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 11 TIFFANY & CO.

12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA**

14 ANNETTE CODY, individually and on
 15 behalf of all others similarly situated,

16 Plaintiff,

17 v.

18 TIFFANY & CO., a Delaware
 19 corporation; and DOES 1 through 25,
 20 inclusive,

21 Defendants.

CASE NO.: 8:22-cv-01648

[Removed from Orange Sup. Ct.,
 Case No. 30-2022-01272211-CU-MT-
 CXC]

**NOTICE OF REMOVAL OF ACTION
 PURSUANT TO 28 U.S.C. SECTIONS
 1446, 1453 AND 1711**

Hunton Andrews Kurth LLP
 550 South Hope Street, Suite 2000
 Los Angeles, California 90071-2627

1 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE**
2 **CENTRAL DISTRICT OF CALIFORNIA:**

3 **PLEASE TAKE NOTICE** that Defendant Tiffany & Co. (“Tiffany”) hereby
4 removes the state court action described below to this Court pursuant to 28 U.S.C. §§
5 1446, 1453 and the Class Action Fairness Act of 2005, 28 U.S.C. § 1711, *et seq.*
6 (“CAFA”). In support thereof, Tiffany states as follows:

7 **I.**

8 **INTRODUCTION**

9 1. On July 28, 2022, Plaintiff Annette Cody filed this lawsuit in the
10 Superior Court for the State of California, County of Orange, styled as *Annette Cody*
11 *v. Tiffany & Co.*, Case No. 30-2022-01272211-CU-MT-CXC (the “State Action”).
12 The Complaint in the State Action asserts a cause of action for putative violations of
13 the California Invasion of Privacy Act (“CIPA”), Cal. Penal Code § 631(a).

14 2. Plaintiff served Tiffany with the Summons and Class Action Complaint
15 on August 8, 2022.

16 3. On behalf of herself and the putative class, Plaintiff seeks, among other
17 things, injunctive relief, statutory damages, costs of suit and attorneys’ fees, and
18 punitive damages. Compl., Prayer.

19 4. As shown below, the State Action is removable to this Court because all
20 procedural requirements for removal are satisfied, and this Court has subject matter
21 jurisdiction pursuant to 28 U.S.C. § 1332(d).

22 **II.**

23 **TIFFANY HAS SATISFIED THE**
24 **PROCEDURAL REQUIREMENTS FOR REMOVAL**

25 5. Pursuant to 28 U.S.C. § 1446(b), the “notice of removal of a civil action
26 or proceeding shall be filed within thirty days after the receipt by the defendant,
27 through service or otherwise, of a copy of the initial pleading setting forth the claim
28 for relief upon which such action or proceeding is based.” As stated above, Plaintiff

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1 served Tiffany with the Summons and Class Action Complaint on August 8, 2022.
2 Thus, Tiffany’s Notice of Removal is timely because it is filed within 30 days of the
3 date of service. *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

4 6. Venue lies in the United States District Court for the Central District of
5 California because Plaintiff filed the State Action, which is now pending, in this
6 District. *See* 28 U.S.C. § 1441(a) (mandating venue for removal actions).

7 7. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and
8 orders served on Tiffany, which papers include the Summons and Class Action
9 Complaint, are attached hereto as Exhibit A.

10 8. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is
11 being served on counsel for Plaintiff, and a copy is being filed with the Clerk of the
12 Superior Court for the State of California, County of Orange.

13 **III.**

14 **REMOVAL IS PROPER BECAUSE THIS**
15 **COURT HAS SUBJECT MATTER JURISDICTION UNDER CAFA**

16 9. The State Action is a civil action over which this Court has original
17 jurisdiction pursuant to CAFA. Under CAFA, federal courts have original jurisdiction
18 over a class action if: (i) it involves 100 or more putative class members; (ii) any
19 class member is a citizen of a State different from any defendant; and (iii) the
20 aggregated amount in controversy exceeds \$5,000,000, exclusive of interest and costs.
21 *See* 28 U.S.C. § 1332(d). The State Action meets those requirements.

