

1 Joshua H. Watson (CSBN 238058)  
2 CLAYEO C. ARNOLD, APC  
3 865 Howe Avenue  
4 Sacramento, CA 95825  
5 Telephone: (916) 777-7777  
6 Facsimile: (916) 924-1829  
7 Email: jwatson@justice4you.com

8 John A. Yanchunis (Pro Hac Vice Admission Anticipated)  
9 jyanchunis@forthepeople.com  
10 Marcio W. Valladares (Pro Hac Vice Admission Anticipated)  
11 mvalladares@forthepeople.com  
12 MORGAN & MORGAN COMPLEX LITIGATION GROUP  
13 201 North Franklin Street, 7th Floor  
14 Tampa, FL 33602-3644  
15 Tel: (813) 223-5505  
16 Fax: (813) 222-4733

17 Attorneys for Plaintiff  
18 *JOHN VILLALOBOS*  
19 *and those similarly situated*

20 UNITED STATES DISTRICT COURT  
21 EASTERN DISTRICT OF CALIFORNIA

22 JOHN VILLALOBOS, and those similarly  
23 situated,

24 Plaintiffs,

25 v.

26 STATE FARM MUTUAL AUTOMOBILE  
27 INSURANCE COMPANY, and DOES 1  
28 through 50, inclusive,

Defendants.

Case No.:

CLASS ACTION COMPLAINT FOR  
DAMAGES AND EQUITABLE RELIEF

DEMAND FOR JURY TRIAL

Comes now Plaintiff JOHN VILLALOBOS, who on his own behalf and on behalf of all those similarly situated alleges and complains by and through counsel as follows on information and belief, and who prays for relief from the court:

**SUMMARY OF THE CASE**

1  
2 1. On or about December 30, 2016, Defendant STATE FARM MUTUAL AUTOMOBILE  
3 INSURANCE COMPANY, DOES 1 to 50, and each of them (hereafter referred to collectively  
4 and individually as “Defendants”) became aware of a data breach incident involving an  
5 employee, agent, contractor or some other individual within their zone of responsibility and  
6 control, hereafter referred to as the “subject data breach.”

7 2. In the subject data breach, an employee, agent, contractor or person similarly subject to  
8 control by Defendants took sensitive personal information of consumers from Defendants using a  
9 portable electronic storage device. The sensitive personal information, in broad terms, related to  
10 prior and ongoing litigation and disputes, including but not limited to discovery materials,  
11 investigation materials, names, contact information, date of birth, social security number,  
12 driver’s license numbers, financial account information, health and medical information, tax  
13 information, and other information relating to and discussed in lawsuits. This compromised data  
14 is collectively referred to as “Personal Identifying Information” or “PII.”

15 3. Defendants gave notice to Plaintiff and those similarly situated on or about July 3, 2017  
16 via letter sent by first class U.S. Mail.

17 4. On information and belief given the nature of the Defendants’ business and their relation  
18 to Plaintiff VILLALOBOS, the PII taken in the breach included but was not limited to Plaintiff  
19 VILLALOBOS’ personal medical information protected by various privacy laws, including but  
20 not limited to HIPAA and state law analogs and supplements, social security number, date of  
21 birth, contact information, financial information, credit report information, and similar  
22 information included in the background and formal investigation of personal injury and property  
23 damage claimants by insurers in the course of formal litigation and informal demand and  
24 negotiation proceedings.

25 5. Defendants utilized formal legal process and/or related procedures and discussions to  
26 require Plaintiff to produce such information which lost in the subject breach. As to Plaintiff,  
27 some of the information was obtained under compulsion of law. In so obtaining such  
28 information, Defendants assumed a duty to safeguard the information with due diligence.

1 6. Despite having knowledge of the subject data breach since at least December 30, 2016,  
2 Defendants waited over half a year to disclose the subject data breach, giving notice only on or  
3 about July 3, 2017, during which time the sensitive personal information of Plaintiff  
4 VILLALOBOS and those similarly situated was subject to a breach known only to Defendants  
5 and during which time Plaintiff and those similarly situated were unable to take protective  
6 measures with respect to the subject data breach. As a result, identity thieves had, during this  
7 time, unfettered access to the PII before Defendants even notified victims that their PII had been  
8 compromised.

9 7. This Class Action Complaint is filed on behalf of Plaintiff and all persons, described  
10 more fully in the following sections, whose PII was compromised in the subject data breach. The  
11 class representative here has suffered actual harm, including but not limited to the need to pay  
12 for adequate and appropriate credit monitoring, incur the time and expense of investigating the  
13 potential for identity theft and the related need for account freezes, card and account  
14 replacements, and late fees for delayed payments. Class members have devoted and will continue  
15 to devote time and energy into recovering stolen funds (where possible), tracking and repairing  
16 damage to their credit reports and reputations, and monitoring and protecting their accounts.  
17 Plaintiff and Class members are further damaged as their PII remains in Defendants' possession,  
18 without adequate protection, and is also in the hands of those who obtained it for its commercial  
19 value, without Plaintiffs' or Class members' consent.

