

**EXHIBIT A**

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT  
SANGAMON COUNTY, STATE OF ILLINOIS**

JAMES POPPENHOUSE, and )  
CRYSTAL LEE, )  
individually and on behalf of all )  
others similarly situated, )  
 )  
 *Plaintiffs,* )  
 )  
v. )  
 )  
NUWBER, INC., )  
 )  
 *Defendant.* )

Case No: 2021L 000055  
Judge: \_\_\_\_\_

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

Plaintiffs James Poppenhouse and Crystal Lee bring this class action complaint against Defendant Nuwber, Inc., (“Defendant”), to put an end to their unlawful practice of using the names and identities of Illinois residents without their consent in order to promote its service. Plaintiffs, on behalf of themselves and all others similarly situated, allege as follows upon personal knowledge as to their own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by their own attorneys.

**NATURE OF THE ACTION**

1. Defendant Nuwber, Inc. operates a website called Nuwber.com (“Nuwber”) which sells access to a database containing proprietary “detailed reports” about people to anybody willing to pay for a monthly subscription.
2. To market its service, Nuwber encourages consumers to perform a free “people search” on its website. When consumers perform a free search for an individual – by typing the individual’s first and last name into the search bar – Nuwber displays a page featuring the searched individual’s full name alongside certain, but limited, uniquely identifying information, including age, location, and names of relatives.
3. The purpose of this page is twofold: first, it shows potential customers that the

Nuwber database contains a detailed report for the *specific* individual they searched for and represents that the detailed report contains much more information about the individual than the “free” report, and second, it offers to sell them a paid subscription to its service, where they can access detailed reports about anybody in its database.

4. In other words, Nuwber does not offer to sell detailed reports about the individuals searched on its website, but rather, uses their identities to sell subscriptions to its paid service.

5. Unsurprisingly, the people appearing in these advertisements never provided Defendant with their consent (written or otherwise) to use their identities for any reason, let alone for marketing or commercial purposes.

6. By using Illinois residents’ full names in its advertisements without their consent and for its commercial gain, Defendant violated – and continues to violate – the Illinois Right of Publicity Act (“IRPA”), 765 ILCS 1075/1, *et seq.*

#### **PARTIES**

7. Plaintiff James Poppenhouse is a natural person and a citizen of the State of Illinois.

8. Plaintiff Crystal Lee is a natural person and a citizen of the State of Illinois.

9. Defendant Nuwber, Inc., is a Delaware corporation with its principal place of business located at 901 N. Pitt Street, Suite 170, Alexandria Virginia, 22314.

#### **JURISDICTION AND VENUE**

10. Jurisdiction is proper in this Court as Plaintiff is a citizen of Illinois and Defendant transacts significant business in this County, misappropriate the identities of people that they know reside in this County, and the unlawful conduct alleged in this Complaint occurred in and emanated from this County.

11. Venue is proper in this court pursuant to 735 ILCS 5/2-101 as, upon information, Defendant conducts business in this County.

**COMMON FACTUAL ALLEGATIONS**

The Illinois Right of Publicity Act

12. In 1999, the Illinois Legislature recognized that every individual has the “right to control and to choose whether and how [his or her] identity [is used] for commercial purposes.” 765 ILCS 1075/10, and as a result, passed the IRPA to protect individual property rights and prevent the exploitation of individuals’ identities for another’s commercial gain.

13. The Act protects individuals from the unauthorized use of *any* of their attributes, including but not limited to, their names, signatures, photographs, images, likenesses, or voices in the sale or advertisement of goods, merchandise, products, and services.

14. In fact, the IRPA states that “a person may not use an individual’s identity for commercial purposes during the individual’s lifetime without having obtained previous written consent from the appropriate person.” 765 ILCS 1075/30. Notably, the IRPA does not require the person seeking relief under the Act to be a public figure.

Nuwberr Uses Individuals’ Names To Promote A Paid Membership Subscription

15. Nuwberr owns and operates Nuwberr.com, a website that sells detailed profile reports about individuals. The reports are compiled in part from databases and public record repositories. Nuwberr claims it provides “Phone numbers, addresses, police records, lawsuits, property ownership, and much more.”

16. Further, Nuwberr tells its potential customers they can “RELY ON NUWBERR FOR THE RELEVANT, ACCURATE INFORMATION YOU NEED.”

