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9
10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 DIANA PACKBIERS, individually
13 and on behalf of all others similarly
situated,

14 Plaintiff,

15 v.

16 PINDROP SECURITY, INC., a
17 Delaware corporation,

18 Defendant.

Case No.: 5:22-cv-01427

**DEFENDANT PINDROP SECURITY,
INC.'S NOTICE OF REMOVAL**

*From the Superior Court of the State of
California, County of San Bernardino,
Case No. CIVSB2212635*

1 **TO THE CLERK OF COURT, PLAINTIFF, AND COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that Defendant Pindrop Security, Inc.
3 (“Pindrop”), through undersigned counsel, hereby removes the above-captioned
4 action from the Superior Court of the State of California for the County of San
5 Bernardino to the United States District Court for the Central District of California,
6 pursuant to the Class Action Fairness Action (“CAFA”) and 28 U.S.C. §§ 1332(d),
7 1441, 1446, and 1453. Pindrop expressly reserves all rights otherwise to respond to
8 this lawsuit, including but not limited to, any objection to jurisdiction or improper
9 venue.

10 **I. PROCEDURAL AND FACTUAL BACKGROUND**

11 1. On or about June 15, 2022, Plaintiff Diana Packbiers (“Plaintiff”) filed
12 a Class Action Complaint And Demand For Jury Trial (the “Complaint”) in the
13 Superior Court of the State of California, County of San Bernardino, captioned
14 *Diana Packbiers v. Pindrop Security, Inc.*, Case No. CIVSB2212635. A copy of the
15 Complaint is attached hereto as **Exhibit A**.

16 2. On July 13, 2022, Plaintiff purported to effectuate service of the
17 Complaint and Summons on Pindrop. A copy of the Summons is attached hereto as
18 **Exhibit B**. A copy of the Superior Court Civil Case Cover Sheet is attached hereto
19 as **Exhibit C**. A copy of the Certificate of Assignment is attached hereto as **Exhibit**
20 **D**. A copy of the Initial Case Management Conference Order is attached hereto as
21 **Exhibit E**. A copy of the San Bernardino County Complex Civil Guidelines is
22 attached hereto as **Exhibit F**. A copy of the Proof of Service Summons is attached
23 hereto as **Exhibit G**. A copy of the Superior Court Docket Sheet is attached hereto
24 as **Exhibit H**.

25 3. The Complaint alleges that Pindrop examined her voice and voice print
26 without her consent when she called a Bank of the West customer support line, which
27 Plaintiff alleges uses Pindrop’s voice analysis software. Ex. A (“Compl.”) ¶¶ 24-28.

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1 The Complaint alleges that Pindrop examined her voice and voice print to determine
2 the truth or falsity of her statements, including to determine whether Plaintiff was
3 the person who she purported to be. *Id.* ¶¶ 25-27.

4 4. Plaintiff brings this action on behalf of herself as well as a proposed
5 class of “[a]ll residents of the State of California who had their voice prints recorded
6 or examined by Pindrop to determine the truth or falsity of their statements.” *Id.*
7 ¶ 31.

8 5. The Complaint alleges that Pindrop violated the California Invasion of
9 Privacy Act, and specifically California Penal Code § 637.3. *Id.* ¶¶ 37-44.

10 6. The Complaint states that Plaintiff seeks “damages of \$1,000 for each
11 violation of CIPA pursuant to Cal. Penal Code § 637.3.” *Id.* ¶ 44 & Prayer for Relief,
12 ¶ C. Plaintiff also seeks injunctive and equitable relief requiring Pindrop “to comply
13 with CIPA’s requirements for the use, recording, and examination of voice prints or
14 other voice stress patterns.” *Id.* ¶ 44 & Prayer for Relief, ¶ D.

15 **II. THIS COURT HAS JURISDICTION PURSUANT TO CAFA**

16 7. This case is removable, and this Court has jurisdiction over this action
17 pursuant to CAFA and 28 U.S.C. §§ 1332(d), 1441, and 1453, because (1) this case
18 is a putative class action with more than 100 members in the proposed class, (2) there
19 is minimal diversity, since Plaintiff and Pindrop are citizens of different states and,
20 alternatively, at least one member of the proposed class and Pindrop are citizens of
21 different states, and (3) the Complaint places in controversy an amount that exceeds
22 \$5 million in the aggregate, taking into account all damages and equitable relief
23 sought on behalf of Plaintiff and the proposed class, exclusive of interests and costs.
24 *See* 28 U.S.C. §§ 1332(d)(2), (d)(5)(B), (d)(6).

