every similarly situated consumer.

31. Equifax violated 15 U.S.C. § 1681e(b) by failing to establish or to follow reasonable procedures to assure maximum possible accuracy in the preparation of the consumer reports it furnished regarding Plaintiff and putative class members.

32. As a result of Equifax's misconduct, Plaintiff and putative class members suffered damages to their reputations, reductions to credit scores, and increased risk that they would be denied credit.

33. Equifax's violation of 15 U.S.C. § 1681e(b) was willful, rendering Equifax liable pursuant to 15 U.S.C. § 1681n. In the alternative, Equifax was

negligent entitling Plaintiff to recover under 15 U.S.C. § 1681o.

34. Plaintiff and the putative class members are entitled to recover statutory damages, punitive damages, costs, and attorneys' fees from Equifax in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n and § 1681o.

WHEREFORE, Plaintiff, on behalf of herself and the putative class members, moves for class certification and for statutory and punitive damages, as well as her attorney's fees and costs against Equifax and such other relief the Court deems just, equitable, and proper.

**TRIAL BY JURY IS DEMANDED.**

Date: December 21, 2017

Respectfully submitted,  
**SOUKSAMLANE JERMAN**

By: /s/ Andrew J. Guzzo  
Counsel

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JS 44 (Rev. 06/17)

### CIVIL COVER SHEET

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

**I. (a) PLAINTIFFS**

SOUKSAMLANE JERMAN

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Andrew J. Guzzo (HI-SBN 010586), Kelly & Crandall, PLC  
7 Waterfront Plaza, 500 Ala Moana Blvd., Suite 400, Honolulu, HI 96813  
Email: aguzzo@kellyandcrandall.com; Telephone: 808-543-1122

**DEFENDANTS**

EQUIFAX INFORMATION SERVICES, LLC

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

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
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 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)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | <b>PTF</b>                 | <b>DEF</b>                 |   | <b>PTF</b>                 | <b>DEF</b>                 |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input checked="" type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 440 Trademark	<input type="checkbox"/> 400 State Reapportionment	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 861 HIA (1395ff)	<input checked="" type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice			<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable-Sat TV	
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 863 DIWC DIWW (405(g))	<input type="checkbox"/> 490 Securities Commodities Exchange	
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions	
				<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts	
					<input type="checkbox"/> 893 Environmental Matters	
					<input type="checkbox"/> 895 Freedom of Information Act	
					<input type="checkbox"/> 896 Arbitration	
					<input type="checkbox"/> 899 Administrative Procedure Act Review or Appeal of Agency Decision	
					<input type="checkbox"/> 950 Constitutionality of State Statutes	

**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):  
15 U.S.C. 1681, et seq.  
Brief description of cause:  
Violation of the Federal Fair Credit Reporting Act

**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: 12-21-17 SIGNATURE OF ATTORNEY OF RECORD: Andrew J. Guzzo

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_