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Scott A. Smylie (SBN 109943)
SMYLIE & VAN DUSEN
1350 Columbia Street, Suite 403
San Diego, CA 92101
Telephone (619) 233-9199
Facsimile (619) 233-9045

Attorneys for Defendant
Steele Canyon Golf Club Corporation

FILED
18 FEB 15 PM 2:49
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

S

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MICHAEL WITTE, on behalf of himself and
all others similarly situated

Plaintiff,

vs.

STEELE CANYON GOLF CLUB
CORPORATION, a California corporation;
and DOES 1 to 10, inclusive,

Defendants.

Case No.: '18CV0355 BEN AGS

**NOTICE OF REMOVAL OF ACTION
PURSUANT TO 28 U.S.C. § 1441(b)**

DEMAND FOR JURY TRIAL

VIA FAX

TO THE CLERK OF THE ABOVE-ENTITLED COURT:
PLEASE TAKE NOTICE that defendant, STEELE CANYON GOLF CLUB
CORPORATION, a California corporation hereby removes to this Court the state court action
described below.

1. On January 5, 2018, a suit was commenced in Superior Court of the State of
California in and for the county of San Diego, entitled "MICHAEL WITTE, on behalf of himself

1 and all others similarly situated v. , STEELE CANYON GOLF CLUB CORPORATION, a
2 California corporation and DOES 1 to 10, inclusive, Defendants,” as Case No. 37-2018-
3 00000721-CU-MC-CTL (the “Complaint”).

4 2. Defendant accepted service of the Complaint on February 5, 2018. A copy of the
5 summons and Complaint served on Defendant is attached as Exhibit 1. Thus, in accordance with
6 28 U.S.C. § 1446(b) Defendant has timely filed this Notice of Removal.

7 3. Plaintiff alleges defendant violated 15 U.S.C. §§ 1681 *et seq.* This suit is a civil
8 action over which this Court would have original jurisdiction and is one which Defendants may
9 remove to this Court pursuant to 28 U.S.C. § 1441.

10 4. Defendant will promptly serve written notice to the plaintiff in this action upon
11 the filing of the Notice of Removal with this Court.

12 5. Defendant will file a true and correct copy of its Notice of Removal with the
13 Clerk of the Court for the Superior Court of the State of California in and for the County of San
14 Diego as provided under 28 U.S.C. § 1446 (d).

15
16 WHEREFORE, Defendant hereby removes the above-styled civil action to this Court’s
17 jurisdiction.

18 Dated: February 15, 2018

SMYLIE & VAN DUSEN

19
20
21 By: //s/ Scott A. Smylie
22 Scott A. Smylie, Esq.
23 Attorneys for Defendant
24 E-mail: esqsas@aol.com
25
26
27
28

DUPLICATE

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS098446
Cashier ID: nsiefken
Transaction Date: 02/15/2018
Payer Name: One Legal LLC

CIVIL FILING FEE
For: One Legal LLC
Case/Party: D-CAS-3-18-CV-000355-001
Amount: \$400.00

CHECK
Check/Money Order Num: 3559062
Amt Tendered: \$400.00

Total Due: \$400.00
Total Tendered: \$400.00
Change Amt: \$0.00

There will be a fee of \$53.00
charged for any returned check.

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS
Michael Witte

(b) County of Residence of First Listed Plaintiff

(c) Attorneys (Firm Name, Address, and Telephone Number)
Gaines & Gaines, APLC
27200 Agoura Road, Suite 101, Calabasas, CA 91301
818-703-8985

FILED
Feb 15 2018
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: s/ Lillianac

DEFENDANTS
Steele Canyon Golf Club Corporation

'18CV0355 BEN AGS

County of Residence of First Listed Defendant

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(d) Attorneys (If Known)
SMYLIE & VAN DUSEN
1350 Columbia Street, Suite 403, San Diewgo, CA 92101
619-233-9199

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

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

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

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

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor-Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HRA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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):

Brief description of cause.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMANDS

CHECK YES only if demanded in complaint

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

02/15/2018

s/ Scott A. Smylie

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING F/P

JUDGE

MAG. JUDGE

EXHIBIT "1"

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT: STEELE CANYON GOLF CLUB
(AVISO AL DEMANDADO): CORPORATION, a California
corporation, and DOES 1 through 10, inclusive**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

01/05/2018 at 01:04:11 Piv
Clerk of the Superior Court
By Erika Engel, Deputy Clerk

**YOU ARE BEING SUED BY PLAINTIFF: MICHAEL WITTE, on
(LO ESTÁ DEMANDANDO EL DEMANDANTE): behalf of himself
and all others similarly situated**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of the State of California