17. Nuwberr reports must be purchased from its website and may include high value information including, *inter alia*, the individual's address, birth date, marriage records, and criminal history.

18. When a consumer visits Nuwberr.com and searches for an individual by using his or her first and last name, Nuwberr displays a list of the individuals found within its records that have the

same name, alongside certain uniquely identifying information such as each individual's current age, name, location, names of their relatives ("Marketing Page"). See Figure 1.

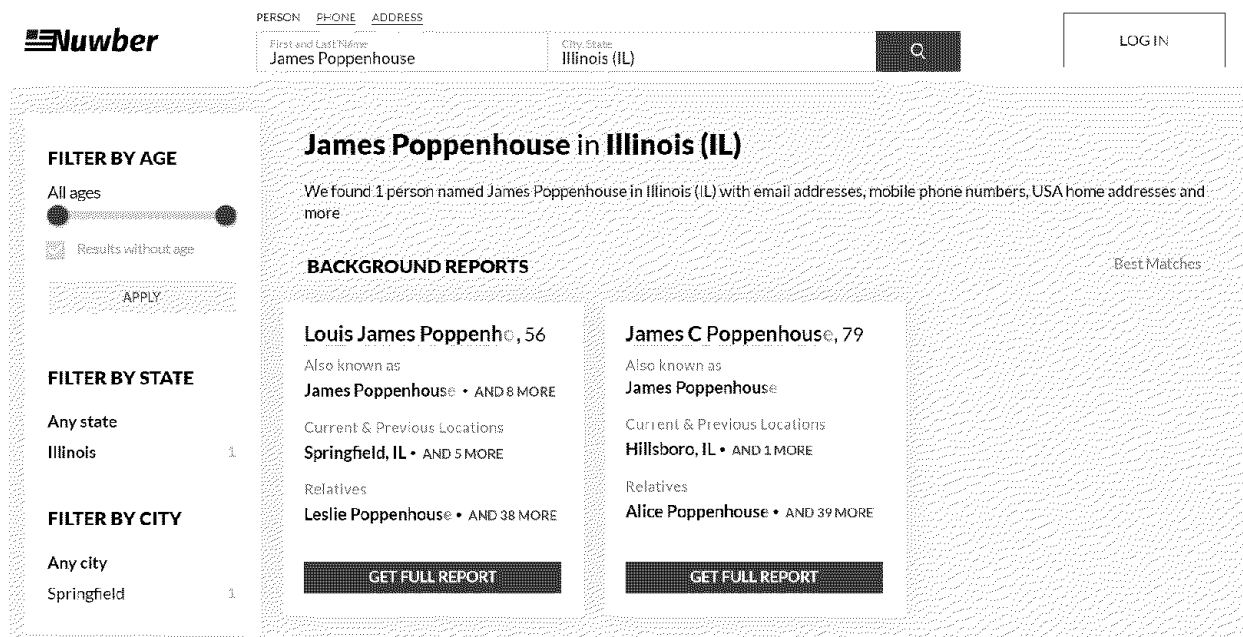


Figure 1

17. Once a consumer selects an individual (by clicking "Get Full Report") from the Marketing Page, Nuwber displays a checkout page with offers to purchase a Nuwber subscription plan for: \$27.99 per month which then allows "UNLIMITED Background Reports. Nuwber also offers longer plans that all allow "UNLIMITED Background Reports."



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LOG IN

# Louis James Poppenhouse, age 56, Springfield, IL

## UNLOCK LOUIS'S INFORMATION

### Contact & personal information

- Names & aliases
- Address history
- Phone numbers
- Email addresses
- Associates & neighbors

### Background check

- Business records
- Criminal records
- Bankruptcy records
- Lien records
- Judgment records
- Eviction records
- Professional licenses
- Marriages & divorces
- Property records

This information will be included into the background report if available in public records.

## PICK YOUR PLAN

⌚ 08:27 minutes left to complete your order

**1 Month Plan**  
UNLIMITED Background Reports  
\$27.99 / mo Cancel any time

**3 Months Plan**  
UNLIMITED Background Reports  
\$17.99 / mo **\$53.97 today** Cancel any time

**1 Year Plan**  
UNLIMITED Background Reports  
\$14.17 / mo **\$169.99 today** Cancel any time

## MAKE A PAYMENT

Secure Checkout

We will send you an email with credentials. Please enter your real email address.

