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03/14/2023
Clerk of the Court
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Deputy Clerk

10 **SUPERIOR COURT OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN FRANCISCO**

13) Case No. **CGC-23-605149**
14 JAMIE JWEINAT and RICHARD)
15 LECHLEITNER, individually and behalf of all) **CLASS ACTION**
16 others similarly situated)
17) **COMPLAINT FOR VIOLATIONS OF:**
18 Plaintiffs,)
19) 1. VIOLATIONS OF
20 -vs-) ELECTRONIC FUNDS
21) TRANSFER ACT, 15 U.S.C.
22) §1693 ET SEQ.
23 LOANDEPOT.COM, LLC; and DOES 1-10) 2. VIOLATIONS OF CALIFORNIA
24 inclusive,) BUSINESS AND PROFESSIONS
25 Defendants.) CODE § 17200, ET SEQ.
26) **DEMAND FOR JURY TRIAL**
27)
28)

25 Plaintiffs JAMIE JWEINAT and RICHARD LECHLEITNER (“Plaintiffs”) on behalf of
26 themselves and all others similarly situated, alleges the following against Defendant
27 LOANDEPOT.COM, LLC (“LD” or “Defendant”) upon information and belief based upon
28 personal knowledge:

1 **INTRODUCTION**

2 1. Plaintiffs’ Class Action Complaint is brought pursuant to the Electronic Funds
3 Transfer Act, 15 U.S.C. § 1693 et seq. (“EFTA”).

4 2. Plaintiffs, individually, and on behalf of all others similarly situated, brings this
5 Complaint for damages, injunctive relief, and any other available legal or equitable remedies,
6 resulting from the illegal actions of Defendant in failing to provide a copy of written
7 preauthorized electronic fund transfers when made, thereby violating 15 U.S.C. § 1693e(a).
8 Plaintiffs bring a derivative claim under Cal. Bus. & Prof. C. §§ 17200 et seq. (“UCL”) for an
9 unlawful violation.

10 3. Plaintiffs allege as follows upon personal knowledge as to themselves and their
11 own acts and experiences, and, as to all other matters, upon information and belief, including
12 investigation conducted by her attorneys.

13 **JURISDICTION & VENUE**

14 4. Jurisdiction is pursuant to the California Constitution, Article VI, section 10,
15 which grants the Superior Court “original jurisdiction in all causes except those given by statute
16 to other courts.” The statutes under which this action is brought do not specify any other basis
17 for jurisdiction..

18 5. Venue is proper in the Superior Court of California for the County of San
19 Francisco because Defendant does business within the State of California and Plaintiff resides
20 within the County of San Francisco and the place where the incident took place was within the
21 County of San Francisco.

22 6. The statute of limitations on this case is equitably tolled back to September 21,
23 2022. On September 21, 2022, Plaintiffs filed a matter alleging the causes of action present in
24 this Complaint in the United States District Court for the Northern District of California, Jamie
25 Jweinat et. al. v. LOANDEPOT.COM, LLC (N.D. Cal. 2022), 3:22-cv-05387-VC. On February
26 15, 2023, the Court dismissed Plaintiffs’ case without prejudice for lack of subject matter
27 jurisdiction. Pursuant to *City of Los Angeles v. County of Kern* (2014) 59 Cal.4th 618, Plaintiffs
28 have refiled their Complaint in State Court within thirty (30) days of dismissal by a federal court,

1 and thus his causes of action relate back to the original filing date of September 21, 2022.

2 **PARTIES**

3 7. Plaintiff Richard Lechleitner is a natural person residing in San Mateo County in
4 the state of California and is a “consumer” as defined by 15 U.S.C. §1693a(6) and a “person” as
5 defined by Cal. Bus. & Prof. Code § 17201.

6 8. Plaintiff Jamie Jweinat is a natural person residing in San Mateo County in the
7 state of California and is a “consumer” as defined by 15 U.S.C. §1693a(6) and a “person” as
8 defined by Cal. Bus. & Prof. Code § 17201

9 9. At all relevant times herein, Defendant LOANDEPOT.COM, LLC was a
10 Delaware Corporation with its headquarters in California engaged in the business of mortgage
11 loan servicing.

12 10. Each above named Defendant, and its subsidiaries and agents, are collectively
13 referred to as “Defendants.” The true names and capacities of the Defendants sued herein as DOE
14 DEFENDANTS 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues
15 such Defendants by fictitious names. Each of the Defendants designated herein as a DOE is
16 legally responsible for the unlawful acts alleged herein. Plaintiffs will seek leave of Court to
17 amend the Complaint to reflect the true names and capacities of the DOE Defendants when such
18 identities become known.

