

1 James G. Snell, Bar No. 173070
JSnell@perkinscoie.com
2 Brendan S. Sasso, Bar No. 332134
BSasso@perkinscoie.com
3 PERKINS COIE LLP
3150 Porter Drive
4 Palo Alto, CA 94304-1212
Telephone: (650) 838-4300
5 Facsimile: (650) 838-4350

6 Keith Ketterling, *pro hac vice* application forthcoming
7 kketterling@stollberne.com
STOLL STOLL BERNE LOKTING & SHLACHTER, P.C.
8 209 S.W. Oak Street, Suite 500
Portland, OR 97204
9 Telephone: (503) 227-1600
10 Facsimile: (503) 227-6840

11 *Attorneys for Defendant Columbia Sportswear Co.*

12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SOUTHERN DIVISION**

16 ANNETTE CODY, individually and on behalf
17 of all others similarly situated

18 Plaintiff,

19 v.

20 COLUMBIA SPORTSWEAR CO., an Oregon
21 corporation; and DOES 1 through 25, inclusive,

22 Defendants.
23

Case No.

**NOTICE OF FILING OF REMOVAL AND
REMOVAL TO FEDERAL COURT**

[Removed from The Superior Court of the State
of California for the County of Orange, Case
No. 30-2022-01273036-CU-MT-CXC]

Complaint Filed: August 2, 2022

1 initially filed this action in federal court. *See* 28 U.S.C. § 1332(d); *see also* 28 U.S.C. § 1453(b)
2 (setting procedure for removing class actions). CAFA gives federal courts original jurisdiction
3 over putative class actions in which: (1) the aggregate number of members in the proposed class
4 consists of at least 100 members; (2) the parties are minimally diverse, meaning “any member of
5 a class of plaintiffs is a citizen of a State different from any defendant;” and (3) the aggregated
6 amount in controversy “exceeds the sum or value of \$5,000,000, exclusive of interests and costs.”
7 28 U.S.C. § 1332(d)(2), (d)(5)(B).

8 7. Based on the allegations as pled in the Complaint, which must be taken as true for
9 purposes of removal, and for the reasons set forth below, all requirements of CAFA are satisfied.

10 ***The Proposed Class Consists of More Than 100 Members***

11 8. CAFA defines “class action” as “any civil action filed under rule 23 of the Federal
12 Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action
13 to be brought by 1 or more representative persons as a class action.” 28 U.S.C. § 1332(d)(1)(B).
14 The Complaint states that the Plaintiff brings “this class action on her own behalf and on behalf of
15 all other Californians similarly situated.” Compl. ¶ 1. It is thus a putative class action for purposes
16 of CAFA.

17 9. The proposed class is estimated by Plaintiff to be “in the tens of thousands, if not
18 more.” *See* Compl. ¶ 20. It thus easily exceeds CAFA’s requirement of at least 100 proposed
19 class members. *See* 28 U.S.C. § 1332(d)(5)(B).

20 ***Minimal Diversity Exists***

21 10. Diversity under CAFA exists if “any member of a class of plaintiffs is
22 a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2)(A). A corporation is
23 deemed to be a citizen of every state “by which it has been incorporated and . . . where it has its
24 principal place of business.” 28 U.S.C. § 1332(c)(1).

25 11. Plaintiff alleges she is a citizen of California. Compl. ¶ 7. The putative
26 class in this case is limited to persons within California. *Id.* ¶ 19.

27

1 *See also Ibarra v. Manheim Invs., Inc.*, 775 F.3d 1193, 1197 (9th Cir. 2015) (“The parties [in a
2 removal to federal court] may submit evidence outside the complaint, including affidavits or
3 declarations, or other summary-judgment-type evidence relevant to the amount in controversy at
4 the time of removal.”) (citations omitted). Because each of those individuals, according to
5 Plaintiff’s allegations, could claim at least \$5,000 per violation, the complaint plausibly alleges
6 damages exceeding \$5,000,000. The Complaint thus satisfies the amount in controversy
7 requirement. *See Fritsch*, 899 F.3d at 788 (“The notice of removal need include only a plausible
8 allegation that the amount in controversy exceeds the jurisdictional threshold[.]”) (citations
9 omitted).

10 17. By the statements contained in this Notice of Removal, Columbia does not
11 concede that Plaintiff is entitled to any damages or other relief.

12 ***None of CAFA’s Exceptions Bar Removal***

13 18. This action does not fall within the exclusions to removal jurisdiction described in
14 28 U.S.C. §§ 1332(d)(4), (d)(9), or 28 U.S.C. § 1453(d).

15 19. Section 1332(d)(4) provides that a district court shall not exercise CAFA
16 jurisdiction over a class action in which, among other things: “greater than two-thirds of the
17 members of all proposed plaintiff classes in the aggregate are citizens of the State in which the
18 action was originally filed” and “at least 1 defendant is a defendant . . . who is a citizen of the
19 State in which the action was originally filed.” 28 U.S.C. § 1332(d)(4)(A); see also 28 U.S.C.
20 § 1332(d)(4)(B) (similarly excluding cases where “two thirds or more of” the class members and
21 “the primary defendants, are citizens of the State in which the action was originally filed”). This
22 exception does not apply here because all the proposed class members are citizens of California,
23 and Columbia is a citizen of Oregon, not California.

24 20. Sections 1332(d)(9) and 1453(d) exempt certain securities and corporate
25 governance cases from CAFA’s broad jurisdictional grant. *See* 28 U.S.C. §§ 1332(d)(9), 1453(d)
26 (limiting § 1332(d)(2) to cases arising under several sections of the Securities Act of 1933,
27 several sections of the Securities Exchange Act of 1934, and certain state corporate governance

1 laws). Those provisions do not bar jurisdiction here because Plaintiff’s claim does not arise under
2 the Securities Act of 1933 or the Securities Exchange Act of 1934, nor does it involve state-
3 centric corporate governance issues.

4 **PROCEDURAL STATEMENT**

5 ***All Defendants Consent to Removal***

6 21. Only Columbia has been named as a defendant and served as of the filing of this
7 Notice of Removal.

8 ***This Filing Is Timely***

9 22. Plaintiff served Columbia on August 10, 2022. This Notice of Removal is
10 therefore timely under 28 U.S.C. § 1446(b) because Columbia filed it within 30 days after it was
11 served. *See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 47-48 (1999) (30-
12 day removal period is not triggered until formal service); *Destfino v. Reiswig*, 630 F.3d 952, 956
13 (9th Cir. 2011).

14 ***Venue of Removed Action***

15 23. Venue properly lies in the United States District Court for the Central
16 District of California, pursuant to 28 U.S.C. §§ 84(a) and 1441(a), because this “district and
17 division embrac[e]” Orange County, where the Complaint was initially filed.

