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 and the Plaintiff Class(es)

9
 10 **UNITED STATES DISTRICT COURT**
 11 **SOUTHERN DISTRICT OF CALIFORNIA**

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13 CHRISTOPHER MEDVIGY, individually,
 and on behalf of all others similarly
 14 situated,

15 Plaintiff,

16 vs.

17 ACCUTECH SYSTEMS
 CORPORATION,

18 Defendant.

Case No. '22CV207 LL BLM

CLASS ACTION

**COMPLAINT FOR DAMAGES,
 INJUNCTIVE AND EQUITABLE RELIEF
 FOR:**

1. NEGLIGENCE;
2. INVASION OF PRIVACY;
3. BREACH OF CONFIDENCE;
4. BREACH OF IMPLIED CONTRACT;
5. BREACH OF THE IMPLIED COVENANT
 OF GOOD FAITH AND FAIR DEALING;
6. UNFAIR BUSINESS PRACTICES;
7. UNJUST ENRICHMENT

[JURY TRIAL DEMANDED]

1 Representative Plaintiff alleges as follows:

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INTRODUCTION

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1. Representative Plaintiff Christopher Medvigy (“Medvigy” or “Representative Plaintiff”) brings this class action against Defendant Accutech Systems Corporation for its failure to properly secure and safeguard Representative Plaintiff’s and Class Members’ personally identifiable information stored within Defendant’s information network, including, without limitation, their full names, addresses, and Social Security Numbers (these types of information, *inter alia*, being hereafter referred to, collectively, as “personally identifiable information” or “PII”),¹ and to properly secure and safeguard Representative Plaintiff’s and Class Members’ PII stored within Defendant’s information network.

2. With this action, Representative Plaintiff seeks to hold Defendant responsible for the harms it caused and will continue to cause Representative Plaintiff and the countless other similarly situated persons in the massive and preventable cyberattack that occurred on August 16, 2021, by which cybercriminals infiltrated Defendant’s inadequately protected network servers and accessed highly sensitive PII and financial information which was being kept unprotected (the “Data Breach”).

3. Representative Plaintiff further seeks to hold Defendant responsible for not ensuring that the compromised PII was maintained in a manner consistent with industry and other relevant standards.

4. While Defendant says unauthorized access to its network occurred as early as August 16, 2021 and that it learned what information may have been accessed on December 27, 2021, it did not even begin notifying victims until January 11, 2022.—nearly five months after the

¹ Personally identifiable information (“PII”) generally incorporates information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information. 2 C.F.R. § 200.79. At a minimum, it includes all information that on its face expressly identifies an individual. PII also is generally defined to include certain identifiers that do not on their face name an individual, but that are considered to be particularly sensitive and/or valuable if in the wrong hands (for example, Social Security numbers, passport numbers, driver’s license numbers, financial account numbers).

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1 breach occurred. It did not immediately report the security incident to Representative Plaintiff or
2 Class Members. Indeed, Representative Plaintiff and Class Members were wholly unaware of the
3 Data Breach until they received letter(s) from Defendant informing them of it.

4 5. Defendant acquired, collected and stored Representative Plaintiff's and Class
5 Members' PII and/or financial information in connection with Defendant's provision of trust
6 accounting and wealth management services.

7 6. Therefore, at all relevant times, Defendant knew, or should have known, that
8 Representative Plaintiff and Class Members would use Defendant's networks to store and/or share
9 sensitive data, including highly confidential PII, because Defendant required that they provide this
10 information to receive their products/services.

11 7. By obtaining, collecting, using, and deriving a benefit from Representative
12 Plaintiff's and Class Members' PII, Defendant assumed legal and equitable duties to those
13 individuals. These duties arise from state and federal statutes and regulations as well as common
14 law principles.