25 8. A notice of removal “need not contain evidentiary submissions.” *Dart*
26 *Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 84 (2014); *see also*
27 *Salter v. Quality Carriers, Inc.*, 974 F.3d 959, 963 (9th Cir. 2020) (same). Pindrop
28

1 must provide only “a short and plain statement of the grounds for removal,” 28
2 U.S.C. § 1446(a), that contains “plausible allegation[s]” that the jurisdictional
3 requirements of CAFA are satisfied, *Dart Cherokee*, 574 U.S. at 89. Thus, while
4 Pindrop denies any and all liability as to Plaintiff’s individual claim and as to the
5 claims of the putative class, and while Pindrop expressly reserves all of its rights—
6 including but not limited to its right to file motions challenging the pleadings—each
7 of the jurisdictional requirements of CAFA is satisfied here.

8
9 **A. This Is A Putative Class Action In Which The Proposed Class
Readily Exceeds 100 Members**

10 9. A “class action” under CAFA includes any civil action filed under
11 Federal Rule of Civil Procedure 23 or a “similar State statute or rule of judicial
12 procedure authorizing an action to be brought by 1 or more representative persons
13 as a class action.” 28 U.S.C. § 1332(d)(1)(B).

14 10. This lawsuit meets this definition of a class action. *See* Cal. Code Civ.
15 Proc. § 382 (“[W]hen the question is one of a common or general interest, of many
16 persons, or when the parties are numerous, and it is impracticable to bring them all
17 before the court, one or more may sue or defend for the benefit of all.”); *see also* 28
18 U.S.C. § 1332(d)(1)(B). In particular, Plaintiff brings this action “on behalf of
19 herself and a class.” Compl. ¶ 31; *see also id.* ¶¶ 32-36, 42-44.

20 11. For purposes of removal, CAFA requires that the proposed class
21 consists of at least 100 persons. *See* 28 U.S.C. § 1332(d)(5)(B).

22 12. The Complaint defines the putative class as “[a]ll residents of the State
23 of California who had their voice prints recorded or examined by Pindrop to
24 determine the truth or falsity of their statements.” *Id.* ¶ 31. Though the Complaint
25 does not identify the number of putative class members, Plaintiff alleges that there
26 are “many businesses that use[] Pindrop’s technology,” and that one such business
27
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1 (Bank of the West) “had at least 1.8 million customers in 2020.” *Id.* ¶ 32.
2 Accordingly, the requirement of 28 U.S.C. § 1332(d)(5)(B) is satisfied.

3 **B. There Is Minimal Diversity Among The Parties**

4 13. For purposes of establishing federal jurisdiction, CAFA requires only
5 minimal diversity, and a defendant must show only that “any member of a class of
6 plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C.
7 § 1332(d)(2)(A). “CAFA was intended to strongly favor federal jurisdiction over
8 interstate class actions.” *King v. Great Am. Chicken Corp., Inc.*, 903 F.3d 875, 878
9 (9th Cir. 2018). Removal is, therefore, proper when even one proposed class
10 member is a citizen of a state different from a defendant’s state of citizenship. *See*
11 *id.* at 877; *see also Broadway Grill, Inc. v. Visa Inc.*, 856 F.3d 1274, 1276 (9th Cir.
12 2017) (“Under CAFA there is sufficient diversity to establish federal diversity
13 jurisdiction so long as one class member has citizenship diverse from that of one
14 defendant.”).

15 14. Pindrop is a Delaware corporation with its principal place of business
16 in Georgia. Compl. ¶ 9. Accordingly, Pindrop is a citizen of Delaware and Georgia
17 for purposes of diversity jurisdiction. *See Kuntz v. Lamar Corp.*, 385 F.3d 1177,
18 1182 (9th Cir. 2004) (“[A] corporation shall be deemed to be a citizen of any State
19 by which it has been incorporated and of the State where it has its principal place of
20 business.” (quoting 28 U.S.C. § 1332(c)(1))).

21 15. According to the Complaint, Plaintiff is a citizen of California. Compl.
22 ¶ 8. Accordingly, Plaintiff is a citizen of California for purposes of diversity
23 jurisdiction. In addition, Plaintiff seeks to represent a class of “residents of the State
24 of California.” *Id.* ¶ 31.