18 ***Notice to the State Court and Plaintiff***

19 24. Pursuant to 28 U.S.C. § 1446(d), Columbia is filing a copy of this Notice of
20 Removal with the Superior Court of the State of California, County of Orange, where this case
21 was originally filed, and providing written notice of this removal to Plaintiff by serving Plaintiff’s
22 counsel with a Notice of Removal

23 ***Pleadings in the State Court***

24 25. In accordance with 28 U.S.C. § 1446(a), copies of all processes, pleadings,
25 minutes, and orders served upon Columbia in this action are attached as Exhibit A. A true and
26 correct copy of the Orange County Superior Court docket for this action is attached as **Exhibit C**.

27

NON-WAIVER OF DEFENSES

26. Columbia expressly reserves all its defenses. By removing the action to this Court, Columbia does not waive any rights or defenses available under federal or state law. Nothing in this Notice of Removal should be taken as an admission that Plaintiff’s allegations are sufficient to state a claim or have any substantive merit. In addition, Columbia does not concede that Plaintiff states any claim upon which relief can be granted, or that Plaintiff or the putative class are entitled to any relief of any kind or nature. *See Lewis*, 627 F.3d at 400 (“The amount in controversy is simply an estimate of the total amount in dispute, not a prospective assessment of defendant’s liability.”); *LaCross v. Knight Transp. Inc.*, 775 F.3d 1200, 1203 (9th Cir. 2015) (plaintiffs should not “conflat[e] the amount in controversy with the amount of damages actually recoverable.”). If any questions arise as to the propriety of the removal of this action, Columbia respectfully requests the opportunity to submit additional papers and to present oral argument.

WHEREFORE, Columbia hereby removes the above-entitled case to this Court.

DATED this 7th day of September, 2022.

PERKINS COIE LLP

By: s/James G. Snell
James G. Snell
Brendan S. Sasso

3150 Porter Drive
Palo Alto, CA 94304-1212
Telephone: (650) 838-4300
Facsimile: (650) 838-4350
Email: JSnell@perkinscoie.com
Email: BSasso@perkinscoie.com

STOLL STOLL BERNE LOKTING & SHLACHTER, P.C.
Keith Ketterling, *pro hac vice* application forthcoming
209 SW Oak Street, Suite 500
Portland, OR 97204
Telephone: (503) 227-1600
Facsimile: (503) 227-6840
Email: kketterling@stollberne.com

Attorneys for Defendant Columbia Sportswear Co.

PROOF OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

I, KC Davis, declare:

I am a citizen of the United States and employed in San Francisco, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 505 Howard Street, Suite 100, San Francisco, California 94105. On September 7, 2022, I served a copy of the within document(s):

NOTICE OF FILING OF REMOVAL AND REMOVAL TO FEDERAL COURT

- by placing the document(s) listed above in a sealed FedEx envelope and affixing a pre-paid air bill and causing the envelope to be delivered to a FedEx agent for delivery.
- by transmitting via my electronic service address (kcdavis@perkinscoie.com) the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

Scott J. Ferrell, Esq. (sferrell@pacifictrialattorneys.com)
David W. Reid, Esq. (dreid@pacifictrialattorneys.com)
Victoria C. Knowles, Esq. (vknowles@pacifictrialattorneys.com)
4100 Newport Place Drive, Ste. 800
Newport Beach, CA 92660

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 7, 2022, at Dublin, California.



KC DAVIS

EXHIBIT A



Computershare Governance Services, Inc.
100 Beard Sawmill Road, Shelton, CT 06484

08/10/2022

Columbia Sportswear Company
Peter Bragdon
Columbia Sportswear Company
14375 NW Science Park Drive
Portland OR 97229

SERVICE OF PROCESS NOTICE

Item: 2022-63

The following is a courtesy summary of the enclosed document(s). **ALL information should be verified by you.**

Note: Any questions regarding the substance of the matter described below, including the status or how to respond, should be directed to the contact set forth in line 12 below or to the court or government agency where the matter is being heard.

1.	Entity Served: Entity Served If Different:	Columbia Sportswear Company Columbia Sportswear Co.	
2.	Title of Action:	Annette Cody, et al. vs. Columbia Sportswear Co., et al.	
3.	Document(s) Served:	Summons Class Action Complaint for Violation of Penal Code 631 Civil Case Cover Sheet Alternative Dispute Resolution (ADR) Information Package	
4.	Court/Agency:	Orange County Superior Court	
5.	State Served:	California	
6.	Case Number:	30-2022-01273036-CU-MT-CXC	
7.	Case Type:	Violation of the California Invasion of Privacy Act	
8.	Method of Service:	Hand Delivered	
9.	Date Received:	Tuesday 08/09/2022	
10.	Date to Client:	Wednesday 08/10/2022	
11.	# Days When Answer Due: Answer Due Date:	30 Thursday 09/08/2022	CAUTION: Client is solely responsible for verifying the accuracy of the estimated Answer Due Date. To avoid missing a crucial deadline, we recommend immediately confirming in writing with opposing counsel that the date of the service in their records matches the Date Received.
12.	Sop Sender: (Name, City, State, and Phone Number)	Scott J. Ferrell Newport Beach, CA 949-706-6464	
13.	Shipped To Client By:	Email Only with PDF Link	
14.	Tracking Number:		
15.	Handled By:	051	
16.	Notes:	Also Attached: * Alternative Dispute Resolution (ADR) Stipulation	

NOTE: This notice and the information above is provided for general informational purposes only and should not be considered a legal opinion. The client and their legal counsel are solely responsible for reviewing the service of process and verifying the accuracy of all information. At ComputerShare, we take pride in developing systems that effectively manage risk so our clients feel comfortable with the reliability of our service. We always deliver service of process so our clients avoid the risk of a default judgment. As registered agent, our role is to receive and forward service of process. To decrease risk for our clients, it is not our role to determine the merits of whether service of process is valid and effective. It is the role of legal counsel to assess whether service of process is invalid or defective. Registered agent services are provided by United Agent Group Inc.

Phone: 866 820 7754, Option 2 | www.cgsregisteredagent.com

Electronically Filed by Superior Court of California, County of Orange, 08/02/2022 12:44:36 PM.
 30-2022-01273036-CU-MT-CXC - ROA # 4 - DAVID H. YAMASAKI, Clerk of the Court By G. Ramirez, Deputy Clerk **SUM-100**

SUMMONS
(CITACION JUDICIAL)

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

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
 COLUMBIA SPORTSWEAR CO., an Oregon corporation; and DOES 1 through 25, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
 ANNETTE CODY, individually and on behalf of 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 CALIFORNIA, COUNTY OF ORANGE
 751 West Santa Ana Blvd., Santa Ana, CA 92701

CASE NUMBER:
 (Número) **30-2022-01273036-CU-MT-CXC**

Judge William Cluster

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):

Scott J. Ferrell (Bar # 202091) / Victoria C. Knowles (Bar # 277231)
 PACIFIC TRIAL ATTORNEYS, APC

Phone No.: (949) 706-6464

4100 Newport Place Drive, Suite 800, Newport Beach, CA 92660

DATE: 08/02/2022 DAVID H. YAMASAKI, Clerk of the Court

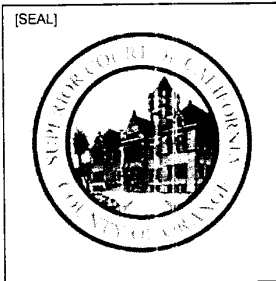
Clerk, by

G. Ramirez, Deputy (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): COLUMBIA SPORTSWEAR CO., an Oregon corporation
 under: CCP 416.10 (corporation) CCP 416.60 (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 by Superior Court of California, County of Orange, 08/02/2022 12:44:36 PM.
30-2022-01273036-CU-MT-CXC - ROA # 2 - DAVID H. YAMASAKI, Clerk of the Court By G. Ramirez, Deputy Clerk.