15 8. Defendant disregarded the rights of Representative Plaintiff and Class Members by
16 intentionally, willfully, recklessly, or negligently failing to take and implement adequate and
17 reasonable measures to ensure that Representative Plaintiff's and Class Members' PII was
18 safeguarded, failing to take available steps to prevent an unauthorized disclosure of data, and
19 failing to follow applicable, required, and appropriate protocols, policies, and procedures regarding
20 the encryption of data, even for internal use. As a result, the PII of Representative Plaintiff and
21 Class Members was compromised through disclosure to an unknown and unauthorized third-
22 party—an undoubtedly nefarious third-party that seeks to profit off this disclosure by defrauding
23 Representative Plaintiff and Class Members in the future. Representative Plaintiff and Class
24 Members have a continuing interest in ensuring that their information is and remains safe, and they
25 are entitled to injunctive and other equitable relief.

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JURISDICTION AND VENUE

9. Jurisdiction is proper in this Court under 28 U.S.C. §1332 (diversity jurisdiction). Specifically, this Court has subject matter and diversity jurisdiction over this action under 28 U.S.C. § 1332(d) because this is a class action where the amount in controversy exceeds the sum or value of \$5 million, exclusive of interest and costs, there are more than 100 members in the proposed class, and at least one other Class Member is a citizen of a state different from Defendant.

10. Supplemental jurisdiction to adjudicate issues pertaining to California state law is proper in this Court under 28 U.S.C. §1367.

11. Defendant routinely conducts business in California, has sufficient minimum contacts in California and has intentionally availed itself of this jurisdiction by marketing, providing, and selling products/services, and by accepting and processing payments for those products/services within California.

12. Venue is proper in this Court under 28 U.S.C. § 1391 because the events that gave rise to Representative Plaintiff’s claims took place within the Southern District of California, and Defendant does business in this Judicial District.

PLAINTIFF

13. Representative Plaintiff is an adult individual and, at all relevant times herein, a resident of the State of California. Representative Plaintiff is a victim of the Data Breach.

14. Prior to the Data Breach, Representative Plaintiff purchased or otherwise received goods/services from Defendant.

15. In connection with the provision of these services, Defendant collected PII and financial information from Representative Plaintiff. As a result, Representative Plaintiff’s information was among the data accessed by an unauthorized third-party in the Data Breach.

16. At all times herein relevant, Representative Plaintiff is and was a member of the Classes.

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1 17. As required in order to receive goods/services from Defendant, Representative
2 Plaintiff provided Defendant with highly sensitive personal and financial information.

3 18. Representative Plaintiff's PII was exposed in the Data Breach because Defendant
4 stored and/or shared Representative Plaintiff's PII and financial information. Representative
5 Plaintiff's PII and financial information was within the possession and control of Defendant at the
6 time of the Data Breach.

7 19. Representative Plaintiff received a letter from Defendant, dated January 28, 2022,
8 informing Representative Plaintiff that Representative Plaintiff's PII and/or financial information
9 was involved in the Data Breach (the "Notice"). The Notice explained that Defendant detected
10 unusual activity on its network and took steps to secure the systems, but not until an unauthorized
11 third-party gained access to Defendant's network and accessed Representative Plaintiff's PII and
12 financial information. Defendant claims to have detected and determined that Representative
13 Plaintiff's information was accessed and acquired from Defendant's network on December 27,
14 2021. However, the breach itself took place on August 16, 2021. Defendant did not inform
15 Representative Plaintiff prior to the Notice dated January 28, 2022.

16 20. Representative Plaintiff has already spent and will continue to spend time dealing
17 with the consequences of the Data Breach. This includes, without limitation, time spent verifying
18 the legitimacy and impact of the Data Breach, exploring credit monitoring and identity theft
19 insurance options, self-monitoring various accounts, and seeking legal counsel regarding options
20 for remedying and/or mitigating the effects of the Data Breach. This time has been lost forever and
21 cannot be recaptured.

22 21. Representative Plaintiff suffered actual injury in the form of damages to and
23 diminution in the value of Representative Plaintiff's PII—a form of intangible property that
24 Representative Plaintiff entrusted to Defendant for the purpose of receiving products/services,
25 which was compromised in and as a result of the Data Breach.