22 10. To remove a case under CAFA, a defendant need only “file in the federal
23 forum a notice of removal ‘containing a short and plain statement of the grounds for
24 removal’”—*i.e.*, the same liberal pleading standard required by Federal Rule of Civil
25 Procedure 8(a), requiring only plausible allegations as to the basis for removal. *Dart*
26 *Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 553 (2014) (quoting 28
27 U.S.C. § 1446(a)). Tiffany easily meets that standard.
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1 11. As set forth below, this is a putative class action in which, as alleged: (i)
2 there are more than 100 members in Plaintiff’s proposed class; (ii) Plaintiff and the
3 members of the putative class have a different citizenship than Tiffany; and (iii) the
4 claims of the proposed class members exceed the sum or value of \$5,000,000 in the
5 aggregate, exclusive of interest and costs. Accordingly, this Court has subject matter
6 jurisdiction over this action pursuant to 28 U.S.C. § 1332(d).

7 **A. The State Action Is a “Class Action” Under CAFA**

8 12. CAFA defines a “class action” as “any civil action filed under rule 23 of
9 the Federal Rules of Civil Procedure or similar State statute or rule of judicial
10 procedure authorizing an action to be brought by 1 or more representative persons as a
11 class action.” 28 U.S.C. § 1332(d)(1)(B).

12 13. Here, Plaintiff styles her Complaint as a “Class Action Complaint;” she
13 specifically alleges that she is bringing the State Action “on her own behalf and on
14 behalf of all other Californians similarly situated” (Compl. ¶ 1); she purports to set
15 forth class action allegations under Section 382 of the California Code of Civil
16 Procedure and Cal. Civ. Code § 1781 (*id.* ¶¶ 19-24); she contends a “class action is
17 superior to other available methods of adjudication because individual litigation of the
18 claims of all Class Members is impracticable and inefficient” (*id.* ¶ 24); and she seeks
19 “an order certifying the Class, naming Plaintiff as the representative of the Class and
20 Plaintiff’s attorneys as Class counsel” (*id.*, Prayer). Actions seeking class treatment in
21 this manner are “class actions” under CAFA. *Bryant v. NCR Corp.*, 284 F. Supp. 3d
22 1147, 1150 (S.D. Cal. 2018) (“Here, there is no dispute the present action is a ‘class
23 action’ under CAFA, as the action contains class allegations under California Code of
24 Civil Procedure § 382.”).

25 **B. The Putative Class Consists of More than 100 Members**

26 14. Plaintiff seeks to represent a class defined as: “All persons within
27 California, who (1) within one year of the filing of this Complaint visited Defendant’s
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1 website, and (2) whose electronic communications were caused to be intercepted,
2 recorded, and/or monitored by Defendant without prior consent.” Compl. ¶ 19.

3 15. The putative class consists of more than 100 individuals. Indeed,
4 Plaintiff alleges she “believes the number to be in the tens of thousands, if not more.”
5 Compl. ¶ 20. Accordingly, the requirement of 100 or more class members is met.

6 **C. Minimal Diversity Exists**

7 16. Under CAFA’s “minimal diversity” requirement, a “federal court may
8 exercise jurisdiction over a class action if ‘any member of a class of plaintiffs is a
9 citizen of a State different from any defendant.’” *Mississippi ex rel. Hood v. AU*
10 *Optronics Corp.*, 134 S. Ct. 736, 740 (2014) (quoting 28 U.S.C. § 1332(d)(2)(A));
11 *Duran v. Fernandez Bros., Inc.*, 2015 WL 7012884, at *3 (N.D. Cal. Nov. 12, 2015).

12 17. Tiffany avers that it is a Delaware corporation that has its principal place
13 of business in New York, New York. Pursuant to 28 U.S.C. § 1332(c), “a corporation
14 shall be deemed to be a citizen of any State by which it has been incorporated and of
15 the State where it has its principal place of business.” Tiffany, therefore is a citizen of
16 both Delaware and New York for removal purposes. *Hertz Corp. v. Friend*, 559 U.S.
17 77, 80-81 (2010); 28 U.S.C. § 1332(c)(1).