We guarantee privacy and no spam.

**PAY \$27.99**



**Money Back Guarantee**  
We stand behind our products and guarantee your satisfaction.

19. While a consumer visited Nuwber.com to search and potentially obtain a report on one specific individual, Nuwber ultimately offered for sale an entirely different product. Nuwber is not offering for sale only the report on the searched individual. Instead, Nuwber is offering for sale a monthly subscription service that grants the purchaser unlimited access to background reports on anybody in its database. The searched for individual's report is a small part of a large database with reports on millions of people.

20. In this way, Nuwber misappropriated people's identities (individuals' names and other identifying information such as their age, location, and known relatives) for its own commercial benefit (to market and promote a monthly subscription to access unlimited reports on individuals in its database).

21. Most importantly, Nuwber never obtained written consent from Plaintiffs and Class members to use their names for any reason, let alone for the commercial purposes described herein. Defendant never notified Plaintiffs and Class members that their names would appear on its Marketing Page in conjunction with an offer to purchase access to its database of reports.

22. Moreover, Plaintiffs and the Class members have no relationship with Nuwber whatsoever.

23. Plaintiffs, on behalf of themselves and other similarly situated Illinois residents, bring this action against Defendant for their ongoing violations of the IRPA, and seeks (1) injunctive relief requiring Defendant to cease using Illinois residents' identities for commercial purposes, including on its Marketing Page, (2) the greater of an award of actual damages, including profits derived from the unauthorized use of individuals' names, or statutory damages, (3) an award of punitive damages, and (4) an award of costs and reasonable attorneys' fees.

#### **PLAINTIFF SPECIFIC FACTS**

24. In 2021, Plaintiff James Poppenhouse discovered that Defendant was using his identity to solicit the purchase of paid subscriptions.

25. Defendant specifically identified Plaintiff by his full name, location, age, and names of immediate family members on its Marketing Page.

26. Plaintiff never provided Defendant with his written consent (or consent of any kind) to use any attribute of his identity for commercial purposes, and certainly never authorized Nuwber to use his identity to promote any of its products or services.

27. Plaintiff James Poppenhouse is not and has never been a Nuwber customer. He has no relationship with Nuwber whatsoever.

28. In 2021, Plaintiff Crystal Lee discovered that Defendant was using her identity to solicit the purchase of paid subscriptions.

29. Defendant specifically identified Plaintiff by her full name, location, age, and names of immediate family members on its Marketing Page.

30. Plaintiff never provided Defendant with her written consent (or consent of any kind) to use any attribute of her identity for commercial purposes, and certainly never authorized Nuwber to use her identity to promote any of its products or services.

31. Plaintiff Crystal Lee is not and has never been a Nuwber customer. She has no relationship with Nuwber whatsoever.

### **CLASS ALLEGATIONS**

32. **Class Definitions:** Plaintiffs James Poppenhouse and Crystal Lee bring this action pursuant to the Illinois Rules of Civil Procedure on behalf of themselves and a Class defined as follows:

All Illinois residents whose identities were displayed on the Nuwber.com website who have never purchased any products or services on Nuwber.com.

33. Excluded from the Class are: (1) any Judge or Magistrate presiding over this action and members of their families; (2) Defendant, Defendant's subsidiaries, parents, successors, predecessors, and any entity in which the Defendants or their parents have a controlling interest and its current or former employees, officers and directors; (3) persons who properly execute and file a timely request



for exclusion from the Class; (4) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5) Plaintiffs' counsel and Defendants' counsel; and (6) the legal representatives, successors, and assigns of any such excluded persons.

34. **Numerosity:** The exact number of Class members is unknown and not available to Plaintiffs at this time, but it is clear that individual joinder is impracticable. Class members can be identified through Defendant's records.

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

- a. Whether Defendant used Plaintiffs' and Class members' names and identities for a commercial purpose;
- b. Whether Plaintiffs' and Class members provided their written consent to Defendant to use their names and identities in advertisements;
- c. Whether the conduct described herein constitutes a violation of the Illinois Right of Publicity Act; and
- d. Whether Plaintiffs and the Class are entitled to injunctive relief.

36. **Typicality:** Plaintiffs' claims are typical of the claims of other members of the Class, in that Plaintiff and the Class members sustained damages arising out of Defendants' uniform wrongful conduct.