20 **JURISDICTION AND VENUE**

21 8. This Court has jurisdiction over this action pursuant to the Class Action Fairness Act  
22 ("CAFA"), 28 U.S.C. § 1332(d), because, on information and belief, the aggregate amount in  
23 controversy exceeds \$5,000,000, exclusive of interests and costs, there are more than 100 class  
24 members, and at least one class member is a citizen of a state different from Defendants. Subject  
25 matter jurisdiction also arises under 28 U.S.C. § 1331 based on the claim asserted under the  
26 Federal Stored Communications Act, 18 U.S.C. § 2702. The Court also has supplemental  
27 jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

28 9. Venue is proper under 28 U.S.C. § 1391(c) because Defendants are corporations that do

1 business in and are subject to personal jurisdiction in this District. Venue is also proper because  
2 the impact of the subject data breach was felt by the named plaintiff Yolo County, which is  
3 within this Court's venue.

4 **PARTIES**

5 10. Plaintiff JOHN VILLALOBOS (hereafter "Plaintiff") is a resident of Yolo County,  
6 California. On January 11, 2016, Mr. VILLALOBOS filed a personal injury claim arising from  
7 a motor vehicle collision, having the role of plaintiff in the litigation. The defendant in that  
8 matter was insured by Defendants. Defendants responded to the complaint by March 8, 2016.  
9 Defendants compelled Plaintiff to produce his PPI via written discovery by no later than April  
10 25, 2016. Defendants compelled Plaintiff to produce further PII via deposition by no later than  
11 August 9, 2016. All of these productions of Plaintiff's PII predate the subject data breach such  
12 that Defendants had possession of such PII at the time of the subject data breach.

13 11. Defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY is an  
14 Illinois corporation registered with the California Secretary of State, with its principal place of  
15 business and headquarters at One State Farm Plaza, Bloomington IL 61710.

16 12. Defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY is part  
17 of a broader enterprise of related companies subject to cross-control or parent-subsidary control.  
18 This enterprise does business as "STATE FARM" and utilizes this trade name in connection with  
19 a number of entities. The notice letter concerning the subject data breach bears the "STATE  
20 FARM" trademark and operating name in its letterhead, and refers to STATE FARM MUTUAL  
21 AUTOMOBILE INSURANCE COMPANY along with "its affiliates and subsidiaries." Plaintiff  
22 is informed and believes that certain other entities currently unidentified are responsible for the  
23 subject data breach and related wrongs given this enterprise structure. Notwithstanding their  
24 place(s) of incorporation, Defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE  
25 COMPANY, DOES 1 to 50, and each of them operate with such frequency within California,  
26 have such physical locations of business within California, and intentionally do business within  
27 California on such scale as to subject themselves to the jurisdiction and laws of California.

28 13. The true names and capacities of Defendants sued herein as DOES 1 through 50,

1 inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by such  
2 fictitious names. Each of the Defendants designated herein as a DOE is legally responsible in  
3 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of Court to amend  
4 this Complaint to reflect the true names and capacities of the Defendants designated herein as  
5 DOES when such identities become known.

6 14. Based upon information and belief, Plaintiff alleges that at all times mentioned herein,  
7 each and every Defendant and DOE was acting as an agent and/or employee and/or joint venture  
8 of each of the other Defendants and DOE, and at all times mentioned was acting within the  
9 course and scope of said agency and/or employment and/or joint venture with the full  
10 knowledge, permission, consent and ratification of each of the other Defendants and DOES. In  
11 of addition, each of the acts and/or omissions of each Defendant and DOE alleged herein were  
12 made known to, and ratified by, each of the other Defendants and DOES.

13 15. Defendants, DOES 1 to 20, and each of them were engaged in a common enterprise for  
14 which all have joint liability. At all times relevant herein, Defendants, and each of them,  
15 maintained joint control and were in law and in fact “Joint Employers” of the person who  
16 allegedly initiated the subject data breach, or alternatively were legally responsible for  
17 preventing, detecting, or responding to the subject data breach.

18 **FACTUAL BACKGROUND**

19 16. Defendants operate an insurance company. In the course of routine business operations,  
20 Defendants take money from policy holders seeking policies to protect against liability,  
21 including but not limited to liability arising from negligent operation of a motor vehicle.

22 17. In the course of such operations, Defendants obtain financial gain by, among other things,  
23 collecting more money in policy payments by insureds than they pay out in claims made by  
24 persons asserting injury or property damage claims against the policies purchased by Defendants  
25 insured customers.

26 18. Defendants have a financial incentive to pay as little as is appropriately necessary for  
27 claims for injury or property damage made against Defendants’ policies issued to their insureds.

28 19. Defendants take steps in the course of their business to pay as little as is appropriately

1 necessary for claims for injury or property damage made against Defendants' policies issued to  
2 their insureds. Such steps include but are not limited to investigating claims, investigating  
3 claimants, and participating in legal process to test the sufficiency of liability claims, as well as  
4 the nature and extent of claimants' alleged injuries. In so doing, Defendants use investigation  
5 and formal legal process to obtain PII of claimants.

