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8 Attorney for Plaintiffs

9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11 Valorie Anne Smart, David Waterstram
12 Miller, and Angela Lynn Miller, individually
13 and on behalf of all others similarly situated,

14 Plaintiffs,

15 v.

16 Equifax Inc.; Equifax Information Services
17 LLC; and Does 1-10,

18 Defendants.

Case No.

**CLASS ACTION COMPLAINT FOR
DAMAGES**

Jury Trial Demanded

19 Plaintiffs Valorie Anne Smart, David Waterstram Miller, and Angela Lynn Miller, individually
20 and on behalf of all others similarly situated (“Plaintiffs”), complain of defendants Equifax Inc.;
21 Equifax Information Services LLC; and Does 1 to 10 (“Defendants”), and allege as follows:

22 **INTRODUCTION**

23 1. Defendants harvest massive amounts of consumer data for sale and use by its partners
24 and customers. While obtaining, exploiting, and selling sensitive consumer data is Defendants’
25 business, Defendants admitted in September of 2017 that hackers were able to penetrate Defendants’
26 computer systems to steal consumer information belonging to over 140 million Americans.
27 Outrageously, Defendants only warned the public of this unprecedented breach two months after the
28 theft was allegedly discovered. During this time, consumers’ data was unnecessarily exposed. In fact,



1 Defendants left consumers in the dark regarding potential risks and steps that they could take to protect
2 themselves from Defendants' negligence. For two whole months, Defendants willfully disregarded the
3 risk to consumers that their data was in the hands of nefarious actors. Defendants' negligence has, and
4 will cause, harm to countless California consumers, some of which likely already suffered harm from
5 the theft. Consumers have had enough of large businesses carelessly handling confidential personal
6 information and profiting from that same data.

7 **PARTIES**

8 2. Plaintiff Valorie Anne Smart is an adult resident of Sacramento County, California.

9 3. Plaintiff David Waterstram Miller is an adult resident of Sacramento County, California

10 4. Plaintiff Angela Lynn Miller is an adult resident of Sacramento County, California.

11 5. Defendant Equifax Inc. is a Georgia Corporation with its principal place of business in
12 Atlanta, Georgia.

13 6. Defendant Equifax Information Services LLC is a Georgia Limited Liability Company
14 with its principal place of business in Atlanta, Georgia.

15 7. Plaintiffs do not know the true names of Doe Defendants, their business capacities, their
16 ownership connection to the business, or their relative responsibilities in causing the harm complained
17 of, and alleges a joint venture and common enterprise by all such Defendants. Plaintiffs are informed
18 and believe that each Defendant herein, including Does 1 to 10, is responsible in some capacity for the
19 events herein alleged, or is a necessary party for obtaining appropriate relief. Plaintiffs will seek leave
20 to amend when the true names, capacities, connections, and responsibilities of the Does 1 to 10 are
21 ascertained.

22 **JURISDICTION**

23 8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because the
24 parties are citizens of different states and the amount in controversy exceeds \$100,000,000.

25 9. This Court has personal jurisdiction over Defendants because each conducts business in
26 California, intentionally avails itself of the markets and benefits of California through its marketing
27 and sales of the products at issue in California so as to render the exercise of jurisdiction by this Court
28 consistent with traditional notions of fair play and substantial justice, and a substantial part of the acts

1 and omissions giving rise to the claims occurred within California.

2 **VENUE**

3 10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and is founded on the fact
4 that the acts described herein have impacted residents of this district and Defendants have done and
5 continue to do business, and intentionally avail themselves of the markets within this district.

6 **FACTUAL ALLEGATIONS**

7 11. Plaintiffs file this complaint on behalf of over an estimated 20 million consumers
8 located in the State of California that have been harmed by Defendants' negligence.

9 12. Specifically, Defendants have admitted that they have negligently allowed hackers to
10 steal confidential consumer data for over 140 million consumers throughout the country, including, but
11 not limited to, names, addresses, social security numbers, driver's license numbers, and in some cases,
12 credit card numbers. Plaintiffs are informed and believe, and on that basis allege, that a large number
13 of these consumers are located in the State of California.

14 13. Plaintiffs' data was stolen by alleged criminals using an online service owned and
15 operated by Defendants that Defendants failed to adequately protect, harden, and secure against
16 unauthorized access. Plaintiffs are informed and believe, and on that basis allege, that Defendants had
17 the technical means to protect their confidential consumer information, but failed to do so.

18 14. Defendants owed California consumers a legal duty to use reasonable care to protect
19 their valuable personal information from unauthorized access from third parties. It was reasonably
20 foreseeable that the failure to protect consumer information would cause serious harm, including
21 identity theft, to California consumers.