19 11. Plaintiffs are informed and believes that at all relevant times, each and every
20 Defendant was acting as an agent and/or employee of each of the other Defendants and was acting
21 within the course and scope of said agency and/or employment with the full knowledge and
22 consent of each of the other Defendants. Plaintiff is informed and believes that each of the acts
23 and/or omissions complained of herein was made known to, and ratified by, each of the other
24 Defendants.

25 **FACTUAL ALLEGATIONS**

26 12. Plaintiffs had a mortgage with Defendant LD for their property located in Penn
27 Valley, California.

28 13. In late April 2022, Plaintiffs went online to LD’s online website to setup

1 autopayment for their monthly second mortgage payments.

2 14. Plaintiffs went through the process and setup an autopayment to be debited on
3 May 1, 2022 and monthly thereafter.

4 15. Defendant LD did not provide Plaintiffs a copy of the written preauthorized
5 electronic fund transfer when setup in April 2022.

6 16. Despite setting up the process, LD failed to automatically withdraw funds from
7 Plaintiffs' bank account on May 1, 2022 and June 1, 2022.

8 17. Because LD did not provide a copy of the written preauthorized electronic fund
9 transfer, Plaintiffs did not have a record of the withdrawals that were agreed to take place and
10 was thereafter charged unowed fees, interest, and defamed by LD who reported Plaintiffs as
11 delinquent on their mortgage when it failed to process the payments. Thus, Plaintiffs suffered
12 actual harm from Defendant LD's practice of failing to provide copies of written preauthorized
13 electronic fund transfers.

14 18. Thereafter, in June 2022, Plaintiffs again setup an autopayment for their monthly
15 second mortgage to be withdrawn on July 1, 2022 and monthly thereafter.

16 19. While this autowithdrawal was properly processed, Defendant LD again did not
17 provide Plaintiffs a copy of the written preauthorized electronic fund transfer when made.

18 20. Plaintiffs allege Defendant's failure to provide a copy of the authorization to
19 Plaintiffs is a violation of 15 U.S.C. 1693e(a).

20 **CLASS ALLEGATIONS**

21 21. Plaintiffs bring this action on behalf of themselves and all others similarly
22 situated, as a member of a Class ("the Class") defined as follows:

23 All persons in the United States whose bank accounts were debited
24 on a reoccurring basis by Defendant LD without being provided a
25 copy of the authorization to make a preauthorized electronic fund
transfers from September 21, 2021 to the date of class certification.

26 22. Plaintiffs represent, and is a member of The Class, consisting of whose bank
27 accounts were debited on a reoccurring basis by Defendant LD without being provided a copy of
28 the authorization to make a preauthorized electronic fund transfers from September 21, 2021 to

1 the date of class certification.

2 23. Defendant, its employees, and agents, and the Court staff and Judge assigned to
3 this matter are excluded from The Class. Plaintiffs do not know the number of members in The
4 Class, but believe the Class members number in the tens of thousands, if not more. Thus, this
5 matter should be certified as a Class Action to assist in the expeditious litigation of the matter.

6 24. The Class is so numerous that the individual joinder of all of their members is
7 impractical. While the exact number and identities of The Class members are unknown to
8 Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs are
9 informed and believes and thereon alleges that The Class includes thousands of members.
10 Plaintiffs allege that The Class members may be ascertained by the records maintained by
11 Defendants.

12 25. This suit is properly maintainable as a class action pursuant to Fed. R. Civ. P.
13 23(a) because the Class is so numerous that joinder of the Class members is impractical and the
14 disposition of their claims in the class action will provide substantial benefits both to the parties
15 and to the Court.

16 26. There are questions of law and fact common to the Class affecting the parties to
17 be represented. The questions of law and fact to the Class predominate over questions which may
18 affect individual Class members and include, but are not necessarily limited to, the following:

- 19 a. Whether Defendant failed to provide the members of the Class a copy of the
20 authorization to make a preauthorized electronic fund transfers after the
21 execution of such authorizations;
- 22 b. Whether Defendants committed an unlawful practice under the UCL by
23 violating EFTA.

24 27. As someone who authorized Defendant to make a preauthorized electronic fund
25 transfer but failed to receive a copy of the authorization, Plaintiffs are asserting claims that are
26 typical of The Class.

27 28. Plaintiffs will fairly and adequately protect the interests of the members of The
28 Class. Plaintiffs have retained attorneys experienced in the prosecution of class actions.