6 20. Defendants obtained PII of Plaintiff by investigation of Plaintiff outside the formal legal  
7 process. (Formal legal process as used herein includes pleadings, discovery, deposition taking,  
8 hearings, alternative dispute resolution, and trial.)

9 21. Defendants obtained PII of Plaintiff by formal legal process.

10 22. Defendants obtained PII of Plaintiff prior to the conclusion of the subject data breach's  
11 occurrence.

12 23. By December 20, 2016, Defendants were aware that the subject data breach included PII  
13 of Plaintiff.

14 24. Defendants did not notify Plaintiff that his PII had been involved in the subject data  
15 breach until July 3, 2017, and such notice was provided via letter sent first class US Mail.

16 25. Plaintiff has at no point provided any release to Defendants with respect to any liability  
17 which may arise from the subject data breach.

18 26. Class members have at no point provided any release to Defendants with respect to any  
19 liability which may arise from the subject data breach.

20 27. The circumstances of the subject data breach with respect to disclosure of Plaintiff's PII  
21 is typical of a broader class of claimants whose PII was involved in the subject data breach.

22 28. The circumstances of the disclosure of the subject data breach with respect Plaintiff is  
23 typical of a broader class of claimants whose PII was involved in the subject data breach.

24 29. The number of claimants whose PII was involved in the subject data breach was of  
25 sufficient number as to justify resolving this matter as a class action, provided the other aspects  
26 of class action certification are met.

27 30. The types of information compromised in the subject data breach are highly valuable to  
28 identity thieves. Names, email addresses, telephone numbers, dates of birth, social security

1 numbers, address histories, information within medical records (e.g. family structure and names  
2 of family members), and the nature of litigation materials to contain information from which to  
3 guess at passwords and security question answers can all be used to gain access to a variety of  
4 existing accounts and websites of Plaintiff and those similarly situated.

5 31. Identity thieves can also use the PII to harm Plaintiffs and Class members through  
6 embarrassment, blackmail or harassment in person or online, or to commit other types of fraud  
7 including obtaining ID cards or driver's licenses, fraudulently obtaining tax returns and refunds,  
8 and obtaining government benefits. A Presidential Report on identity theft from 2008 states that:  
9 In addition to the losses that result when identity thieves fraudulently open accounts or misuse  
10 existing accounts, . . . individual victims often suffer indirect financial costs, including the costs  
11 incurred in both civil litigation initiated by creditors and in overcoming the many obstacles they  
12 face in obtaining or retaining credit. Victims of non-financial identity theft, for example, health-  
13 related or criminal record fraud, face other types of harm and frustration. The PII off the class  
14 certainly includes information posing the risk of such harm due to the nature and purposes of  
15 Defendants' investigation and litigation efforts.

16 32. In addition to out-of-pocket expenses that can reach thousands of dollars for the victims  
17 of new account identity theft, and the emotional toll identity theft can take, some victims have to  
18 spend what can be a considerable amount of time to repair the damage caused by the identity  
19 thieves. Victims of new account identity theft, for example, must correct fraudulent information  
20 in their credit reports and monitor their reports for future inaccuracies, close existing bank  
21 accounts and open new ones, and dispute charges with individual creditors.

22 33. Plaintiff has already incurred such expenses, including but not limited to hundreds of  
23 dollars spent on an appropriate and rigorous identity theft detection service, as well as the time  
24 and expense of obtaining and reviewing Plaintiff's credit report. Such investigation, given the  
25 recent nature of the disclosure of the data breach, is ongoing at the time of filing and will result  
26 in incurring further expenditures of time and money.

27 34. To put it into context the 2013 Norton Report, based on one of the largest consumer  
28 cybercrime studies ever conducted, estimated that the global price tag of cybercrime was around

1 \$113 billion at that time, with the average cost per victim being \$298 dollars.

2 35. The problems associated with identity theft are exacerbated by the fact that many identity  
3 thieves will wait years before attempting to use the PII they have obtained. Indeed, a  
4 Government Accountability Office study found that “stolen data may be held for up to a year or  
5 more before being used to commit identity theft.” (*See* Report to Congressional Requesters, U.S.  
6 Government Accountability Office, 33 (June 2007), available at [www.gao.gov/new.items/  
7 d07737.pdf](http://www.gao.gov/new.items/d07737.pdf).) In order to protect themselves, class members will need to remain vigilant against  
8 unauthorized data use for years and decades to come.

9 36. Once stolen, PII can be used in a number of different ways. One of the most common is  
10 that it is offered for sale on the “dark web,” a heavily encrypted part of the Internet that makes it  
11 difficult for authorities to detect the location or owners of a website. The dark web is not indexed  
12 by normal search engines such as Google and is only accessible using a Tor browser (or similar  
13 tool), which aims to conceal users’ identities and online activity. The dark web is notorious for  
14 hosting marketplaces selling illegal items such as weapons, drugs, and PII. Websites appear and  
15 disappear quickly, making it a very dynamic environment. (*See* Brian Hamrick, The dark web: A  
16 trip into the underbelly of the internet, WLWT News (Feb. 9, 2017 8:51 PM),  
17 <http://www.wlwt.com/article/the-dark-web-a-trip-into-the-underbelly-of-the-internet/8698419>.)