25 16. Diversity of citizenship thus exists between Plaintiff and Pindrop, or,
26 alternatively, between at least one other member of the proposed class and Pindrop,
27 and therefore removal is proper. *See* 28 U.S.C. § 1332(d)(2)(A).

28

1 **C. The Amount In Controversy Exceeds \$5 Million**

2 17. CAFA provides that “[i]n any class action, the claims of the individual
3 class members shall be aggregated to determine whether the matter in controversy
4 exceeds the sum or value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C.
5 § 1332(d)(6). The amount in controversy is first determined by reviewing the
6 allegations of the operative complaint. *See Singer v. State Farm Mut. Auto Ins. Co.*,
7 116 F.3d 373, 377 (9th Cir. 1997) (“The district court may consider whether it is
8 ‘facially apparent’ from the complaint that the jurisdictional amount is in
9 controversy.”). Where a complaint does not state a dollar amount, a defendant’s
10 notice of removal under CAFA need include “only a plausible allegation that the
11 amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee*, 574
12 U.S. at 81.

13 18. Plaintiff seeks, *inter alia*, (i) an injunction “requiring [Pindrop] to
14 comply with CIPA’s requirements for the use, recording, and examination of voice
15 prints or other voice stress patterns”; (ii) “damages of \$1,000 for each violation of
16 CIPA”; and (iii) an award of Plaintiff’s “reasonable litigation expenses and
17 attorneys’ fees.” Compl. ¶ 44 & Prayer for Relief ¶¶ C-F. *See also Fritsch v. Swift*
18 *Transp. Co. or Ariz., LLC*, 899 F.3d 785, 793 (9th Cir. 2018) (“Among other items,
19 the amount in controversy includes damages (compensatory, punitive, or otherwise),
20 the costs of complying with an injunction, and attorneys’ fees awarded under fee-
21 shifting statutes or contract.”); *Lokey v. CVS Pharm., Inc.*, No. 20-CV-04782-LB,
22 2020 WL 5569705, at *4-6 (N.D. Cal. Sept. 17, 2020) (holding defendant’s
23 submissions regarding attorney’s fees and costs of injunctive relief were sufficient
24 to establish the amount in controversy).

25 19. Though the Complaint does not identify a dollar amount, Plaintiff seeks
26 damages of \$1,000 per alleged violation of CIPA on behalf of herself and a putative
27 class of “[a]ll residents of the State of California who had their voice prints recorded
28

1 or examined by Pindrop to determine the truth or falsity of their statements.” Compl.
2 ¶¶ 31, 44. If each putative class member sought \$1,000 in damages, as alleged, there
3 would only need to be 5,001 class members to exceed the \$5 million threshold.
4 Though Plaintiff does not identify the number of putative class members, the
5 Complaint alleges that “many businesses” use Pindrop’s technology, and that at least
6 one such business (Bank of the West) had “at least 1.8 million customers in 2020.”
7 *Id.* ¶¶ 4, 32; *see also id.* ¶ 32 (alleging that Bank of the West claims to be “one of
8 the largest banks headquartered in California.”). Accordingly, the amount in
9 controversy exceeds \$5,000,000. *See Dart Cherokee*, 574 U.S. at 89.

10 20. Plaintiff seeks injunctive relief as well, which is properly included in
11 the amount-in-controversy calculation. *See Fritsch*, 899 F.3d at 793. Though it fails
12 to identify the specific relief, the Complaint states that Plaintiff seeks an injunction
13 “requiring [Pindrop] to comply with CIPA’s requirements for the use, recording, and
14 examination of voice prints or other voice stress patterns.” Compl. ¶44 & Prayer for
15 Relief, ¶ D. This request for injunctive relief could impose costs that would only
16 add to the amount in controversy, which already exceeds the jurisdictional threshold.

17 21. Pindrop denies that Plaintiff or members of the putative class are
18 entitled to the damages that Plaintiff seeks in this action, contends that Plaintiff’s
19 allegations are entirely without merit, and denies that class treatment is appropriate
20 in this case. For purposes of this Notice of Removal, however, the amount in
21 controversy exceeds \$5,000,000, exclusive of interest and costs, and satisfies the
22 amount-in-controversy jurisdictional requirement of CAFA. *See* 28 U.S.C. §
23 1332(d)(2).