37. **Adequate Representation:** Plaintiffs will fairly and adequately represent and protect the interests of the Class and have retained counsel competent and experienced in complex class actions. Plaintiffs have no interest antagonistic to those of the Class, and Defendant has no defenses unique to Plaintiffs.

38. **Policies Generally Applicable to the Class:** This class action is appropriate for certification because Defendant has acted or refused to act on grounds generally applicable to the Class as a whole, thereby requiring the Court's imposition of uniform relief to ensure compatible

standards of conduct toward the members of the Class and making final injunctive relief appropriate with respect to the Class as a whole. Defendant's policies challenged herein apply and affect members of the Class uniformly and Plaintiffs' challenge of these policies hinges on Defendant's conduct with respect to the Class as a whole, not on facts or law applicable only to Plaintiffs. Plaintiffs and the members of the Class have suffered harm and damages as a result of Defendant's unlawful and wrongful conduct.

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

**FIRST CAUSE OF ACTION**  
**Violation of the Illinois Right of Publicity Act 765 ILCS 1075/1, *et seq.***  
**(On behalf of Plaintiffs and the Class)**

40. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

41. The Illinois Right of Publicity Act prohibits using a person's name, photograph, image, or likeness for the purpose of advertising or promoting products, merchandise, goods, or services without written consent. *See* 765 ILCS 1075/1, *et seq.*

42. Defendants sell subscription-based access to its database containing detailed reports

about people.

43. As described above, to promote the purchase of a subscription plan for unlimited reports, Defendant used Plaintiffs' and the putative Class members' identities on its Marketing Pages, which display the individuals found within its records that match the searched name, alongside uniquely identifying information such as each person's current age, location, and names of their immediate family members. This information serves to identify the individual to a reasonable audience (*i.e.*, those that are searching for them online) and demonstrate that there is a detailed report in its database for the person they searched for.

44. The Marketing Page has a commercial purpose in that it promotes the Nuwber website and a paid membership subscription to access reports in its database.

45. Plaintiffs and members of the Class never provided Defendant with their written consent to use their full names (or any attribute of their identity) in advertisements for Nuwber. Defendant never notified Plaintiffs and Class members that their names would be used in commercial advertisements.

46. Defendant deprived Plaintiffs and Class members of control over whether and how their names can be used for commercial purposes.

47. Based upon Defendant's violation of the Illinois Right of Publicity Act, Plaintiffs and Class members are entitled to (1) an injunction requiring Defendant to cease using Plaintiffs' and members of the Class's names and any attributes of their identities to advertise its products and services, (2) the greater of an award of actual damages (including profits derived from the unauthorized use of Plaintiff's and Class members' names and identities) or statutory damages of \$1,000 per violation to the members of the Class, (3) an award of punitive damages, and (4) an award of costs and reasonable attorneys' fees under 765 ILCS 1075/40-55.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs James Poppenhouse and Crystal Lee, individually and on behalf

of the Class, pray that the Court enter an Order:

- a. Certifying this case as a class action defined above, appointing James Poppenhouse and Crystal Lee as Class Representatives, and appoint their counsel as Class Counsel;
- b. Declaring that Defendant's actions described herein constitute a violation of the Illinois Right of Publicity Act;
- c. Awarding injunctive and other equitable relief as necessary to protect the interest of the Class, including, *inter alia*, an order prohibiting Defendant from engaging in the wrongful and unlawful acts described herein;
- d. Awarding the greater of actual damages, including the profits derived from the unauthorized use of same, or statutory damages in the amount of \$1,000 per violation of the members of the Class;
- e. Awarding punitive damages;
- f. Awarding Plaintiff and the Class their reasonable litigation expenses and attorneys' fees;
- g. Awarding Plaintiff and the Class pre- and post-judgment interest; and
- h. Granting such other and further relief as the Court deems equitable and just.