18 42. Once someone buys PII, it is then used to gain access to different areas of the victim’s  
19 digital life, including bank accounts, social media, and credit card details. During that process,  
20 other sensitive data may be harvested from the victim’s accounts, as well as from those  
21 belonging to family, friends, and colleagues.

22 43. The sale of PII occurs in an active criminal market. The risk of crime to which identity  
23 theft victims such as Plaintiff and Class members are exposed is exemplified, for instance, by the  
24 logo of a dark web sales site that features a satirical gun wielding Ronald McDonald and the  
25 moto, “i’m swipin’ it:”





1 (See <https://krebsonsecurity.com/2014/06/peek-inside-a-professional-carding-shop/>)

2 **CLASS ACTION ALLEGATIONS**

3 44. Pursuant to Rule 23(b)(2), (b)(3) and (c)(4) of the Federal Rules of Civil Procedure,  
4 Plaintiff, individually and on behalf of all others similarly situated, brings this lawsuit on behalf  
5 of himself and as a class action on behalf of the following classes:

- 6 A. The overall class, which includes each subclass below: All persons (including  
7 natural and legal persons) whose PPI was disclosed in the subject breach due to  
8 his/her/its PII being included in the files that were taken from Defendants
- 9 B. The Claimant Subclass: All persons (including natural and legal persons) whose  
10 PPI was disclosed in the subject breach due to being a claimant in a matter-file  
11 that was taken from Defendants.
- 12 C. The Insured Subclass: All persons (including natural and legal persons) whose  
13 PPI was disclosed in the subject breach due to being a party insured by  
14 Defendants in a matter-file that was taken from Defendants.
- 15 D. The Witness Subclass: All persons (including natural and legal persons) whose  
16 PPI was disclosed in the subject breach due to being a witness in a matter-file that  
17 was taken from Defendants.
- 18 E. The California Subclass: All persons belonging to any of the other classes who at  
19 any time relevant to this litigation resided in California. This includes but is not  
20 limited to the named plaintiff JOHN VILLALOBOS.

21 45. Collectively, all of the classes will be referred to herein as the “Class,” except where  
22 otherwise noted in order to differentiate them.

23 46. Excluded from the Class are Defendants and any entities in which any Defendant or their  
24 subsidiaries or affiliates have a controlling interest, and Defendants’ officers, agents, and  
25 employees.

26 47. Numerosity: The members of each Class are so numerous that joinder of all members of  
27 any Class would be impracticable. The names and addresses of Class members are identifiable  
28 through documents maintained by Defendants.

1 48. Commonality and Predominance: This action involves common questions of law or fact,  
2 which predominate over any questions affecting individual Class members, including:

3 A. For All Classes:

- 4
- 5 i. Whether Defendants represented to the Class assumed a duty to safeguard
  - 6 Class members' PII;
  - 7 ii. Whether Defendants owed a legal duty to Plaintiffs and the Class to
  - 8 exercise due care in collecting, storing, and safeguarding their PII;
  - 9 iii. Whether Defendants breached a legal duty to Plaintiffs and the Class to
  - 10 exercise due care in collecting, storing, and safeguarding their PII;
  - 11 iv. Whether Class members' PII was accessed, compromised, or stolen in the
  - 12 subject data breach;
  - 13 vii. Whether Defendants knew about the subject data breach before it was
  - 14 announced and failed to timely notify affected persons of the breach;
  - 15 viii. Whether Plaintiff and the other Class members are entitled to actual,
  - 16 statutory, or other forms of damages, and other monetary relief; and
  - 17 ix. Whether Plaintiff and the Class are entitled to equitable relief, including,
  - 18 but not limited to, injunctive relief and restitution.

19 B. As to the Claimant Subclass:

- 20 i. Whether the compelled nature of the disclosures of PII by claimants to
- 21 Defendants created a special duty regarding securing PII and/or promptly
- 22 disclosing its compromise.

23 C. As to the Insured Subclass:

- 24 i. Whether Defendants represented to such class members that they would
- 25 safeguard their PII and/or promptly disclose its compromise.

26 D. As to the Witness Subclass:

- 27 i. The nature and extent of duty owed to PII of third parties where litigants
- 28 obtain personal information in the course of litigation (e.g. financial data

1 of experts, historical residence data, etc) .

2 49. Defendants engaged in a common course of conduct giving rise to the legal rights sought  
3 to be enforced by Plaintiffs individually and on behalf of the members of their respective classes.  
4 Similar or identical statutory and common law violations, business practices, and injuries are  
5 involved. Individual questions, if any, pale by comparison, in both quantity and quality, to the  
6 numerous common questions that dominate this action.