24 **III. VENUE**

25 22. This is the appropriate Court for removal because the San Bernardino
26 County Superior Court where the removed case was pending is located within this
27 District. *See* 28 U.S.C. § 84(c); 28 U.S.C. § 1441(a); 28 U.S.C. § 1446(a).

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1 **IV. COMPLIANCE WITH REMOVAL PROCEDURE**

2 23. Plaintiff purported to effectuate service of the Complaint and Summons
3 on Pindrop by personal service to its registered service agent on July 13, 2022.
4 Accordingly, this Notice of Removal is timely under 28 U.S.C. § 1446(b), as it is
5 filed within 30 days of service.

6 24. Pursuant to 28 U.S.C. § 1446(a), attached hereto and marked as
7 Exhibits A-H are true and correct copies of the Complaint and all process, pleadings,
8 and orders served upon Pindrop. Pindrop has not filed an answer or other response
9 to the Complaint in the San Bernardino County Superior Court prior to removal and
10 is not aware of any pending motions filed in that court.

11 25. This Notice of Removal is signed pursuant to Rule 11 of the Federal
12 Rules of Civil Procedure. *See* 28 U.S.C. § 1446(a).

13 26. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is
14 being served on Plaintiff’s counsel and a copy, along with a notice of filing of the
15 notice of removal, is being filed with the Clerk of San Bernardino County Superior
16 Court, California.

17 27. Pindrop reserves the right to amend or supplement this Notice of
18 Removal. Pindrop further reserves all rights and defenses, including but not limited
19 to those available under the Federal Rules of Civil Procedure.

20 **V. CONCLUSION**

21 28. Pindrop respectfully requests that this Court exercise jurisdiction over
22 this action and enter orders and grant relief as may be necessary to secure removal
23 and to prevent further proceedings in this matter in the San Bernardino County
24 Superior Court, California. Pindrop further requests such relief as the Court deems
25 appropriate.

1 Dated: August 11, 2022

Respectfully submitted,

2 LATHAM & WATKINS LLP

3
4 By /s/ Melanie M. Blunschi

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EXHIBIT A

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUN 15 2022

BY 
Stephanie Paniers DEPUTY

8 **IN THE SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF SAN BERNARDINO**

10 DIANA PACKBIERS, individually and on
11 behalf of all others similarly situated,

11 *Plaintiff,*

12 v.

13 PINDROP SECURITY, INC., a Delaware
14 corporation,

15 *Defendant.*

Case No. **CIV SB 22 12635**

CLASS ACTION COMPLAINT FOR:

**(1) Violation of Cal. Penal Code §
637.3**

DEMAND FOR JURY TRIAL

BY FAX

16 **CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL**

17 Plaintiff Diana Packbiers, on behalf of herself and a Class of similarly situated
18 individuals defined below, brings this Class Action Complaint and Demand for Jury Trial against
19 Defendant Pindrop Security, Inc. to put a stop to their unlawful use, examination, and recording
20 of Plaintiff's and putative Class members' biometric voice prints. Plaintiff, for this Class Action
21 Complaint, alleges as follows upon personal knowledge as to herself and her own acts and
22 experiences and, as to all other matters, upon information and belief.

23 **NATURE OF THE ACTION**

24 1. Defendant Pindrop markets and sells software that allows businesses to analyze
25 their customers' voices. Pindrop claims that it "combines best-in-class audio, voice, and AI
26 technologies with a comprehensive risk database to provide added protection across the phone
27 channel — authenticating customers and offering businesses a faster and more personalized
28 contact center experience."

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1 2. Pindrop’s software is becoming increasingly popular in the digital era, as
2 businesses seek to authenticate the identities of their customers calling into their call centers.
3 Pindrop developed proprietary voice recognition software that can be used to create a biometric
4 voice print of the caller. Pindrop then uses its artificial intelligence software to analyze the
5 callers’ voice prints to determine the truth or falsity of their statements made during the phone
6 call.

7 3. Pindrop allows businesses to integrate its software system into their own call
8 centers. Pindrop’s software is designed to secretly listen to callers’ voices during phone calls in
9 such a way that the callers are entirely unaware they are interacting with and providing their
10 unique voice prints to an unknown, third-party company, Pindrop.

11 4. One of the many businesses that uses Pindrop’s technology in its call center is
12 Bank of the West.