1 PACIFIC TRIAL ATTORNEYS
A Professional Corporation
2 Scott J. Ferrell, Bar No. 202091
sferrell@pacifictrialattorneys.com
3 David W. Reid, Bar No. 267382
dreid@pacifictrialattorneys.com
4 Victoria C. Knowles, Bar No. 277231
vknowles@pacifictrialattorneys.com
5 4100 Newport Place Drive, Ste. 800
Newport Beach, CA 92660
6 Tel: (949) 706-6464
Fax: (949) 706-6469
7
8 Attorneys for Plaintiff and Proposed Class

Assigned for All Purposes
Judge William Cluster
CX-104

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ORANGE**

12 ANNETTE CODY, individually and on behalf of
13 all others similarly situated,
14 Plaintiff,
15 v.
16 COLUMBIA SPORTSWEAR CO., an Oregon
corporation; and DOES 1 through 25, inclusive,
17 Defendants.
18

Case No. 30-2022-01273036-CU-MT-CXC

**CLASS ACTION COMPLAINT FOR
VIOLATION OF PENAL CODE § 631**

19
20
21
22
23
24
25
26
27
28

CLASS ACTION COMPLAINT

1
2
3
4
5
6
7
8
9
10
11
12

INTRODUCTION

1. Plaintiff Annette Cody (“Plaintiff”) brings this class action on her own behalf and on behalf of all other Californians similarly situated against Defendant for its illegal wiretapping of their electronic communications with Defendant’s website, www.columbia.com (the “Website”).

2. Unbeknownst to visitors to the Website, Defendant has secretly deployed “keystroke monitoring” software that Defendant uses to surreptitiously intercept, monitor, and record the communications (including keystrokes and mouse clicks) of all visitors to its Website. Defendant neither informs visitors nor seeks their express or implied consent prior to this wiretapping.

3. Defendant has violated and continues to violate the California Invasion of Privacy Act (“CIPA”), [California Penal Code](#) § 631, entitling Plaintiff and Class Members to relief pursuant thereto.

13
14
15
16
17
18
19

JURISDICTION AND VENUE

4. This Court has jurisdiction over all causes of action asserted herein.

5. Venue is proper in this Court because Defendant knowingly engages in activities directed at consumers in this County and engaged in the wrongful conduct alleged herein against residents of this County.

6. Any out-of-state participants can be brought before this Court pursuant to California’s “long-arm” jurisdictional statute.

20
21
22
23
24
25
26
27
28

PARTIES

7. Plaintiff Annette Cody is an adult resident of Orange County, California.

8. Defendant is an Oregon corporation. Defendant affects commerce within the state of California.

9. The above-named Defendants, and their subsidiaries and agents, are collectively referred to as “Defendants.” The true names and capacities of the Defendants sued herein as DOE DEFENDANTS 1 through 25, inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the

1 Complaint to reflect the true names and capacities of the DOE Defendants when such identities
2 become known.

3 10. Plaintiff is informed and believes that at all relevant times, every Defendant was acting
4 as an agent and/or employee of each of the other Defendants and was acting within the course and
5 scope of said agency and/or employment with the full knowledge and consent of each of the other
6 Defendants.

7 11. Plaintiff is informed and believe that each of the acts and/or omissions complained of
8 herein was made known to, and ratified by, each of the other Defendants.

9 **FACTUAL ALLEGATIONS**

10 12. Without warning visitors or seeking their consent, Defendant has secretly deployed
11 wiretapping software on its Website. This software allows Defendant to surreptitiously record every
12 aspect of a visitor's interaction with the Website, including keystrokes, mouse clicks, data entry and
13 other electronic communications.

14 13. Defendant's actions amount to the digital equivalent of both looking over a consumer's
15 shoulder and eavesdropping on a consumer's conversation. Defendant's conduct is not only illegal, it
16 is offensive: indeed, a recent study conducted by the Electronic Privacy Information Center, a
17 respected thought leader regarding digital privacy, found that: (1) nearly 9 in 10 adults are "very
18 concerned" about data privacy; and (2) 75% of adults are unaware of the true extent to which
19 companies gather, store, and exploit their personal data when they visit commercial websites. *See*
20 <https://archive.epic.org/privacy/survey/> (last downloaded July 2022).

21 14. Within the past year, Plaintiff visited Defendant's Website. Plaintiff communicated
22 with a "person" that Plaintiff believed to be a human customer service representative. In reality,
23 Defendant's Website utilizes a sophisticated "chatbot" that convincingly impersonates an actual
24 human that encourages consumers to share personal information. At the same time, the Defendant
25 simultaneously records and stores the entire conversation using secretly embedded wiretapping
26 technology.

27
28

1 15. Both the “chatbot” and “replay” technology were created by third party providers who
2 license the technology to Defendant and with whom Defendant routinely shares the contents of the
3 wiretapped communications.

4 16. Defendant did not inform Plaintiff, or any of the Class Members, that Defendant was
5 secretly monitoring, recording, and sharing Plaintiff’s and the Class’s communications.

6 17. Defendant did not seek Plaintiff’s or the Class Members’ consent to monitoring,
7 recording, and sharing the electronic communications with the Website.

8 18. Plaintiff and Class Members did not know at the time of the communications that
9 Defendant was secretly intercepting, monitoring, recording, and sharing the electronic
10 communications.

11 **CLASS ALLEGATIONS**

12 19. Plaintiff brings this action individually and on behalf of all others similarly situated (the
13 “Class”) defined as follows:

14 **All persons within California, who (1) within one year of the filing of this**
15 **Complaint visited Defendant’s website, and (2) whose electronic communications**
16 **were caused to be intercepted, recorded, and/or monitored by Defendant without**
17 **prior consent.**

18 20. **NUMEROSITY**: Plaintiff does not know the number of Class Members but believes
19 the number to be in the tens of thousands, if not more. The exact identities of Class Members may be
20 ascertained by the records maintained by Defendant.

21 21. **COMMONALITY**: Common questions of fact and law exist as to all Class Members,
22 and predominate over any questions affecting only individual members of the Class. Such common
23 legal and factual questions, which do not vary between Class members, and which may be determined
24 without reference to the individual circumstances of any Class Member, include but are not limited to
25 the following:

- 26 a. Whether Defendant caused Plaintiff’s and the Class’s electronic communications with
27 the Website to be recorded, intercepted and/or monitored;
28 b. Whether Defendant violated CIPA based thereon;

- 1 c. Whether Plaintiff and Class Members are entitled to statutory damages pursuant to Cal.
2 Penal Code § 631(a);
3 d. Whether Plaintiff and Class Members are entitled to punitive damages pursuant to Cal.
4 Civil Code § 3294; and
5 e. Whether Plaintiff and Class Members are entitled to injunctive relief.