7 50. Typicality: Plaintiff's claims are typical of the claims of the other members of the class  
8 because, among other things, Plaintiff and the other class members were injured through the  
9 substantially uniform misconduct by Defendants. Plaintiff is advancing the same claims and  
10 legal theories on behalf of himself and all other Class members, and there are no defenses that  
11 are unique to Plaintiff. The claims of Plaintiff and those of other Class members arise from the  
12 same operative facts and are based on the same legal theories.

13 51. Adequacy of Representation: Plaintiff is an adequate representative of the classes because  
14 Plaintiff's interests do not conflict with the interests of the other Class members Plaintiff seeks to  
15 represent; Plaintiff has retained counsel competent and experienced in complex class action  
16 litigation and Plaintiff will prosecute this action vigorously. The Class members' interests will be  
17 fairly and adequately protected by Plaintiff and Plaintiff's counsel.

18 52. Superiority: A class action is superior to any other available means for the fair and  
19 efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered  
20 in the management of this matter as a class action. The damages, harm, or other financial  
21 detriment suffered individually by Plaintiff and the other members of the class are relatively  
22 small compared to the burden and expense that would be required to litigate their claims on an  
23 individual basis against Defendants, making it impracticable for Class members to individually  
24 seek redress for Defendants' wrongful conduct. Even if Class members could afford individual  
25 litigation, the court system could not. Individualized litigation would create a potential for  
26 inconsistent or contradictory judgments, and increase the delay and expense to all parties and the  
27 court system. By contrast, the class action device presents far fewer management difficulties and  
28 provides the benefits of single adjudication, economies of scale, and comprehensive supervision

1 by a single court.

2 53. Further, Defendants have acted or refused to act on grounds generally applicable to the  
3 Class and, accordingly, final injunctive or corresponding declaratory relief with regard to the  
4 members of the Class as a whole is appropriate under Rule 23(b)(2) of the Federal Rules of Civil  
5 Procedure.

6 54. Likewise, particular issues under Rule 23(c)(4) are appropriate for certification because  
7 such claims present only particular, common issues, the resolution of which would advance the  
8 disposition of this matter and the parties' interests therein. Such particular issues include, but are  
9 not limited to:

10 a. Whether Class members' PII was accessed, compromised, or stolen in the subject breach;

11 b. Whether (and when) Defendants knew about any or all of the subject breach before it was  
12 announced to the public and failed to timely notify the public of the subject breach;

13 c. Whether Defendants owed a legal duty to Plaintiff and the Class to exercise due care in  
14 collecting, storing, and safeguarding their PII;

15 d. Whether Defendants breached a legal duty to Plaintiff and the Class to exercise due care  
16 in collecting, storing, and safeguarding their PII;

17 e. Whether Defendants' conduct was an unlawful or unfair business practice under Cal.  
18 Bus. & Prof. Code § 17200, et seq.;

19 f. Whether it was reasonable for Plaintiff and Class members to expect that Defendants  
20 would secure and protect the PII and financial information of Plaintiffs and members of the  
21 classes were facts that reasonable persons could be expected to rely upon when deciding whether  
22 to use Defendants' services;

23 g. Whether the circumstances of the subject breach would or should justify heightened  
24 protective orders in any subsequent litigation involving a class member, noting that any of the  
25 class members may in the future be involved as a claimant, insured, or witness in a matter  
26 involving State Farm;

27 h. Whether Defendants failed to comply with their own policies and applicable laws,  
28 regulations, and industry standards relating to data security;

1 i. Whether Defendants knew or should have known that they did not employ reasonable  
2 measures to keep Plaintiffs' and Class members' PII or financial information secure and prevent  
3 the loss or misuse of that information;

4 j. Whether Defendants' conduct violated Cal. Civ. Code § 1798.80 et seq.;

5 k. Whether Defendants' conduct violated the Stored Federal Stored  
6 Communications Act ("SCA"), 18 U.S.C. § 2702;

7 l. Whether Defendants failed to take commercially reasonable steps to safeguard the PII  
8 and sensitive financial information of Plaintiffs and the Class members and thereby knowingly  
9 divulged the PII and sensitive financial information of Plaintiffs and the Class members while in  
10 electronic storage in Defendants' system and/or while carried and maintained on Defendants'  
11 remote computing service;

12 m. Whether Defendants' conduct violated the California Insurance Information Privacy Act  
13 (Cal. Ins. Code § 791.13 et seq)

14 n. Whether Defendants' conduct violated the California Customer Records Act (Cal. Civil.  
15 Code § 1798.80 et seq, including but not limited 1798.81.5, 1798.82).

16 **First Claim for Relief**

17 **Violation of California's Unfair Competition Law ("UCL")**

18 **(Cal. Bus. & Prof. Code § 17200, et seq.)**

19 **By Plaintiff and All California Class Members Against All Defendants**

20 55. Plaintiffs repeat, reallege, and incorporate by reference the allegations contained  
21 above as though fully stated herein.