13 5. At no point did Pindrop obtain consumers’ express written consent—or any
14 consent whatsoever—before recording and analyzing their voice in any manner or any time
15 thereafter.

16 6. Recognizing the need to protect its citizens from situations like these, California
17 enacted the California Invasion of Privacy Act (“CIPA”), and specifically Cal. Penal Code §
18 637.3, to regulate companies that record and/or examine California citizens’ voice prints or voice
19 stress patterns without first obtaining consumers’ prior express written consent.

20 7. Despite this law, Defendant disregards consumers’ statutorily protected privacy
21 rights and unlawfully uses, records, and/or examines their voices in violation of CIPA.
22 Specifically, Defendant has violated (and continues to violate) CIPA because it uses a system
23 which examines and records California residents’ “voice prints or voice stress patterns to
24 determine the truth or falsity of statements made by such other person” without first obtaining
25 their express written consent.

26 **PARTIES**

27 8. Plaintiff Diana Packbiers is a natural person and citizen of the State of California.

28 9. Defendant Pindrop Security, Inc., is a corporation organized and existing under

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1 the law of the State of Delaware with its principal place of business located at 817 West
2 Peachtree Street NW, Suite 770, Atlanta, Georgia 30308.

3 **JURISDICTION AND VENUE**

4 10. This Court has jurisdiction over this action pursuant to Article VI, Section 10 of
5 the California Constitution because this case is a cause not given by statute to other trial courts.

6 11. This Court has personal jurisdiction over Defendant because it conducts business
7 in this State, it contracts to do business (including the conduct described herein) with companies
8 in this State, including Bank of the West, and the conduct alleged in this Complaint occurred in,
9 and/or emanated from, this State.

10 12. Venue is proper in this Court because the conduct at issue occurred in, and/or
11 emanated from, this County.

12 **FACTUAL BACKGROUND**

13 **I. The California Invasion of Privacy Act.**

14 13. The California Legislature enacted the Invasion of Privacy Act to protect certain
15 privacy rights of California citizens. The legislature expressly recognized that devices and
16 techniques which create a serious threat to the free exercise of personal liberties cannot be
17 tolerated in a free and civilized society.

18 14. As part of the Invasion of Privacy Act, the California Legislature introduced
19 Penal Code § 637.3. Its purpose was to prohibit any person or entity from using “any system
20 which examines or records in any manner voice prints or other voice stress patterns of another
21 person to determine the truth or falsity of statements made by such other person without his or
22 her express written consent given in advance of the examination or recordation.”

23 15. Creating a voice print requires extracting an individual’s phonetic features
24 (including their unique speech patterns and characteristics) from their voice. As such, a voice
25 print serves as an audible “fingerprint” which can directly identify an individual and can even
26 reveal the speaker’s behavioral traits.

27 16. The California Legislature intended to protect individuals from the unauthorized
28 recording and examination of their voice prints, especially when it takes place without an

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1 individual’s knowledge or permission. Such surreptitious recording and examination pose a
2 serious threat to California residents’ personal liberties.

3 17. Individuals may bring an action against the violator of this section of CIPA to
4 recover actual damages or \$1,000, whichever is greater. *See* Cal. Penal Code § 637.3(c).

5 **II. Pindrop Violates the California Invasion of Privacy Act.**

6 18. Pindrop integrates its voice recognition software into its customers’ call centers,
7 including Bank of the West.

8 19. Pindrop’s voice recognition software recognizes consumers’ identities by first
9 collecting a voice print derived from a recording of the consumers’ voice. Bank of the West
10 admits on its website that it uses biometric voice recognition technology to determine the truth or
11 falsity of statements made by callers regarding their identities. It touts that: “Voice ID is a
12 security feature that verifies your identity by the sound of your voice when you call our customer
13 service center, assisting in our providing fast and secure access to your account. Similar to a
14 fingerprint, your voiceprint is unique to you and created from more than 100 different physical
15 and behavioral characteristics such as pitch, accent, the shape of your mouth, and the vocal
16 tract.”

17 20. Pindrop determines the truth or falsity of statements made by callers, such as
18 Plaintiff and the Class, because Pindrop performs a “1,300+ feature analysis” of the caller’s
19 audio. According to Pindrop, it “uses the full audio of a call to determine its true characteristics.”
20 Indeed, Pindrop analyzes “unique acoustic and behavioral features” of the caller’s voice.