6 22. **TYPICALITY**: As a person who visited Defendant's Website and had her electronic
7 communications recorded, intercepted and monitored, Plaintiff is asserting claims that are typical to
8 the Class.

9 23. **ADEQUACY**: Plaintiff will fairly and adequately protect the interests of the members
10 of The Class. Plaintiff has retained attorneys experienced in the class action litigation. All individuals
11 with interests that are actually or potentially adverse to or in conflict with the class or whose inclusion
12 would otherwise be improper are excluded.

13 24. **SUPERIORITY**: A class action is superior to other available methods of adjudication
14 because individual litigation of the claims of all Class Members is impracticable and inefficient. Even
15 if every Class Member could afford individual litigation, the court system could not. It would be
16 unduly burdensome to the courts in which individual litigation of numerous cases would proceed.

17 **CAUSE OF ACTION**

18 **Violations of the California Invasion of Privacy Act**

19 **Cal. Penal Code § 631**

20 25. Section 631(a) of California's Penal Code prohibits and imposes liability upon any
21 entity that "by means of any machine, instrument, contrivance, or in any other manner," (1)
22 "intentionally taps, or makes any unauthorized connection, whether physically, electrically,
23 acoustically, inductively, or otherwise, with any telegraph or telephone wire, line, cable, or instrument,
24 including the wire, line, cable, or instrument of any internal telephonic communication system," or (2)
25 "willfully and without the consent of all parties to the communication, or in any unauthorized manner,
26 reads, or attempts to read, or to learn the contents or meaning of any message, report, or
27 communication while the same is in transit or passing over any wire, line, or cable, or is being sent
28 from, or received at any place within this state" or (3) "uses, or attempts to use, in any manner, or for

1 any purpose, or to communicate in any way, any information so obtained, or who aids, agrees with,
2 employs, or conspires with any person or persons to unlawfully do, or permit, or cause to be done any
3 of the acts or things mentioned above in this section”.

4 26. Section 631 of the California Penal Code applies to internet communications and thus
5 applies to Plaintiff’s and the Class’s electronic communications with Defendant’s Website. (“Though
6 written in terms of wiretapping, Section 631(a) applies to Internet communications. It
7 makes liable anyone who ‘reads, or attempts to read, or to learn the contents’ of a communication
8 ‘without the consent of all parties to the communication.’ Cal. Penal Code § 631(a).” *Javier v.*
9 *Assurance IQ, LLC*, 21-16351, 2022 WL 1744107, at *1 (9th Cir. May 31, 2022).

10 27. The software employed by Defendant on its Website to record Plaintiff’s and the
11 Class’s electronic communications qualifies as a “machine, instrument, contrivance, or ... other
12 manner” used to engage in the prohibited conduct alleged herein.

13 28. At all relevant times, Defendant intentionally caused the internet communication
14 between Plaintiff and Class Members with Defendant’s website to be tapped and recorded.

15 29. At all relevant times, Defendant willfully, and without the consent of all parties to the
16 communication, caused to be intercepted, read or attempted to be read, logged, and stored, the contents
17 of electronic communications of Plaintiff and Class Members with its Website, while the electronic
18 communications were in transit over any wire, line or cable, or were being sent from or received at any
19 place within California.

20 30. Plaintiff and Class Members did not consent to any of Defendant’s actions in
21 implementing wiretaps on its Website, nor did Plaintiff or Class Members consent to Defendant’s
22 intentional access, interception, recording, monitoring, reading, learning and collection of Plaintiff and
23 Class Members’ electronic communications with the Website.

24 31. Defendant’s conduct constitutes numerous independent and discreet violations of Cal.
25 Penal Code § 631(a), entitling Plaintiff and Class Members to injunctive relief and statutory penalties
26 of at least \$5,000.00 per violation.

27
28

PRAYER FOR RELIEF

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WHEREFORE, Plaintiff prays for the following relief against Defendant:

1. An order certifying the Class, naming Plaintiff as the representative of the Class and Plaintiff's attorneys as Class counsel;
2. An order declaring Defendant's conduct violates CIPA;
3. An order of judgment in favor of Plaintiff and the Class and against Defendant on the cause of action asserted herein;
4. An order enjoining Defendant's conduct as alleged herein and any other injunctive relief that the Court finds proper;
5. Statutory penalties to Plaintiff and the Class pursuant to Cal. Penal Code § 631(a);
6. Punitive damages to Plaintiff and the Class pursuant to Cal. Civil Code § 3294;
7. Prejudgment interest;
8. Reasonable attorneys' fees and costs incurred in this action pursuant to Cal. Code Civ. Proc. § 1021.5; and
9. All other relief that would be just and proper as a matter of law or equity, as determined by the Court.

Dated: August 2, 2022

PACIFIC TRIAL ATTORNEYS, APC

By: 

Scott. J. Ferrell
Attorneys for Plaintiff

Electronically Filed by Superior Court of California, County of Orange, 08/02/2022 12:44:36 PM.
 30-2022-01273036-CU-MT-CXC - ROA # 3 - DAVID H. YAMASAKI, Clerk of the Court By G. Ramirez, Deputy Clerk CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Scott J. Ferrell (Bar #202091) / Victoria C. Knowles (Bar # 277231) PACIFIC TRIAL ATTORNEYS, A Professional Corporation 4100 Newport Place Drive, Suite 800, Newport Beach, CA 92660 TELEPHONE NO.: (949) 706-6464 FAX NO.: ATTORNEY FOR (Name): Plaintiff and the Class		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 751 West Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, CA 92701 BRANCH NAME: Central Justice Center		
CASE NAME: Cody, et al. v. Columbia Sportswear Co., et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: 30-2022-01273036-CU-MT-CXC JUDGE: Judge William Claster DEPT: CX-104

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input checked="" type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	--	---

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): One (1)
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 2, 2022