Respectfully Submitted,

Date: April 1, 2021

Respectfully Submitted,

By: /s/ Brandon M. Wise

Brandon M. Wise

**PEIFFER WOLF CARR KANE & CONWAY, APLC**

818 Lafayette Ave., Floor 2

St. Louis, MO 63104

314-833-4825

[bwise@peifferwolf.com](mailto:bwise@peifferwolf.com)

Jonathan T. Nessler

**THE LAW OFFICES OF FREDERICK W. NESSLER &  
ASSOCIATES, LTD.**

536 N. Bruns Lane, Suite 1

Springfield, IL 62702

Ph: (217) 698-0202

[jtnessler@nesslerlaw.com](mailto:jtnessler@nesslerlaw.com)

**ATTORNEYS FOR PLAINTIFFS  
AND THE PUTATIVE CLASS**

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### **PARTIES**

7. Plaintiff James Poppenhouse is a natural person and a citizen of the State of Illinois.

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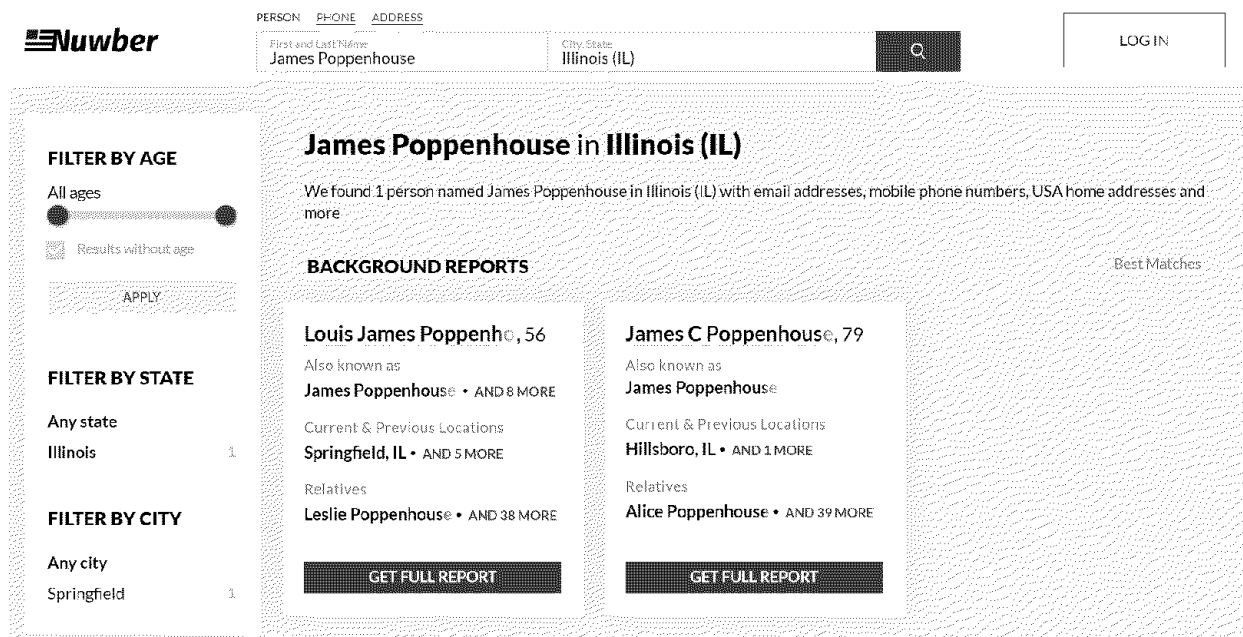


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# Louis James Poppenhouse, age 56, Springfield, IL

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## MAKE A PAYMENT

Secure Checkout

Email

We will send you an email with credentials. Please enter your real email address.

Full Name

Phone Number (optional)

We guarantee privacy and no spam.

Card Number  MM/YY CVC

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21. Most importantly, Nuwber never obtained written consent from Plaintiffs and Class members to use their names for any reason, let alone for the commercial purposes described herein. Defendant never notified Plaintiffs and Class members that their names would appear on its Marketing Page in conjunction with an offer to purchase access to its database of reports.

22. Moreover, Plaintiffs and the Class members have no relationship with Nuwber whatsoever.

23. Plaintiffs, on behalf of themselves and other similarly situated Illinois residents, bring this action against Defendant for their ongoing violations of the IRPA, and seeks (1) injunctive relief requiring Defendant to cease using Illinois residents' identities for commercial purposes, including on its Marketing Page, (2) the greater of an award of actual damages, including profits derived from the unauthorized use of individuals' names, or statutory damages, (3) an award of punitive damages, and (4) an award of costs and reasonable attorneys' fees.