22 56. By reason of the conduct alleged herein, Defendants engaged in unlawful, unfair, and  
23 deceptive practices within the meaning of the UCL. The conduct alleged herein is a "business  
24 practice" within the meaning of the UCL; it includes but is not limited to the manner in which  
25 Defendants collect, store, secure, monitor, and disseminate PII, as well as policies and practices  
26 of informing persons affected by disclosure of their PII.

27 57. Defendants stored the PII of Plaintiff and members of their respective classes in  
28 Defendants' electronic files, as reflected by the nature and circumstances of the subject data

1 breach.

2 58. Reasonable systems that are commercially available would have prevented such a data  
3 breach as the one at issue here. Such systems include but are not limited to litigation  
4 management systems in which data is stored in a database oriented structure that limits the nature  
5 and extent of access to files and the ability export files, as well as network access control systems  
6 that limit the nature and extent of file export, and which promptly limit and or report on mass file  
7 exports. Such control systems may be implemented by software or by physical means.

8 59. Examples of physical controls to control export include but are not limited to ordering  
9 corporate computers without USB ports available for thumb drive use, removing such USB ports  
10 from computers, or using material such as silicone caulk to block USB ports in computers able to  
11 access sensitive PII. Such physical controls have been endorsed by some security experts and in  
12 certain government/military settings. *See, e.g.*, [http://www.cio.com/article/2400017/  
13 security0/how-to-prevent-thumb-drive-security-disasters.html](http://www.cio.com/article/2400017/security0/how-to-prevent-thumb-drive-security-disasters.html), which contains an article from  
14 2012, well before the subject data breach, discussing such physical controls.

15 60. Software controls can include but are not limited to: limiting computer user-rights to  
16 USB ports and/or USB drives, metering the transfer rate to USB ports/drives, triggering alarms for  
17 IT professionals and nearby managers if any company computer executes a large-scale file  
18 operation (e.g. copying a case archive folder), using software that requires users to log the  
19 nature and purpose of USB drive use for prompt review by supervisors. *See again, e.g.*,  
20 [http://www.cio.com/article/2400017/security0/how-to-prevent-thumb-drive-security-  
22 disasters.html](http://www.cio.com/article/2400017/security0/how-to-prevent-thumb-drive-security-<br/>21 disasters.html), which contains an article from 2012, well before the subject data breach,  
23 discussing such physical controls.

24 61. Other control methods exist and were at all relevant times available to Defendants.

25 62. Defendants' method of storing, accessing, transferring, controlling, monitoring, and  
26 managing use of the subject PII was at all relevant times a business practice within the meaning  
27 of Cal. Civil Code 17200, as was their method of informing affected persons of any  
28 inappropriate PII disclosures or management.

63. Plaintiff and Class members were entitled to, and did, assume Defendants would take

1 appropriate measures to keep their PII safe. Defendants did not disclose at any time that  
2 Plaintiffs' PII was vulnerable because Defendants data security and use policies and practices  
3 were inadequate or outdated.

4 64. Defendants knew or should have known they did not employ reasonable measures that  
5 would have kept Plaintiff's and the other Class members' PII secure and prevented the loss or  
6 misuse of Plaintiffs' and the other class members' PII.

7 65. Defendants' acts, omissions, and misrepresentations as alleged herein were unlawful and  
8 in violation of, inter alia, Cal. Civ. Code § 1750 et seq. (with respect to the Insured Class), Cal.  
9 Civ. Code § 1798.80 et seq. (with respect to all classes), Cal. Ins. Code § 791.13 et seq. (with  
10 respect to all classes); 15 USC § 6801 (with respect to all classes); 15 U.S.C. § 45 (with respect  
11 to all classes).

12 66. Plaintiffs and the other Class members suffered injury in fact and lost money or property  
13 as the result of Defendants' failure to secure Plaintiff's and the other Class members' PII  
14 contained in their servers or databases.

15 67. As a result of Defendant's violations of the UCL, Plaintiff and the other Class members  
16 are entitled to equitable relief as provided for by law, including but not limited to injunctive  
17 relief, disgorgement, and restitution.

18 **Second Claim for Relief**

19 **Violation of California's Insurance Information and Privacy Protection Act**

20 **(Cal. Ins. Code § 791.13 et seq.)**

21 **By Plaintiff and All California Class Members Against All Defendants**

22 68. Plaintiff and the Class repeat, reallege, and incorporate by reference the allegations  
23 contained above as though fully stated herein.

24 69. Defendants, and each of them, were at all relevant times parties subject to the California  
25 Insurance Information and Privacy Protection Act (herein "CIIPPA"), including but not limited  
26 to the CIIPPA's requirements regarding disclosure of litigation data as set forth at Cal. Ins. Code  
27 § 791.13.

28 70. CIIPPA provides: "An insurance institution, agent, or insurance-support organization

1 shall not disclose any personal or privileged information about an individual collected or  
2 received in connection with an insurance transaction” absent certain circumstances, such as via  
3 signed authorization by the person whose PII is to be disclosed.