CASE NUMBER:
(Número del Caso): 37-2018-00000721-CU-MC-CTL

330 West Broadway, Suite 225
San Diego, CA 92101

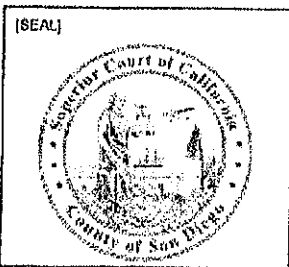
The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Alex P. Katofsky, Esq. (SBN 202754) 618-703-8985 818-703-8984
Gaines & Gaines, APLC

27200 Agoura Road, Suite 101
Calabasas, CA 91301

E. Engel
E. Engel

DATE: 01/08/2018 Clerk, by _____, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.80 (minor)
- CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
- other (specify):

4. by personal delivery on (date):

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

01/05/2018 at 01:04:11 PM
Clerk of the Superior Court
By Erika Engel, Deputy Clerk

1 KENNETH S. GAINES, ESQ. SBN 049045
ken@gaineslawfirm.com
2 DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
3 ALEX P. KATOPSKY, ESQ. SBN 202754
alex@gaineslawfirm.com
4 EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
5 **GAINES & GAINES, APLC**
27200 Agoura Road, Suite 101
6 Calabasas, California 91301
Telephone: (818) 703-8985
7 Facsimile: (818) 703-8984

8 Attorneys for Plaintiff Michael Witte, on behalf of himself and others similarly situated

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF SAN DIEGO**

12 MICHAEL WITTE, on behalf of himself and
13 all others similarly situated,

14 Plaintiff,

15 v.

16 STEELE CANYON GOLF CLUB
CORPORATION, a California corporation,
17 and DOES 1 through 10, inclusive.

18 Defendants.

Case No.: 37-2018-00000721-CU-MC-CTL

CLASS ACTION

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

DEMAND FOR JURY TRIAL

19
20 Plaintiff MICHAEL WITTE ("Plaintiff"), on behalf of himself and all others similarly
21 situated (the "Class" or "Plaintiff Class"), and on behalf of the general public, complains of
22 Defendants, and each of them, as follows:

23 INTRODUCTION

24 1. This is a Class Action, pursuant to Code of Civil Procedure § 382, on behalf of
25 Plaintiff and other individuals who used credit or debit cards to make purchases from one or
26 more establishments owned and/or operated by Defendant STEELE CANYON GOLF CLUB
27 CORPORATION, a California corporation, and/or any subsidiaries or affiliated companies
28 (hereinafter referred to as "Defendants").

1 Plaintiff, who therefore sues Defendant by such fictitious names under Code of Civil Procedure §
2 474. Plaintiff is informed and believes, and based thereon allege, that each of the Defendants
3 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred
4 to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and
5 capacities of the Defendant designated hereinafter as DOES when such identities become known.

6 10. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
7 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a
8 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
9 Defendant are legally attributable to the other Defendants.

10 **FACTUAL BACKGROUND**

11 11. At times since at least June, 2012, Defendants have owned and/or operated one or
12 more golf courses in California.

13 12. Based on information and belief, Plaintiff alleges that Defendants accepted credit
14 and debit cards from customers to make purchases at its golf courses.

15 13. Plaintiff used a credit card to make a purchase at Defendants' Steele Canyon golf
16 course in June, 2017. More than the last five digits of his credit card account number were
17 printed on the receipt generated and provided to him at the point of sale.

18 14. Plaintiff is informed and believes, and based thereon alleges, that Defendants
19 printed more than the last five digits of credit and/or debit card account number on receipts
20 provided to their customers for transactions since at least June, 2012.

21 **CLASS ALLEGATIONS**

22 15. Plaintiff brings this class action pursuant to California Code of Civil Procedure §
23 382. Plaintiff seeks to certify a Class composed of and defined as follows:

24 **THE CLASS**

25 All persons in the United States to whom, since the date two years
26 preceding the filing of this Action, Defendant provided an
27 electronically printed hardcopy receipt at the point of sale or
28 transaction on which was printed more than the last five digits of a

1 customer's credit or debit card account number of the person's credit
2 or debit card.

3 Numerosity

4 16. The Class is so numerous that joinder of all individual members in one action
5 would be impracticable. The disposition of the individual claims of the respective class members
6 through this class action will benefit both the parties and this Court.

7 17. Plaintiff is informed and believes, and thereon alleges, that there are, at minimum,
8 1,000 Class members.

9 18. The exact size of the Class and the identities of the individual members thereof are
10 ascertainable through Defendants' records, including, but not limited to, Defendants' sales and
11 transaction records.

12 Typicality

13 19. Plaintiff's claims are typical of the claims of the Class. The claims of the Plaintiff
14 and the Class are based on the same legal theories and arise from the same unlawful conduct.