21 21. Worst of all, Pindrop itself surreptitiously creates and stores a voice print from the
22 callers’ voice without their knowledge or consent. Pindrop’s software seamlessly incorporates
23 into its customers’ call centers without clear notice (or any at all) that Pindrop is even involved
24 in the call.

25 22. As such, Pindrop never informs the consumer that it will record a unique voice
26 print from the consumer and subsequently examine it to determine the truth or falsity of their
27 statements—let alone obtain written consent as required by Cal. Penal Code § 637.3(a).
28

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1 23. Ultimately, Pindrop’s conduct disregards consumers’ statutorily protected privacy
2 rights in violation of CIPA.

3 **FACTS SPECIFIC TO PLAINTIFF PACKBIERS**

4 24. Plaintiff Diana Packbiers is a Bank of the West customer.

5 25. Plaintiff Packbiers called Bank of the West’s call center on numerous occasions.
6 Unbeknownst to her, when Packbiers called Bank of the West, her voice print was automatically
7 enrolled into Pindrop’s biometric voice print database.

8 26. When Packbiers called Bank of the West’s support, Pindrop examined her voice,
9 as well as the voice print it stored in its database from previous calls, to determine the truth or
10 falsity of her statements, including, for example, to determine whether Packbiers is the person
11 who she purports to be.

12 27. Packbiers has called the Bank of the West customer support line on more than one
13 occasion since the company began using Pindrop’s voice analysis software. During one of these
14 calls, Pindrop recorded and examined her voice print passively, without notice or consent.

15 28. Plaintiff Packbiers did not give her consent—written or otherwise—to Pindrop to
16 collect her voice print and to examine or analyze her voice for any purpose whatsoever.

17 29. Plaintiff Packbiers has, therefore, been exposed to the risks and harmful
18 conditions created by Defendant’s violations of CIPA alleged herein.

19 30. Plaintiff Packbiers seeks statutory damages under CIPA as compensation for the
20 injuries Defendant has caused.

21 **CLASS ACTION ALLEGATIONS**

22 31. **Class Definition:** Plaintiff Diana Packbiers brings this action pursuant to
23 California Code of Civil Procedure § 382 on behalf of herself and a class defined as follows:

24 All residents of the State of California who had their voice prints recorded or
25 examined by Pindrop to determine the truth or falsity of their statements.

26 The following people are excluded from the Class: (1) any Judge or Magistrate presiding
27 over this action and members of their families; (2) Defendant, Defendant’s subsidiaries, parents,
28 successors, predecessors, and any entity in which the Defendant or its parents have a controlling

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1 interest and their current or former officers and directors; (3) persons who properly execute and
2 file a timely request for exclusion from the Class; (4) persons whose claims in this matter have
3 been finally adjudicated on the merits or otherwise released; (5) Plaintiff's counsel and
4 Defendant's counsel; and (6) the legal representatives, successors, and assigns of any such
5 excluded persons.

6 32. **Ascertainability and Numerosity:** The exact number of Class members is
7 unknown to Plaintiff at this time, but according to Bank of the West, it is one of the largest banks
8 headquartered in California, and it had at least 1.8 million customers in 2020. Ultimately,
9 members of the Class will be easily identified through Defendant's records.

10 33. **Commonality and Predominance:** There are many questions of law and fact
11 common to the claims of Plaintiff and the Class, and those questions predominate over any
12 questions that may affect individual members of the Class. Common questions for the Class
13 include, but are not necessarily limited to the following:

- 14 a) Whether Defendant used a system which records or examines Plaintiff's and
15 the Class's voice prints or voice stress patterns;
- 16 b) Whether Defendant used voice prints or voice stress patterns to determine the
17 truth or falsity of statements made by Plaintiff and the Class; and
- 18 c) Whether Defendant sought or obtained prior express written consent from
19 Plaintiff and the Class.

20 34. **Typicality:** Plaintiff's claims are typical of the claims of all the other members of
21 the Class. Plaintiff and the Class members sustained substantially similar damages as a result of
22 Defendant's uniform wrongful conduct, based upon the same interactions with Defendant that
23 were made uniformly across Plaintiff and the Class.