22 15. Despite knowing about this data breach in June and July of 2017, Defendants waited
23 until September of 2017 to notify California consumers of the data breach.

24 16. Defendants negligently failed to maintain their computer systems to prevent
25 unauthorized access to confidential consumer data. Defendants knew, or should have known, that their
26 lackadaisical approach to computer security would result in harm to consumers.

27 17. Plaintiffs have been damaged by Defendants negligence.

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CLASS ALLEGATIONS

1
2 18. Plaintiffs file this Complaint on behalf of themselves and all other similarly situated
3 consumers in the State of California. The similarly situated consumers are known to Defendants and
4 are readily identifiable and locatable through Defendants’ own records. The Class that Plaintiffs seek
5 to represent is defined as follows:

6 All California consumers that had personally identifiable information,
7 including, but not limited to, name, address, driver’s license number, or
8 social security number, collected and stored by Defendants in the past year,
9 and who were subject to risk of data loss, credit harm, or identity theft, or
10 had to pay for credit monitoring services, as a result of Defendants’ data
11 breach that occurred in May to July of 2017.

12 19. Excluded from this proposed class are all attorneys for the class, officers and members
13 of Defendants, including officers and members of any entity with an ownership interest in Defendants,
14 any judge who sits on this case, and all jurors and alternate jurors who sit on this case.

15 20. The exact number of aggrieved consumers in California can easily be determined
16 because Defendants, as data brokers, know the identities and locations of all consumers that were
17 involved in the 2017 data breach.

18 21. Each aggrieved consumer suffered injuries as alleged in this complaint, and these
19 injuries were directly and proximately caused by Defendants’ negligent failure to adequately protect
20 its databases from unauthorized access.

21 22. The proposed class is so numerous that joinder is impracticable. Plaintiffs are informed
22 and believe, and on that basis allege, that the proposed class includes millions of California consumers
23 based upon Defendants’ estimate that the 2017 data breach affected over 140 million consumers
24 throughout the country.

25 23. Common questions of fact and law predominate over any questions affecting only
26 individual class members. Common questions include whether Equifax acted negligently and whether
27 Plaintiffs are entitled to damages.

28 24. Plaintiffs will fairly and adequately protect and represent the interests of the class



1 because their claims are typical of the claims of the proposed class, they are represented by a qualified
2 and competent consumer protection law firm, and they will vigorously prosecute this litigation for the
3 benefit of aggrieved California consumers. Finally, Plaintiffs' interests are not antagonistic or in
4 conflict with the interests of the proposed class.

5 **FIRST CAUSE OF ACTION**

6 **(NEGLIGENCE AGAINST ALL DEFENDANTS)**

7 25. Plaintiffs replead and incorporate by reference, as if fully set forth again herein, the
8 allegations contained in all prior paragraphs of this complaint.

9 26. Defendants voluntarily acquired sensitive and confidential information belonging to
10 Plaintiffs and the putative class.

11 27. As a mass repository of sensitive consumer data, Defendants owed Plaintiffs a duty of
12 care to reasonably protect the sensitive consumer data from unauthorized access by third parties.

13 28. Defendants breached their legal duty by failing to maintain adequate safeguards.

14 29. Defendants' technical safeguards, if any, fell well below the standard of care.

15 30. Defendants' negligence directly and proximately caused a foreseeable risk of data loss,
16 credit harm, an identity theft, along with other economic losses, in an amount to be proven at trial.

17 **PRAYER**

18 WHEREFORE, Plaintiffs pray that this Court:

- 19 1. Certify this matter as a class action;
- 20 2. Award judgment to Plaintiffs, and each of them;
- 21 3. Award damages in an amount to be proven at trial;
- 22 4. Award costs of suit herein; and
- 23 5. Issue orders or further relief as the Court may deem just and proper.

24
25 DATED: September 8, 2017

Law Office of Rick Morin, PC

26 

27
28 By: Richard Morin
Attorney for Plaintiffs



DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial for all claims for which a jury is permitted.

DATED: September 8, 2017

Law Office of Rick Morin, PC



By: Richard Morin
Attorney for Plaintiffs

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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

Valorie Anne Smart, David Waterstram Miller, and Angela Lynn Miller

DEFENDANTS

Equifax Inc.; Equifax Information Services LLC; and Does 1-10

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

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.

(c) Attorneys (Firm Name, Address, and Telephone Number) Law Office of Rick Morin, PC 555 Capitol Mall Suite 750, Sacramento, CA 95814 (916) 333-2222

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status. Includes options for Citizen of This State, Another State, Foreign Country, and Incorporated/Principal Place of Business.

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

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Each category contains a list of specific legal claims.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1332. Brief description of cause: Diversity / Negligence

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 /s/ Richard Morin

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

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