4 71. Defendants, and each of them, breached their obligations under the California Insurance  
5 Information and Privacy Protected Act as set forth herein, including but not limited to  
6 Defendants, by disclosing the information to the unauthorized person referenced in Defendants’  
7 notice of data breach letter, as well as by any subsequent disclosure.

8 72. Plaintiff and the class members suffered actual injury as a direct and proximate result of  
9 this breach of statutory duty, as alleged herein.

10 73. Plaintiff and the class seek all damages, penalties, statutory damages, and attorney fees  
11 authorized CIIPPA, including but not limited to actual damages and an award of attorney fees  
12 and costs of litigation.

13 **Third Claim for Relief**

14 **Violation of California’s Customer Records Act**

15 **(Cal. Civil. Code § 1798.80 et seq.)**

16 **By Plaintiff and All California Class Members Against All Defendants**

17 74. Plaintiff and the Class repeat, reallege, and incorporate by reference the allegations  
18 contained above as though fully stated herein.

19 75. Defendants, and each of them, were at all relevant times parties subject to the California  
20 Customer Records Act (herein “CPA”), including but not limited to the CPA’s requirements  
21 regarding securing data as set forth at Cal. Civil Code §§ 1798.80, et seq, including but not  
22 limited to § 1798.81.5 (regarding security procedures and practices) and § 1798.82 (regarding  
23 disclosure requirements). Plaintiff and the class note § 1798.84 of the CPA, which provides for a  
24 private right of action for affected persons.

25 76. All California Class members, including Plaintiff, were at all relevant times persons  
26 whose data with Defendants was subject to the protections of CPA. Notwithstanding the  
27 statute’s title, CPA protects all residents of California, not just California-based customers. *See,*  
28 *e.g.,* Civ. Code, § 1798.81.5 [“A business that owns, licenses, or maintains personal information



1 about a California resident shall implement and maintain reasonable security procedures and  
2 practices appropriate to the nature of the information, to protect the personal information from  
3 unauthorized access, destruction, use, modification, or disclosure.”]; Civ. Code § 1798.82 [“A  
4 person or business that conducts business in California, and that owns or licenses computerized  
5 data that includes personal information, shall disclose a breach of the security of the system  
6 following discovery or notification of the breach in the security of the data to a resident of  
7 California.”]

8 77. As alleged herein, Defendants breached their duties to Plaintiff and Class members with  
9 respect to safeguarding their PII, and such breaches violated CPA obligations, including those  
10 arising under Civ. Code, § 1798.81.5.

11 78. As alleged herein, Defendants breached their duties to Plaintiff and Class members with  
12 respect to timely disclosure of the data breach. The six month delay between Defendants’ notice  
13 of the breach and the date of their disclosure subjected Plaintiff and Class members to increased  
14 risk of identity theft and other harm associated with the breach.

15 79. As a direct and proximate result of Defendants’ violations of CPA, Plaintiff and Class  
16 members suffered injury and attendant damages, and as a result are entitled to recover damages,  
17 costs, and attorney fees per statute.

18 **Fourth Claim for Relief**

19 **Negligence**

20 **By Plaintiff and All Class Members Against All Defendants**

21 80. Plaintiff and the Class repeat, reallege, and incorporate by reference the allegations  
22 contained above as though fully stated herein.

23 81. Defendants, and each of them, owed a duty of care to Plaintiff and Class members with  
24 respect to the collection, storage, security, use, and disclosure of their PII. This duty of care  
25 included taking reasonable steps to keep the PII safe from inadvertent and deliberate disclosure  
26 or removal, and a duty to promptly inform any affected person whose PII was taken from  
27 Defendants.

28 82. Defendants, and each them assumed such duties when they accepted receipt of PII from

1 Plaintiff and Class members in a setting in which receipt of such information was substantially  
2 for Defendants own benefit.

3 83. Defendants, and each of them assumed such duties when they used legal process to  
4 obtain PII from Plaintiff and Class members.

5 84. The duty of Defendants is also established by statute, including but not limited to  
6 CIIPPA, CRA, UCL and Federal statutes cited herein.

7 85. Defendants, and each of them, breached their duty to Plaintiff and Class members as  
8 alleged herein, including but not limited to failing to store and secure the PII with reasonable  
9 care, failing to appropriately prevent the removal/disclosure of the PII, failing to appropriately  
10 detect the removal/disclosure of the PII, and failing to appropriately and timely notify Plaintiff  
11 and Class members of the removal/disclosure of the PII.

12 86. As a direct and proximate result of the breach of care by Defendants, and each of them,  
13 Plaintiff and Class members suffered injury and attendant damages, and as a result are entitled to  
14 recover damages and costs by law.

15 **Fifth Claim for Relief**

16 **Negligence Per Se**

17 **By Plaintiff and California Class Members Against All Defendants**

18 87. Plaintiff and the Class repeat, reallege, and incorporate by reference the allegations  
19 contained above as though fully stated herein.

20 88. The negligence of Defendants is presumed by common law principles of Negligence Per  
21 Se and as those are codified at Cal. Civil Code 669.