18 18. Under CAFA, minimal diversity exists if any member of the proposed
19 class is a citizen of a State other than Delaware or New York. 28 U.S.C. §
20 1332(d)(2)(A), (d)(2)(B); *Mississippi ex rel. Hood*, 134 S. Ct. at 740; *Duran*, 2015
21 WL 7012884, at *3. CAFA’s minimal diversity requirement is satisfied here.

22 19. Tiffany further avers that Plaintiff is a California citizen, thereby making
23 her diverse from Tiffany. Indeed Plaintiff claims she “is an adult resident of Orange
24 County, California.” Compl. ¶ 7. Moreover, Plaintiff purports to represent a
25 California Class consisting of “all other Californians similarly situated.” *Id.* ¶ 1.
26 Accordingly, at least one member of the proposed class is a citizen of a State other
27 than Delaware or New York. Minimal diversity exists.
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D. The Amount-in-Controversy Requirement Is Satisfied

20. To establish CAFA’s amount-in-controversy requirement, Tiffany “need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold” of \$5 million. *Dart Cherokee*, 135 S. Ct. at 554.

21. Although Tiffany denies that Plaintiff or any putative class member suffered any cognizable injury as a result of the incident at issue, Plaintiff asserts causes of action for violations of CIPA § 631(a). Compl. ¶¶ 25-31.

22. In connection with the CIPA claim, Plaintiff seeks class wide damages for, among other things, “statutory damages of at least \$2,500.00 per violation.” Compl. ¶ 31. Taking as true Plaintiff’s assertion that the Plaintiff’s putative class includes “tens of thousands, if not more” (*id.* ¶ 20), CAFA’s \$5 million amount-in-controversy requirement is met.

WHEREFORE, Tiffany respectfully removes the State Action to this Court pursuant to 28 U.S.C. § 1441(b).

Dated: September 6, 2022

HUNTON ANDREWS KURTH LLP

By: /s/ Ann Marie Mortimer
Ann Marie Mortimer
Brandon Marvisi
Attorneys for Defendant
TIFFANY & CO.

EXHIBIT A

**SUMMONS
(CITACION JUDICIAL)**

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

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

TIFFANY & CO., a Delaware 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,

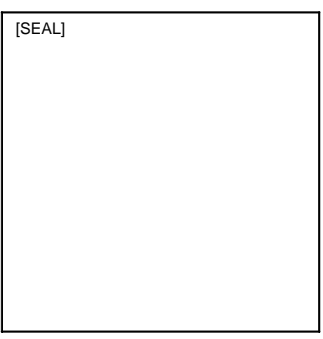
NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.
You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. 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 W. Santa Ana Blvd., Santa Ana, CA 92701

CASE NUMBER:
(Número del Caso):

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: _____, 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
- as an individual defendant.
 - as the person sued under the fictitious name of *(specify):*
 - on behalf of *(specify):*
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):*
 - by personal delivery on *(date):*

1 PACIFIC TRIAL ATTORNEYS
A Professional Corporation
2 Scott J. Ferrell, Bar No. 202091
sferrell@pacifictrialattorneys.com
3 David W. Reid, Bar No. 267382
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5 4100 Newport Place Drive, Ste. 800
Newport Beach, CA 92660
6 Tel: (949) 706-6464
Fax: (949) 706-6469
7

Assigned for All Purposes
Judge Peter Wilson
CX-102

8 Attorneys for Plaintiff and Proposed Class

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,

Case No. 30-2022-01272211-CU-MT-CXC

14 Plaintiff,

15 v.

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

16 TIFFANY & CO., a Delaware corporation; and
DOES 1 through 25, inclusive,

17 Defendants.
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1 **INTRODUCTION**

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

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

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

12 **JURISDICTION AND VENUE**

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

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

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

19 **PARTIES**

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

21 8. Defendant is a Delaware corporation. Defendant affects commerce within the state of
22 California.

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

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 damages
26 of at least \$2,500.00 per violation.


PRAYER FOR RELIEF

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 damages 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: July 27, 2022

PACIFIC TRIAL ATTORNEYS, APC

By: 

Scott. J. Ferrell
Attorneys for Plaintiff

ClassAction.org

This complaint is part of ClassAction.org's searchable [class action lawsuit database](#)