1 29. A class action is superior to other available methods of fair and efficient
2 adjudication of this controversy, since individual litigation of the claims of all Class members is
3 impracticable. Even if every Class member could afford individual litigation, the court system
4 could not. It would be unduly burdensome to the courts in which individual litigation of numerous
5 issues would proceed. Individualized litigation would also present the potential for varying,
6 inconsistent, or contradictory judgments and would magnify the delay and expense to all parties
7 and to the court system resulting from multiple trials of the same complex factual issues. By
8 contrast, the conduct of this action as a class action presents fewer management difficulties,
9 conserves the resources of the parties and of the court system, and protects the rights of each
10 Class member.

11 30. The prosecution of separate actions by individual Class members would create a
12 risk of adjudications with respect to them that would, as a practical matter, be dispositive of the
13 interests of the other Class members not parties to such adjudications or that would substantially
14 impair or impede the ability of such non-party Classes members to protect their interests.

15 31. Defendants have acted or refused to act in respects generally applicable to The
16 Class, thereby making appropriate final and injunctive relief with regard to the members of the
17 Class as a whole.

18 **COUNT I:**

19 **VIOLATION OF ELECTRONIC FUNDS TRANSFER ACT**

20 **AGAINST ALL DEFENDANTS**

21 32. Plaintiff reincorporates by reference all of the preceding paragraphs.

22 33. Section 907(a) of the EFTA, 15 U.S.C. § 1693e(a), provides that a “preauthorized
23 electronic fund transfer from a consumer’s account may be authorized by the consumer only in
24 writing, and a copy of such authorization shall be provided to the consumer when made.”

25 34. Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b), provides that
26 “[p]reauthorized electronic fund transfers from a consumer’s account may be authorized only by
27 a writing signed or similarly authenticated by the consumer. The person that obtains the
28 authorization shall provide a copy to the consumer.”

1 35. In multiple instances, Defendant obtained Plaintiffs' authorization for
2 preauthorized electronic fund transfers from their account but failed to provide a copy of such
3 authorization when made.

4 36. In doing so, Defendants have violated EFTA.

5 **COUNT II:**

6 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200**

7 **AGAINST ALL DEFENDANTS**

8 37. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint
9 as though fully stated herein.

10 38. Actions for relief under the unfair competition law may be based on any business
11 act or practice that is within the broad definition of the UCL. Such violations of the UCL occur
12 as a result of unlawful, unfair or fraudulent business acts and practices. A plaintiff is required to
13 provide evidence of a causal connection between a defendant's business practices and the alleged
14 harm--that is, evidence that the defendant's conduct caused or was likely to cause substantial
15 injury. It is insufficient for a plaintiff to show merely that the defendant's conduct created a risk
16 of harm. Furthermore, the "act or practice" aspect of the statutory definition of unfair competition
17 covers any single act of misconduct, as well as ongoing misconduct.

18 39. California Business and Professions Code Section 17200, et seq. prohibits "any
19 unlawful...business act or practice."

20 40. Defendant's acts, as pled herein, are an "unlawful" business practice or act under
21 Business and Professions Code Section 17200 et seq. for violating EFTA as to the Class.

22 41. Defendant's conduct caused and continues to cause economic harm to Plaintiffs
23 and Class Members.

24 **TRIAL BY JURY**

25 42. Pursuant to the seventh amendment to the Constitution of the United States of
26 America, Plaintiff is entitled to, and demands, a trial by jury.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs, individually, and on behalf of all others similarly situated,
3 respectfully requests judgment be entered against Defendants, for the following:

- 4 a. That this action be certified as a class action on behalf of The Class and
5 Plaintiffs be appointed as class representatives;
- 6 b. Statutory damages of up to \$1,000.00, per Class Member, pursuant to the
7 Electronic Fund Transfer Act, §916(a)(2)(A);
- 8 c. Actual damages;
- 9 d. Restitution of the funds improperly obtained by Defendants;
- 10 e. Any and all statutory enhanced damages;
- 11 f. All reasonable and necessary attorneys' fees and costs provided by statute,
12 common law or the Court's inherent power;
- 13 g. For equitable and injunctive and pursuant to California Business and
14 Professions Code § 17203;
- 15 h. For prejudgment interest at the legal rate; and
- 16 i. Any other relief this Honorable Court deems appropriate.

17
18 Respectfully Submitted this 14th Day of March, 2023.

19 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

20
21 By: 

22 Todd M. Friedman
23 Law Offices of Todd M. Friedman
24 Attorney for Plaintiffs
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [\\$1.025M loanDepot Settlement Resolves Class Action Lawsuit Over Alleged Electronic Funds Transfer Violations](#)