Scott J. Ferrell
 (TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)
Auto (22)—Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)	Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	Construction Defect (10)
	Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)	Claims Involving Mass Tort (40)
	Negligent Breach of Contract/Warranty	Securities Litigation (28)
	Other Breach of Contract/Warranty	Environmental/Toxic Tort (30)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort	Collections (e.g., money owed, open book accounts) (09)	Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
Asbestos (04)	Collection Case—Seller Plaintiff	Enforcement of Judgment
Asbestos Property Damage	Other Promissory Note/Collections Case	Enforcement of Judgment (20)
Asbestos Personal Injury/Wrongful Death	Insurance Coverage (not provisionally complex) (18)	Abstract of Judgment (Out of County)
Product Liability (not asbestos or toxic/environmental) (24)	Auto Subrogation	Confession of Judgment (non-domestic relations)
Medical Malpractice (45)	Other Coverage	Sister State Judgment
Medical Malpractice—Physicians & Surgeons	Other Contract (37)	Administrative Agency Award (not unpaid taxes)
Other Professional Health Care Malpractice	Contractual Fraud	Petition/Certification of Entry of Judgment on Unpaid Taxes
Other PI/PD/WD (23)	Other Contract Dispute	Other Enforcement of Judgment Case
Premises Liability (e.g., slip and fall)	Real Property	Miscellaneous Civil Complaint
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)	Eminent Domain/Inverse Condemnation (14)	RICO (27)
Intentional Infliction of Emotional Distress	Wrongful Eviction (33)	Other Complaint (not specified above) (42)
Negligent Infliction of Emotional Distress	Other Real Property (e.g., quiet title) (26)	Declaratory Relief Only
Other PI/PD/WD	Writ of Possession of Real Property	Injunctive Relief Only (non-harassment)
Non-PI/PD/WD (Other) Tort	Mortgage Foreclosure	Mechanics Lien
Business Tort/Unfair Business Practice (07)	Quiet Title	Other Commercial Complaint Case (non-tort/non-complex)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)	Other Real Property (not eminent domain, landlord/tenant, or foreclosure)	Other Civil Complaint (non-tort/non-complex)
Defamation (e.g., slander, libel) (13)	Unlawful Detainer	Miscellaneous Civil Petition
Fraud (16)	Commercial (31)	Partnership and Corporate Governance (21)
Intellectual Property (19)	Residential (32)	Other Petition (not specified above) (43)
Professional Negligence (25)	Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)	Civil Harassment
Legal Malpractice	Judicial Review	Workplace Violence
Other Professional Malpractice (not medical or legal)	Asset Forfeiture (05)	Elder/Dependent Adult Abuse
Other Non-PI/PD/WD Tort (35)	Petition Re: Arbitration Award (11)	Election Contest
Employment	Writ of Mandate (02)	Petition for Name Change
Wrongful Termination (36)	Writ—Administrative Mandamus	Petition for Relief From Late Claim
Other Employment (15)	Writ—Mandamus on Limited Court Case Matter	Other Civil Petition
	Writ—Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal—Labor	
	Commissioner Appeals	

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

ALTERNATIVE DISPUTE RESOLUTION (ADR)
INFORMATION PACKAGE

NOTICE TO PLAINTIFF(S) AND/OR CROSS-COMPLAINANT(S):

Rule 3.221(c) of the California Rules of Court requires you to serve a copy of the ADR Information Package along with the complaint and/or cross-complaint.

California Rules of Court – Rule 3.221
Information about Alternative Dispute Resolution (ADR)

- (a) Each court shall make available to the plaintiff, at the time of filing of the complaint, an ADR Information Package that includes, at a minimum, all of the following:
- (1) General information about the potential advantages and disadvantages of ADR and descriptions of the principal ADR processes.
 - (2) Information about the ADR programs available in that court, including citations to any applicable local court rules and directions for contacting any court staff responsible for providing parties with assistance regarding ADR.
 - (3) Information about the availability of local dispute resolution programs funded under the Dispute Resolutions Program Act (DRPA), in counties that are participating in the DRPA. This information may take the form of a list of the applicable programs or directions for contacting the county's DRPA coordinator.
 - (4) An ADR stipulation form that parties may use to stipulate to the use of an ADR process.
- (b) A court may make the ADR Information Package available on its website as long as paper copies are also made available in the clerk's office.
- (c) The plaintiff must serve a copy of the ADR Information Package on each defendant along with the complaint. Cross-complainants must serve a copy of the ADR Information Package on any new parties to the action along with the cross-complaint.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

ADR Information

Introduction.

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts and others offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. ADR is usually less formal, less expensive, and less time-consuming than a trial. ADR can also give people more opportunity to determine when and how their dispute will be resolved.

BENEFITS OF ADR.

Using ADR may have a variety of benefits, depending on the type of ADR process used and the circumstances of the particular case. Some potential benefits of ADR are summarized below.

Save Time. A dispute often can be settled or decided much sooner with ADR; often in a matter of months, even weeks, while bringing a lawsuit to trial can take a year or more.

Save Money. When cases are resolved earlier through ADR, the parties may save some of the money they would have spent on attorney fees, court costs, experts' fees, and other litigation expenses.

Increase Control Over the Process and the Outcome. In ADR, parties typically play a greater role in shaping both the process and its outcome. In most ADR processes, parties have more opportunity to tell their side of the story than they do at trial. Some ADR processes, such as mediation, allow the parties to fashion creative resolutions that are not available in a trial. Other ADR processes, such as arbitration, allow the parties to choose an expert in a particular field to decide the dispute.

Preserve Relationships. ADR can be a less adversarial and hostile way to resolve a dispute. For example, an experienced mediator can help the parties effectively communicate their needs and point of view to the other side. This can be an important advantage where the parties have a relationship to preserve.

Increase Satisfaction. In a trial, there is typically a winner and a loser. The loser is not likely to be happy, and even the winner may not be completely satisfied with the outcome. ADR can help the parties find win-win solutions and achieve their real goals. This, along with all of ADR's other potential advantages, may increase the parties' overall satisfaction with both the dispute resolution process and the outcome.

Improve Attorney-Client Relationships. Attorneys may also benefit from ADR by being seen as problem-solvers rather than combatants. Quick, cost-effective, and satisfying resolutions are likely to produce happier clients and thus generate repeat business from clients and referrals of their friends and associates.

DISADVANTAGES OF ADR.

ADR may not be suitable for every dispute.

Loss of protections. If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.

Less discovery. There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.

Additional costs. The neutral may charge a fee for his or her services. If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.

Effect of delays if the dispute is not resolved. Lawsuits must be brought within specified periods of time, known as statutes of limitation. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

TYPES OF ADR IN CIVIL CASES.

The most commonly used ADR processes are arbitration, mediation, neutral evaluation and settlement conferences.

Arbitration. In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." Binding arbitration means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Generally, there is no right to appeal an arbitrator's decision. Nonbinding arbitration means that the parties are free to request a trial if they do not accept the arbitrator's decision.

Cases for Which Arbitration May Be Appropriate. Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

Cases for Which Arbitration May Not Be Appropriate. If parties want to retain control over how their dispute is resolved, arbitration, particularly binding arbitration, is not appropriate. In binding arbitration, the parties generally cannot appeal the arbitrator's award, even if it is not supported by the evidence or the law. Even in nonbinding arbitration, if a party requests a trial and does not receive a more favorable result at trial than in arbitration, there may be penalties.

Mediation. In mediation, an impartial person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.

Cases for Which Mediation May Be Appropriate. Mediation may be particularly useful when parties have a relationship they want to preserve. So when family members, neighbors, or business partners have a dispute, mediation may be the ADR process to use. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner.

Cases for Which Mediation May Not Be Appropriate. Mediation may not be effective if one of the parties is unwilling to cooperate or compromise. Mediation also may not be effective if one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

Neutral Evaluation. In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is

often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

Cases for Which Neutral Evaluation May Be Appropriate. Neutral evaluation may be most appropriate in cases in which there are technical issues that require special expertise to resolve or the only significant issue in the case is the amount of damages.