15 20. Plaintiff and Class members were customers of Defendants, having made a
16 purchase from, or transacted business with, Defendants using a credit card and/or debit card. At
17 the point of such sale or transaction with Plaintiff and Class members, Defendants provided to
18 Plaintiff and Class members a receipt which violated 15 U.S.C. § 1681c(g).

19 Common Questions of Fact and Law

20 21. There is a well-defined community of interest and common questions of fact and
21 law affecting members of the Class.

22 22. The questions of fact and law common to the Class predominate over questions
23 which may affect individual members and includes the following:

- 24 a. Whether Defendants' conduct of providing Plaintiff and Class members with a
25 sales or transaction receipt whereon Defendants printed more than the last five
26 digits of the credit or debit card account number violated FACTA, 15 U.S.C.
27 §§ 1681 *et seq.*;
- 28 b. Whether Defendants' conduct was willful:

- 1 c. Whether Plaintiff and Class members are entitled to statutory damages,
- 2 punitive damages, costs and/or attorneys' fees for Defendants' acts and
- 3 conduct; and
- 4 d. Whether Plaintiff and Class members are entitled to a permanent injunction
- 5 enjoining Defendants from continuing to engage in its unlawful conduct.

6 **Adequacy of Representation**

7 23. Plaintiff is an adequate representative of the Class because his interests do not
8 conflict with the interests of the Class. Plaintiff will fairly, adequately and vigorously represent
9 and protect the interests of Class members and has no interests antagonistic to Class members.
10 Plaintiff has retained counsel who are competent and experienced in the prosecution of class
11 action litigation.

12 **Superiority**

13 24. A class action is superior to other available means for the fair and efficient
14 adjudication of the Class' claims. The damages suffered by individual Class members are
15 relatively small. As a result, the expense and burden of individual litigation makes it
16 economically infeasible and procedurally impracticable for Class members to individually seek
17 redress for the wrongs done to them. Plaintiff does not know of any other litigation concerning
18 this controversy already commenced by or against any Class member. The likelihood of the
19 individual Class members prosecuting separate claims is remote. Individualized litigation would
20 also present the potential for varying, inconsistent or contradictory judgments, and would
21 increase the delay and expense to all parties and the court system resulting from multiple trials of
22 the same factual issues. In contrast, the conduct of this matter as a class action presents fewer
23 management difficulties, conserves the resources of the parties and the court system, and would
24 protect the rights of members of the Class. Plaintiff does not know of any difficulty to be
25 encountered in the management of this action that would preclude its maintenance as a class
26 action.

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1 Injunctive Relief

2 25. Defendants have acted on grounds generally applicable to all Class members,
3 thereby making appropriate final injunctive relief with respect to the Class as a whole.

4 CAUSE OF ACTION

5 **PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS FOR**
6 **VIOLATION OF 15 U.S.C. §§ 1681 *ET SEQ.***

7 26. Plaintiff hereby incorporates by reference all the allegations contained in
8 paragraphs 1 through 25, inclusive, of this Complaint as if fully set forth herein.

9 27. Plaintiff asserts this claim on behalf of himself and the Class against Defendants.

10 28. Title 15 U.S.C. § 1681c(g)(1) provides in relevant part that: “no person that
11 accepts credit cards or debit cards for the transaction of business shall print more than the last
12 five digits of the card number or the expiration date upon any receipt provided to the cardholder
13 at the point of sale or transaction.”

14 29. Defendants transact business in California and accept credit cards and debit cards
15 in the course of transacting business with persons such as Plaintiff and Class members. In
16 transacting such business, Defendants use cash registers and/or other machines or devices that
17 electronically print receipts for credit card and/or debit card transactions.

18 30. Defendants, at the point of sale or transaction with Plaintiff, provided Plaintiff
19 with one or more electronically printed receipts on each of which Defendants printed more than
20 the last five digits of Plaintiff’s credit or debit card account number.

21 31. Defendants, at the point of a sale or transaction with Class members, provided,
22 through use of a machine, Class members with one or more electronically printed receipts, on
23 each of which Defendants printed, for each respective Class member, more than the last five
24 digits of such Class member’s credit or debit card account number.

25 32. Defendants’ actions were and continue to be willful. Despite having more than 12
26 years to become compliant with FACTA, Defendants have willfully violated this law and failed
27 to protect Plaintiff and others similarly situated against identity theft and credit card and debit
28 card fraud by intentionally printing more than the last five digits of Plaintiff’s and Class

1 members' credit and/or debit card account numbers on receipts. Defendants knew of, or should
2 have known of, and were informed about the law, including specifically FACTA's requirements
3 concerning the prohibition on printing more than the last five digits of credit and/or debit card
4 account numbers on receipts.