22 89. Defendants violated statutes, ordinances, and regulations of a public entity in acting as  
23 alleged herein, including but not limited to CIIPPA, CRA, UCL, and Federal statutes cited  
24 herein.

25 90. The violation of these statutes directly and proximately caused injury to Plaintiff and  
26 Class members as alleged herein since if Defendants had complied with the statutes the  
27 removal/disclosure of PII would never have occurred in the first place. In the alternative, had it  
28 occurred, Plaintiff and Class members would have received prompt notice and the ability to

1 begin mitigating damages.

2 91. Plaintiff and Class members were of the category of persons to be protected by these  
3 statutes, as already alleged.

4 92. As a direct and proximate result of the Defendants' violations of statute them, Plaintiff  
5 and Class members suffered injury and attendant damages, and as a result are entitled to recover  
6 damages and costs by law.

7 **Sixth Claim for Relief**

8 **Declaratory Relief**

9 **By Plaintiff and California Class Members Against All Defendants**

10 93. Plaintiff and the Class repeat, reallege, and incorporate by reference the allegations  
11 contained above as though fully stated herein.

12 94. In connection with the active case and controversy between Plaintiffs and Defendants,  
13 Plaintiffs seek declaratory relief pursuant to 28 U.S.C. § 2201, declaring that:

- 14 a. That Defendants owe a duty of care to Plaintiff and Class members and those  
15 similarly situated to take reasonable steps to secure their data from authorized  
16 access while that data is within Defendants' custody;
- 17 b. That Defendants are parties subject to the obligations of CPA;
- 18 c. That Defendants are parties subject to the obligations CIIPPA;
- 19 d. That Claimant Class Members' right to fair business practices includes the right,  
20 pursuant to Cal. Bus. & Prof Code 17200, to have Defendants use modern and  
21 secure methodologies to protect the data they provide to Defendants pursuant to  
22 legal process;
- 23 e. That Insured Class Members' right to fair business practices includes the right,  
24 pursuant to Cal. Bus. & Prof Code 17200, to have Defendants use modern and  
25 secure methodologies to protect the data they provide to Defendants pursuant to  
26 agreement;
- 27 f. That Defendants' data security policies as related to the subject data breach are  
28 below the level required to satisfy the legal rights of Plaintiff and Class members.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of the other Class members, respectfully requests that this Court enter an Order:

- (a) Certifying each proposed class and appointing Plaintiff as Class Representative;
- (b) Finding that Defendants' conduct was negligent, unfair, and unlawful as alleged herein;
- (c) Enjoining Defendants from engaging in further negligent, unfair, and unlawful business practices alleged herein;
- (d) Awarding Plaintiff and the Class members actual, compensatory, and consequential damages;
- (e) Awarding Plaintiff and the Class members statutory damages and penalties, as allowed by law;
- (f) Awarding Plaintiffs and the Class members restitution and disgorgement;
- (g) Requiring Defendants to provide appropriate credit monitoring services to Plaintiff and the other class members;
- (h) Awarding Plaintiff and the Class members pre-judgment and post-judgment interest;
- (i) Awarding Plaintiff and the Class members reasonable attorneys' fees costs and expenses, and;
- (j) Granting such other relief as the Court deems just and proper.

For the purposes of due process and default judgment regarding claims not characterized as personal injury, Plaintiff and Class members set forth a prayer of not more than \$75,000,000 (Seventy Five Million US Dollars) understanding this amount be arrived at purely for reservation of rights for these purposes and is subject to change, including increase, during litigation of this matter.

Dated: July 24, 2017

CLAYEO C. ARNOLD, APC

By: /s/ Joshua H. Watson  
Joshua H. Watson

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**DEMAND FOR JURY TRIAL**

Plaintiff and Class members demand a trial by jury of all claims in this Class Action Complaint so triable.

Dated: July 24, 2017

CLAYEO C. ARNOLD, APC

By: /s/ Joshua H. Watson  
Joshua H. Watson

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
JOHN VILLALOBOS, and those similarly situated
(b) County of Residence of First Listed Plaintiff Yolo
(c) Attorneys (Firm Name, Address, and Telephone Number)
CLAYEO C. ARNOLD, PLC
Joshua H. Watson, SBN 238058
865 Howe Avenue
Sacramento, CA 95825
(916)777-7777

DEFENDANTS
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, and DOES 1 through 50, inclusive
County of Residence of First Listed Defendant McLean, IL
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
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)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT
REAL PROPERTY
PERSONAL INJURY
CIVIL RIGHTS
PRISONER PETITIONS
FORFEITURE/PENALTY
LABOR
IMMIGRATION
BANKRUPTCY
SOCIAL SECURITY
FEDERAL TAX SUITS
OTHER STATUTES

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(d) [Class Action Fairness Act]
Brief description of cause:
Data breach of claims files of insurance company.

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 75,000,000
CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE 7/24/17 SIGNATURE OF ATTORNEY OF RECORD /s/ Joshua H. Watson

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [State Farm Facing Class Action Over Dec. '16 Data Theft](#)

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