Cases for Which Neutral Evaluation May Not Be Appropriate. Neutral evaluation may not be appropriate when there are significant personal or emotional barriers to resolving the dispute.

Settlement Conferences. Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.

ADDITIONAL INFORMATION.

In addition to mediation, arbitration, neutral evaluation, and settlement conferences, there are other types of ADR, including conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR types. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute.

To locate a dispute resolution program or neutral in your community:

- Contact the California Department of Consumer Affairs, Consumer Information Center, toll free, at 1-800-852-5210
- Contact the Orange County Bar Association at (949) 440-6700
- Look in the telephone directories under "Arbitrators" or "Mediators"

Low cost mediation services are provided under the Orange County Dispute Resolution Program Act (DRPA). For information regarding DRPA, contact:

- OC Human Relations (714) 480-6575, mediator@ochumanrelations.org
- Waymakers (949) 250-4058

For information on the Superior Court of California, County of Orange court ordered arbitration program, refer to Local Rule 360.

The Orange County Superior Court offers programs for Civil Mediation and Early Neutral Evaluation (ENE). For the Civil Mediation program, mediators on the Court's panel have agreed to accept a fee of \$300 for up to the first two hours of a mediation session. For the ENE program, members of the Court's panel have agreed to accept a fee of \$300 for up to three hours of an ENE session. Additional information on the Orange County Superior Court Civil Mediation and Early Neutral Evaluation (ENE) programs is available on the Court's website at www.occourts.org.

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY For your protection and privacy, please press the Clear This Form button after you are done printing this form.
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE JUSTICE CENTER: <input type="checkbox"/> Central - 700 Civic Center Dr. West, Santa Ana, CA 92701-4045 <input type="checkbox"/> Civil Complex Center - 751 W. Santa Ana Blvd., Santa Ana, CA 92701-4512 <input type="checkbox"/> Harbor - Newport Beach Facility - 4601 Jamboree Rd., Newport Beach, CA 92660-2595 <input type="checkbox"/> North - 1275 N. Berkeley Ave., P.O. Box 5000, Fullerton, CA 92838-0500 <input type="checkbox"/> West - 8141 13 th Street, Westminster, CA 92683-4593	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
ALTERNATIVE DISPUTE RESOLUTION (ADR) STIPULATION	CASE NUMBER:

Plaintiff(s)/Petitioner(s), _____

and defendant(s)/respondent(s), _____

agree to the following dispute resolution process:

- Mediation
- Arbitration (must specify code)
 - Under section 1141.11 of the Code of Civil Procedure
 - Under section 1280 of the Code of Civil Procedure
- Neutral Case Evaluation

The ADR process must be completed no later than 90 days after the date of this Stipulation or the date the case was referred, whichever is sooner.

I have an Order on Court Fee Waiver (FW-003) on file, and the selected ADR Neutral(s) are eligible to provide pro bono services.

The ADR Neutral Selection and Party List is attached to this Stipulation.

We understand that there may be a charge for services provided by neutrals. We understand that participating in an ADR process does not extend the time periods specified in California Rules of Court, rule 3.720 et seq.

Date: _____ (SIGNATURE OF PLAINTIFF OR ATTORNEY) (SIGNATURE OF PLAINTIFF OR ATTORNEY)

Date: _____ (SIGNATURE OF DEFENDANT OR ATTORNEY) (SIGNATURE OF DEFENDANT OR ATTORNEY)

ALTERNATIVE DISPUTE RESOLUTION (ADR) STIPULATION

Approved for Optional Use
L1270 (Rev. March 2019)

California Rules of Court, rule 3.221

AUG 09 2022

EXHIBIT B

1 James G. Snell, Bar No. 173070
JSnell@perkinscoie.com
2 Brendan S. Sasso, Bar No. 332134
BSasso@perkinscoie.com
3 PERKINS COIE LLP
3150 Porter Drive
4 Palo Alto, CA 94304-1212
Telephone: (650) 838-4300
5 Facsimile: (650) 838-4350

6 Keith Ketterling, *pro hac vice* application forthcoming
7 kketterling@stollberne.com
STOLL STOLL BERNE LOKTING & SHLACHTER, P.C.
8 209 S.W. Oak Street, Suite 500
Portland, OR 97204
9 Telephone: (503) 227-1600
10 Facsimile: (503) 227-6840

11 *Attorneys for Defendant Columbia Sportswear Co.*

12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SOUTHERN DIVISION**
16

17 ANNETTE CODY, individually and on behalf
18 of all others similarly situated

19 Plaintiff,

20 v.

21 COLUMBIA SPORTSWEAR CO., an Oregon
22 corporation; and DOES 1 through 25, inclusive,

23 Defendants.
24
25
26
27

Case No.

**DECLARATION OF KIRSTEN WALLACE
IN SUPPORT OF NOTICE OF REMOVAL**

[Removed from The Superior Court of the State
of California for the County of Orange, Case
No. 30-2022-01273036-CU-MT-CXC]

Complaint Filed: August 2, 2022

1 1. I am employed as Director of eComm Site for Columbia Sportswear Co.
2 (“Columbia”), the defendant in the above-captioned matter. I make this declaration in support of
3 Columbia’s Notice of Removal. This declaration is based on my own personal knowledge, as
4 well as my review of records kept in the normal course of business by Columbia. If called upon
5 as a witness, I would and could testify competently to the matters stated herein.

6 2. Columbia is an Oregon corporation. Its corporate headquarters are in Portland,
7 Oregon.

8 3. Since August 2, 2021, more than 1,001 unique individuals from California have
9 visited the columbia.com website.

10
11 I declare under penalty of perjury under the laws of the United States and the State of Oregon that
12 the foregoing is true and correct.

13
14 DATED at Hillsboro, Oregon, this 06 day of September, 2022.

15
16
17 
18 Kirsten Wallace

EXHIBIT C

8/31/22, 2:05 PM

Civil Case Access - Print Case Information

Case Summary:

Case Id:	30-2022-01273036-CU-MT-CXC
Case Title:	ANNETTE CODY VS. COLUMBIA SPORTSWEAR CO., AN OREGON CORPORATION
Case Type:	MASS TORT
Filing Date:	08/02/2022
Category:	CIVIL - UNLIMITED

Register Of Actions:

ROA	Docket	Filing Date	Filing Party	Document	Select
1	E-FILING TRANSACTION 41366671 RECEIVED ON 08/02/2022 12:44:36 PM.	08/02/2022		NV	
2	COMPLAINT FILED BY CODY, ANNETTE ON 08/02/2022	08/02/2022		7 pages	<input type="checkbox"/>
3	CIVIL CASE COVER SHEET FILED BY CODY, ANNETTE ON 08/02/2022	08/02/2022		2 pages	<input type="checkbox"/>
4	SUMMONS ISSUED AND FILED FILED BY CODY, ANNETTE ON 08/02/2022	08/02/2022		1 pages	<input type="checkbox"/>
5	PAYMENT RECEIVED BY LEGALCONNECT FOR 194 - COMPLAINT OR OTHER 1ST PAPER, 34 - COMPLEX CASE FEE - PLAINTIFF IN THE AMOUNT OF 1,435.00, TRANSACTION NUMBER 13085934 AND RECEIPT NUMBER 12913924.	08/02/2022		1 pages	<input type="checkbox"/>
6	CASE ASSIGNED TO JUDICIAL OFFICER CLASTER, WILLIAM ON 08/02/2022.	08/02/2022		NV	