5 33. In addition, on information and belief, many companies such as VISA and
6 MasterCard devised and implemented policies well before the operative date of FACTA's
7 requirements, wherein such companies as VISA and MasterCard and others required Defendants
8 (and informed Defendants of the FACTA requirements) to prevent the printing more than the last
9 five digits of credit and/or debit card account numbers on receipts.

10 34. Despite knowing and being repeatedly informed about FACTA and the
11 importance of preventing the printing of more than the last five digits of credit and/or debit card
12 account numbers on receipts, Defendants willfully violated and continue to violate FACTA's
13 requirements by printing more the last five digits of credit and/or debit card account number on
14 the receipts provided to Class members – persons with whom Defendants transact business.

15 35. Defendants willfully violated FACTA in conscious disregard of the rights of
16 Plaintiff and Class members thereby exposing Plaintiff and Class members to an increased risk of
17 identity theft and credit and/or debit card fraud.

18 36. As a result of Defendants' willful violations of FACTA, Defendants are liable to
19 Plaintiff and each Class member in the statutory damage amount of "not less than \$100 and not
20 more than \$1000" for each violation. 15 U.S.C. 1681n(a)(1)(A).

21 37. As a result of Defendants' willful violations of FACTA, Plaintiff and Class
22 members are entitled to recover costs of suit and their reasonable attorneys' fees. 15 U.S.C.
23 1681n(a)(3).

24 38. As a result of Defendants' willful violations of FACTA, Plaintiff and Class
25 members are entitled to punitive damages. 15 U.S.C. 1681n(a)(2).

26 39. Defendants' conduct is continuing and, unless restrained, Defendants will
27 continue to engage in its unlawful conduct.

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PRAYER FOR RELIEF

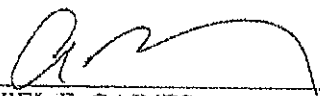
WHEREFORE, Plaintiff, on behalf of himself and each Class member, pray for:

1. An order certifying the Class and appointing Plaintiff as representative of the Class, and appointing Gaines & Gaines, APLC as counsel for the Class;
2. An award to Plaintiff and Class members of statutory damages pursuant to 15 U.S.C. § 1681n(a)(1)(A) for Defendants' willful violations of FACTA;
3. An award to Plaintiff and Class members of punitive damages pursuant to 15 U.S.C. § 1681n(a)(2);
4. Payment of costs of suit herein incurred pursuant to, *inter alia*, 15 U.S.C. § 1681n(a)(3);
5. Payment of reasonable attorneys' fees pursuant to, *inter alia*, 15 U.S.C. § 1681n(a)(3);
6. A permanent injunction enjoining Defendants from continuing to engage in their violations of FACTA; and
7. For other and further relief as the Court deems proper.

Dated: January 4, 2018

Respectfully submitted,

GAINES & GAINES, APLC

By: 
 DANIEL F. GAINES
 ALEX P. KATOFISKY
 Attorneys for Plaintiff

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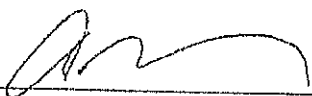
DEMAND FOR JURY TRIAL

Plaintiff, on behalf of himself and the putative Class members, demands a trial by jury on all claims and causes of action to which he is entitled to a jury trial.

Dated: January 4, 2018

Respectfully submitted,

GAINES & GAINES, APLC

By: 

DANIEL F. GAINES
ALEX P. KATOFSKY
Attorneys for Plaintiff

PROOF OF SERVICE

Witte v. Steele Canyon Golf Club Corporation
Case No. 37-2018-00000721-CU-MC-CTL

I, Scott A. Smylie, declare as follows:

I am employed in the City of San Diego, County of San Diego, State of California. I am over the age of 18 years and not a party to the within action. My business address is 1350 Columbia Street, Suite 403, San Diego, CA 92101. On February 15, 2018, I electronically served the document(s) named below on the parties in the action as follows:

DOCUMENT(S) SERVED: NOTICE OF REMOVAL OF ACTION PURSUANT TO 28 U.S.C. § 1441(b)

SERVED UPON: Alex P Katofsky-alex@gaineslawfirm.com

 X **(BY ELECTRONIC TRANSMISSION)** I caused to be served the documents listed above by transmitting the documents to the persons at the email address listed above.

 (BY MAIL) I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at San Diego, California. I am readily familiar with the practice of SMYLIE & VAN DUSEN for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection.

 X **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 15, 2018, at San Diego, California.

s/ Scott A. Smylie
Scott Smylie
Email: esqsas@aol.com

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Steele Canyon Golf Club Corporation Accused of Printing Too Much Personal Info on Receipts](#)