24 35. **Adequate Representation:** Plaintiff will fairly and adequately represent and
25 protect the interests of the Class and has retained counsel competent and experienced in complex
26 litigation and class actions. Plaintiff has no interests antagonistic to those of the Class, and
27 Defendant has no defenses unique to Plaintiff. Plaintiff and her counsel are committed to
28 vigorously prosecuting this action on behalf of the members of the Class and have the financial
resources to do so. Neither Plaintiff nor her counsel have any interest adverse to those of the

1 other members of the Class.

2 36. **Superiority:** This case is also appropriate for class certification because class
 3 proceedings are superior to all other available methods for the fair and efficient adjudication of
 4 this controversy because joinder of all parties is impracticable. The damages suffered by the
 5 individual members of the Class will likely be relatively small, especially given the burden and
 6 expense of individual prosecution of the complex litigation necessitated by Defendant’s actions.
 7 Thus, it would be virtually impossible for the individual members of the Class to obtain effective
 8 relief from Defendant’s misconduct. Even if members of the Class could sustain such individual
 9 litigation, it would still not be preferable to a class action because individual litigation would
 10 increase the delay and expense to all parties due to the complex legal and factual controversies
 11 presented in this Complaint. By contrast, a class action presents far fewer management
 12 difficulties and provides the benefits of single adjudication, economies of scale, and
 13 comprehensive supervision by a single Court. Economies of time, effort, and expense will be
 14 fostered and uniformity of decisions ensured.

15 **CAUSE OF ACTION**
 16 **Violation of Cal. Penal Code § 637.3**
 17 **(On Behalf of Plaintiff and the Class)**

18 37. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

19 38. CIPA prohibits any person or entity in the State of California to use “any system
 20 which examines or records in any manner voice prints or other voice stress patterns of another
 21 person to determine the truth or falsity of statements made by such other person without his or
 22 her express written consent given in advance of the examination or recordation.” Cal. Penal Code
 23 § 637.3(a)

24 39. Defendant is a corporation and therefore an “entity” under CIPA. *Id.*

25 40. Defendant’s voice printing and analysis software is a “system” under CIPA
 26 because it records and examines Plaintiff’s and the Class’s voice prints and other voice stress
 27 patterns.

28 41. Defendant used this system to record and examine the voice prints of Plaintiff and
 the Class when they called customer support lines that used Defendant’s software.

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1 42. Defendant recorded and examined Plaintiff’s and the Class members’ voice prints
2 to determine the truth or falsity of their statements—including, for example, their statement
3 about who they claimed to be.

4 43. Defendant did not obtain prior express written consent from Plaintiff and the
5 Class to use, examine, or record their voice prints for any purpose whatsoever.

6 44. On behalf of herself and the Class, Plaintiff Packbiers seeks: (1) injunctive and
7 equitable relief as is necessary to protect the interests of Plaintiff and the Class by requiring
8 Defendant to comply with CIPA’s requirements for the use, recording, and examination of voice
9 prints or other voice stress patterns as described herein; and (2) damages of \$1,000 for each
10 violation of CIPA pursuant to Cal. Penal Code § 637.3(c).

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff Diana Packbiers, on behalf of herself and the Class, respectfully
13 request that this Court enter an order:

14 A. Certifying this case as a class action on behalf of the Class defined above,
15 appointing Plaintiff Packbiers as a representative of the Class, and appointing her counsel as
16 Class Counsel;

17 B. Declaring that Pindrop’s actions, as described above, violate CIPA;

18 C. Awarding statutory damages of \$1,000 for *each* violation of CIPA pursuant to
19 Cal. Penal Code § 637.3;

20 D. Awarding injunctive and other equitable relief as is necessary to protect the
21 interests of the Class;

22 E. Awarding Plaintiff and the Class their reasonable litigation expenses and
23 attorneys’ fees;

24 F. Awarding Plaintiff and the Class pre- and post-judgment interest, to the extent
25 allowable; and

26 G. Awarding such other and further relief as equity and justice may require.

27 **JURY TRIAL**

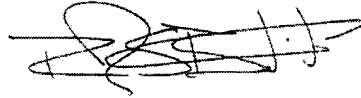
28 Plaintiff Diana Packbiers demands a trial by jury for all issues so triable.

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Respectfully submitted,

DIANA PACKBIERS, individually and on behalf of all others similarly situated,



Dated: June 14, 2022

By: _____
One of Plaintiff's Attorneys

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Pindrop Recorded, Examined Calif. Consumers' Voices Without Consent, Class Action Claims](#)