Participants:

Name	Type	Assoc	Start Date	End Date
ANNETTE CODY	PLAINTIFF		08/02/2022	
PACIFIC TRIAL ATTORNEYS A PROFESSIONAL	ATTORNEY		08/02/2022	
COLUMBIA SPORTSWEAR CO., AN OREGON COR	DEFENDANT		08/02/2022	

Hearings:

Description	Date	Time	Department	Judge
-------------	------	------	------------	-------

Print this page

Electronically Filed by Superior Court of California, County of Orange, 08/02/2022 12:44:36 PM.
30-2022-01273036-CU-MT-CXC - ROA # 4 - DAVID H. YAMASAKI, Clerk of the Court By G. Ramirez, Deputy Clerk **SUM-100**

**SUMMONS
(CITACION JUDICIAL)**

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

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**
COLUMBIA SPORTSWEAR CO., an Oregon corporation; and DOES 1 through 25, inclusive,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
ANNETTE CODY, individually and on behalf of 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 CALIFORNIA, COUNTY OF ORANGE
751 West Santa Ana Blvd., Santa Ana, CA 92701

CASE NUMBER:
(Número) **30-2022-01273036-CU-MT-CXC**

Judge William Cluster

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):
Scott J. Ferrell (Bar # 202091) / Victoria C. Knowles (Bar # 277231)

PACIFIC TRIAL ATTORNEYS, APC
4100 Newport Place Drive, Suite 800, Newport Beach, CA 92660

Phone No.: (949) 706-6464

DATE: 08/02/2022 DAVID H. YAMASAKI, Clerk of the Court

Clerk, by

G. Ramirez

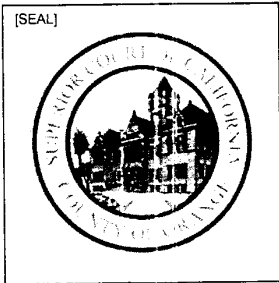
Deputy (Adjunto)

(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): COLUMBIA SPORTSWEAR CO., an Oregon corporation
under: CCP 416.10 (corporation) CCP 416.60 (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 by Superior Court of California, County of Orange, 08/02/2022 12:44:36 PM.
30-2022-01273036-CU-MT-CXC - ROA # 2 - DAVID H. YAMASAKI, Clerk of the Court By G. Ramirez, Deputy Clerk.

1 PACIFIC TRIAL ATTORNEYS
A Professional Corporation
2 Scott J. Ferrell, Bar No. 202091
sferrell@pacifictrialattorneys.com
3 David W. Reid, Bar No. 267382
dreid@pacifictrialattorneys.com
4 Victoria C. Knowles, Bar No. 277231
vknowles@pacifictrialattorneys.com
5 4100 Newport Place Drive, Ste. 800
Newport Beach, CA 92660
6 Tel: (949) 706-6464
Fax: (949) 706-6469
7
8 Attorneys for Plaintiff and Proposed Class

Assigned for All Purposes
Judge William Cluster
CX-104

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ORANGE**

12 ANNETTE CODY, individually and on behalf of
13 all others similarly situated,

14 Plaintiff,

15 v.

16 COLUMBIA SPORTSWEAR CO., an Oregon
17 corporation; and DOES 1 through 25, inclusive,

18 Defendants.

Case No. 30-2022-01273036-CU-MT-CXC

**CLASS ACTION COMPLAINT FOR
VIOLATION OF PENAL CODE § 631**

19
20
21
22
23
24
25
26
27
28
CLASS ACTION COMPLAINT

1
2
3
4
5
6
7
8
9
10
11
12

INTRODUCTION

1. Plaintiff Annette Cody (“Plaintiff”) brings this class action on her own behalf and on behalf of all other Californians similarly situated against Defendant for its illegal wiretapping of their electronic communications with Defendant’s website, www.columbia.com (the “Website”).

2. Unbeknownst to visitors to the Website, Defendant has secretly deployed “keystroke monitoring” software that Defendant uses to surreptitiously intercept, monitor, and record the communications (including keystrokes and mouse clicks) of all visitors to its Website. Defendant neither informs visitors nor seeks their express or implied consent prior to this wiretapping.

3. Defendant has violated and continues to violate the California Invasion of Privacy Act (“CIPA”), [California Penal Code § 631](#), entitling Plaintiff and Class Members to relief pursuant thereto.

13
14
15
16
17
18
19

JURISDICTION AND VENUE

4. This Court has jurisdiction over all causes of action asserted herein.

5. Venue is proper in this Court because Defendant knowingly engages in activities directed at consumers in this County and engaged in the wrongful conduct alleged herein against residents of this County.

6. Any out-of-state participants can be brought before this Court pursuant to California’s “long-arm” jurisdictional statute.

20
21
22
23
24
25
26
27
28

PARTIES

7. Plaintiff Annette Cody is an adult resident of Orange County, California.

8. Defendant is an Oregon corporation. Defendant affects commerce within the state of California.

9. The above-named Defendants, and their subsidiaries and agents, are collectively referred to as “Defendants.” The true names and capacities of the Defendants sued herein as DOE DEFENDANTS 1 through 25, inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the

1 Complaint to reflect the true names and capacities of the DOE Defendants when such identities
2 become known.

3 10. Plaintiff is informed and believes that at all relevant times, every Defendant was acting
4 as an agent and/or employee of each of the other Defendants and was acting within the course and
5 scope of said agency and/or employment with the full knowledge and consent of each of the other
6 Defendants.

7 11. Plaintiff is informed and believe that each of the acts and/or omissions complained of
8 herein was made known to, and ratified by, each of the other Defendants.

9 **FACTUAL ALLEGATIONS**

10 12. Without warning visitors or seeking their consent, Defendant has secretly deployed
11 wiretapping software on its Website. This software allows Defendant to surreptitiously record every
12 aspect of a visitor's interaction with the Website, including keystrokes, mouse clicks, data entry and
13 other electronic communications.

14 13. Defendant's actions amount to the digital equivalent of both looking over a consumer's
15 shoulder and eavesdropping on a consumer's conversation. Defendant's conduct is not only illegal, it
16 is offensive: indeed, a recent study conducted by the Electronic Privacy Information Center, a
17 respected thought leader regarding digital privacy, found that: (1) nearly 9 in 10 adults are "very
18 concerned" about data privacy; and (2) 75% of adults are unaware of the true extent to which
19 companies gather, store, and exploit their personal data when they visit commercial websites. *See*
20 <https://archive.epic.org/privacy/survey/> (last downloaded July 2022).

21 14. Within the past year, Plaintiff visited Defendant's Website. Plaintiff communicated
22 with a "person" that Plaintiff believed to be a human customer service representative. In reality,
23 Defendant's Website utilizes a sophisticated "chatbot" that convincingly impersonates an actual
24 human that encourages consumers to share personal information. At the same time, the Defendant
25 simultaneously records and stores the entire conversation using secretly embedded wiretapping
26 technology.