#### **PLAINTIFF SPECIFIC FACTS**

24. In 2021, Plaintiff James Poppenhouse discovered that Defendant was using his identity to solicit the purchase of paid subscriptions.

25. Defendant specifically identified Plaintiff by his full name, location, age, and names of immediate family members on its Marketing Page.

26. Plaintiff never provided Defendant with his written consent (or consent of any kind) to use any attribute of his identity for commercial purposes, and certainly never authorized Nuwber to use his identity to promote any of its products or services.

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28. In 2021, Plaintiff Crystal Lee discovered that Defendant was using her identity to solicit the purchase of paid subscriptions.

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31. Plaintiff Crystal Lee is not and has never been a Nuwber customer. She has no relationship with Nuwber whatsoever.

### **CLASS ALLEGATIONS**

32. **Class Definitions:** Plaintiffs James Poppenhouse and Crystal Lee bring this action pursuant to the Illinois Rules of Civil Procedure on behalf of themselves and a Class defined as follows:

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for exclusion from the Class; (4) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5) Plaintiffs' counsel and Defendants' counsel; and (6) the legal representatives, successors, and assigns of any such excluded persons.

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#### **FIRST CAUSE OF ACTION**

**Violation of the Illinois Right of Publicity Act 765 ILCS 1075/1, *et seq.***

**(On behalf of Plaintiffs and the Class)**

40. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

41. The Illinois Right of Publicity Act prohibits using a person's name, photograph, image, or likeness for the purpose of advertising or promoting products, merchandise, goods, or services without written consent. *See* 765 ILCS 1075/1, *et seq.*

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45. Plaintiffs and members of the Class never provided Defendant with their written consent to use their full names (or any attribute of their identity) in advertisements for Nuwber. Defendant never notified Plaintiffs and Class members that their names would be used in commercial advertisements.

46. Defendant deprived Plaintiffs and Class members of control over whether and how their names can be used for commercial purposes.

47. Based upon Defendant's violation of the Illinois Right of Publicity Act, Plaintiffs and Class members are entitled to (1) an injunction requiring Defendant to cease using Plaintiffs' and members of the Class's names and any attributes of their identities to advertise its products and services, (2) the greater of an award of actual damages (including profits derived from the unauthorized use of Plaintiff's and Class members' names and identities) or statutory damages of \$1,000 per violation to the members of the Class, (3) an award of punitive damages, and (4) an award of costs and reasonable attorneys' fees under 765 ILCS 1075/40-55.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs James Poppenhouse and Crystal Lee, individually and on behalf

of the Class, pray that the Court enter an Order:

- a. Certifying this case as a class action defined above, appointing James Poppenhouse and Crystal Lee as Class Representatives, and appoint their counsel as Class Counsel;
- b. Declaring that Defendant's actions described herein constitute a violation of the Illinois Right of Publicity Act;
- c. Awarding injunctive and other equitable relief as necessary to protect the interest of the Class, including, *inter alia*, an order prohibiting Defendant from engaging in the wrongful and unlawful acts described herein;
- d. Awarding the greater of actual damages, including the profits derived from the unauthorized use of same, or statutory damages in the amount of \$1,000 per violation of the members of the Class;
- e. Awarding punitive damages;
- f. Awarding Plaintiff and the Class their reasonable litigation expenses and attorneys' fees;
- g. Awarding Plaintiff and the Class pre- and post-judgment interest; and
- h. Granting such other and further relief as the Court deems equitable and just.

Respectfully Submitted,

Date: April 1, 2021

Respectfully Submitted,

By: /s/ Brandon M. Wise

Brandon M. Wise

**PEIFFER WOLF CARR KANE & CONWAY, APLC**

818 Lafayette Ave., Floor 2

St. Louis, MO 63104

314-833-4825

[bwise@peifferwolf.com](mailto:bwise@peifferwolf.com)

Jonathan T. Nessler

**THE LAW OFFICES OF FREDERICK W. NESSLER &  
ASSOCIATES, LTD.**

536 N. Bruns Lane, Suite 1

Springfield, IL 62702

Ph: (217) 698-0202

[jtnessler@nesslerlaw.com](mailto:jtnessler@nesslerlaw.com)

**ATTORNEYS FOR PLAINTIFFS  
AND THE PUTATIVE CLASS**



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Nuwbcr Illegally Uses Illinois Residents' Identities to Sell Subscriptions, Class Action Claims](#)

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