27
28

- 1 c. Whether Plaintiff and Class Members are entitled to statutory damages pursuant to Cal.
2 Penal Code § 631(a);
3 d. Whether Plaintiff and Class Members are entitled to punitive damages pursuant to Cal.
4 Civil Code § 3294; and
5 e. Whether Plaintiff and Class Members are entitled to injunctive relief.

6 22. **TYPICALITY**: As a person who visited Defendant’s Website and had her electronic
7 communications recorded, intercepted and monitored, Plaintiff is asserting claims that are typical to
8 the Class.

9 23. **ADEQUACY**: Plaintiff will fairly and adequately protect the interests of the members
10 of The Class. Plaintiff has retained attorneys experienced in the class action litigation. All individuals
11 with interests that are actually or potentially adverse to or in conflict with the class or whose inclusion
12 would otherwise be improper are excluded.

13 24. **SUPERIORITY**: A class action is superior to other available methods of adjudication
14 because individual litigation of the claims of all Class Members is impracticable and inefficient. Even
15 if every Class Member could afford individual litigation, the court system could not. It would be
16 unduly burdensome to the courts in which individual litigation of numerous cases would proceed.

17 **CAUSE OF ACTION**

18 **Violations of the California Invasion of Privacy Act**

19 **Cal. Penal Code § 631**

20 25. Section 631(a) of California’s Penal Code prohibits and imposes liability upon any
21 entity that “by means of any machine, instrument, contrivance, or in any other manner,” (1)
22 “intentionally taps, or makes any unauthorized connection, whether physically, electrically,
23 acoustically, inductively, or otherwise, with any telegraph or telephone wire, line, cable, or instrument,
24 including the wire, line, cable, or instrument of any internal telephonic communication system,” or (2)
25 “willfully and without the consent of all parties to the communication, or in any unauthorized manner,
26 reads, or attempts to read, or to learn the contents or meaning of any message, report, or
27 communication while the same is in transit or passing over any wire, line, or cable, or is being sent
28 from, or received at any place within this state” or (3) “uses, or attempts to use, in any manner, or for

1 any purpose, or to communicate in any way, any information so obtained, or who aids, agrees with,
2 employs, or conspires with any person or persons to unlawfully do, or permit, or cause to be done any
3 of the acts or things mentioned above in this section”.

4 26. Section 631 of the California Penal Code applies to internet communications and thus
5 applies to Plaintiff’s and the Class’s electronic communications with Defendant’s Website. (“Though
6 written in terms of wiretapping, Section 631(a) applies to Internet communications. It
7 makes liable anyone who ‘reads, or attempts to read, or to learn the contents’ of a communication
8 ‘without the consent of all parties to the communication.’ Cal. Penal Code § 631(a).” *Javier v.*
9 *Assurance IQ, LLC*, 21-16351, 2022 WL 1744107, at *1 (9th Cir. May 31, 2022).

10 27. The software employed by Defendant on its Website to record Plaintiff’s and the
11 Class’s electronic communications qualifies as a “machine, instrument, contrivance, or ... other
12 manner” used to engage in the prohibited conduct alleged herein.

13 28. At all relevant times, Defendant intentionally caused the internet communication
14 between Plaintiff and Class Members with Defendant’s website to be tapped and recorded.

15 29. At all relevant times, Defendant willfully, and without the consent of all parties to the
16 communication, caused to be intercepted, read or attempted to be read, logged, and stored, the contents
17 of electronic communications of Plaintiff and Class Members with its Website, while the electronic
18 communications were in transit over any wire, line or cable, or were being sent from or received at any
19 place within California.

20 30. Plaintiff and Class Members did not consent to any of Defendant’s actions in
21 implementing wiretaps on its Website, nor did Plaintiff or Class Members consent to Defendant’s
22 intentional access, interception, recording, monitoring, reading, learning and collection of Plaintiff and
23 Class Members’ electronic communications with the Website.

24 31. Defendant’s conduct constitutes numerous independent and discreet violations of Cal.
25 Penal Code § 631(a), entitling Plaintiff and Class Members to injunctive relief and statutory penalties
26 of at least \$5,000.00 per violation.

27
28

PRAYER FOR RELIEF

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WHEREFORE, Plaintiff prays for the following relief against Defendant:

1. An order certifying the Class, naming Plaintiff as the representative of the Class and Plaintiff's attorneys as Class counsel;
2. An order declaring Defendant's conduct violates CIPA;
3. An order of judgment in favor of Plaintiff and the Class and against Defendant on the cause of action asserted herein;
4. An order enjoining Defendant's conduct as alleged herein and any other injunctive relief that the Court finds proper;
5. Statutory penalties to Plaintiff and the Class pursuant to Cal. Penal Code § 631(a);
6. Punitive damages to Plaintiff and the Class pursuant to Cal. Civil Code § 3294;
7. Prejudgment interest;
8. Reasonable attorneys' fees and costs incurred in this action pursuant to Cal. Code Civ. Proc. § 1021.5; and
9. All other relief that would be just and proper as a matter of law or equity, as determined by the Court.

Dated: August 2, 2022

PACIFIC TRIAL ATTORNEYS, APC

By: 

Scott. J. Ferrell
Attorneys for Plaintiff

Electronically Filed by Superior Court of California, County of Orange, 08/02/2022 12:44:36 PM.
 30-2022-01273036-CU-MT-CXC - ROA # 3 - DAVID H. YAMASAKI, Clerk of the Court By G. Ramirez, Deputy Clerk CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Scott J. Ferrell (Bar #202091) / Victoria C. Knowles (Bar # 277231) PACIFIC TRIAL ATTORNEYS, A Professional Corporation 4100 Newport Place Drive, Suite 800, Newport Beach, CA 92660 TELEPHONE NO.: (949) 706-6464 FAX NO.: ATTORNEY FOR (Name): Plaintiff and the Class		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 751 West Santa Ana Blvd. MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, CA 92701 BRANCH NAME: Central Justice Center		
CASE NAME: Cody, et al. v. Columbia Sportswear Co., et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: 30-2022-01273036-CU-MT-CXC JUDGE: Judge William Claster DEPT: CX-104

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input checked="" type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	--	---

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): One (1)
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 2, 2022

Scott J. Ferrell
 (TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease Contract *(not unlawful detainer or wrongful eviction)*
- Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

- Commercial (31)
- Residential (32)
 - Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment *(non-domestic relations)*
 - Sister State Judgment
 - Administrative Agency Award *(not unpaid taxes)*
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint *(not specified above)* (42)
 - Declaratory Relief Only
 - Injunctive Relief Only *(non-harassment)*
 - Mechanics Lien
 - Other Commercial Complaint Case *(non-tort/non-complex)*
 - Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief From Late Claim
 - Other Civil Petition

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Columbia, Warby Parker, Tiffany & Co. Secretly Track Website Visitors' Communications via Chatbot, Lawsuits Claim](#)