26 22. Representative Plaintiff suffered lost time, annoyance, interference, and
27 inconvenience as a result of the Data Breach and has anxiety and increased concerns for the loss
28

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1 of privacy, as well as anxiety over the impact of cybercriminals accessing and using sensitive PII
2 and/or financial information.

3 23. Representative Plaintiff has suffered imminent and impending injury arising from
4 the substantially increased risk of fraud, identity theft, and misuse resulting from Representative
5 Plaintiff’s PII and financial information, in combination with Representative Plaintiff’s name,
6 being placed in the hands of unauthorized third-parties/criminals.

7 24. Representative Plaintiff has a continuing interest in ensuring that the PII and
8 financial information, which, upon information and belief, remains backed up in Defendant’s
9 possession, is protected and safeguarded from future breaches.

10
11 **DEFENDANT**

12 25. Defendant Accutech Systems Corporation is an Indiana corporation with a
13 principal place of business located at 115 South Walnut Street, Muncie, IN 47305.

14 26. Defendant provides a variety of financial services across the United States.

15 27. The true names and capacities of persons or entities, whether individual, corporate,
16 associate, or otherwise, who may be responsible for some of the claims alleged here are currently
17 unknown to Representative Plaintiff. Representative Plaintiff will seek leave of court to amend
18 this Complaint to reflect the true names and capacities of such other responsible parties when their
19 identities become known.

20
21 **CLASS ACTION ALLEGATIONS**

22 28. Representative Plaintiff brings this action pursuant to the provisions of Rules 23(a),
23 (b)(2), and (b)(3) of the Federal Rules of Civil Procedure, on behalf of Representative Plaintiff and
24 the following classes/subclass(es) (collectively, the “Classes”):

25 **Nationwide Class:**

26 “All individuals within the United States of America whose PII and/or
27 financial information was exposed to unauthorized third-parties as a result
28 of the data breach that occurred on August 16, 2021.”

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California Subclass:

“All individuals within the State of California whose PII and/or financial information was exposed to unauthorized third-parties as a result of the data breach that occurred on August 16, 2021.”

29. Excluded from the Classes are the following individuals and/or entities: (a) Defendant and Defendant’s parents, subsidiaries, affiliates, officers and directors, and any entity in which Defendant has a controlling interest; (b) all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; (c) any and all federal, state or local governments, including but not limited to its departments, agencies, divisions, bureaus, boards, sections, groups, counsels, and/or subdivisions; and (d) all judges assigned to hear any aspect of this litigation, as well as their immediate family members.

30. Representative Plaintiff reserves the right to request additional subclasses be added, as necessary, based on the types of PII and financial information that were compromised and/or the nature of certain Class Members’ relationship(s) to the Defendant. At present, collectively, Class Members include, *inter alia*, all persons within the United States whose data was accessed in the Data Breach.

31. Representative Plaintiff reserves the right to amend the above definition in subsequent pleadings and/or motions for class certification.

32. This action has been brought and may properly be maintained as a class action under Federal Rule of Civil Procedure Rule 23 because there is a well-defined community of interest in the litigation and membership in the proposed classes is easily ascertainable.

- a. Numerosity: A class action is the only available method for the fair and efficient adjudication of this controversy. The members of the Plaintiff Classes are so numerous that joinder of all members is impractical, if not impossible. Representative Plaintiff is informed and believes and, on that basis, alleges that the total number of Class Members is in the hundreds of thousands of individuals. Membership in the Classes will be determined by analysis of Defendant’s records.
- b. Commonality: Representative Plaintiff and the Class Members share a community of interests in that there are numerous common questions and issues of fact and law which predominate over any questions and issues solely affecting individual members, including, but not necessarily limited to:

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- 1) Whether Defendant had a legal duty to Representative Plaintiff and the Classes to exercise due care in collecting, storing, using, and/or safeguarding their PII;
- 2) Whether Defendant knew, or should have known, of the susceptibility of its data security systems to a data breach;
- 3) Whether Defendant’s security procedures and practices to protect its systems were reasonable in light of the measures recommended by data security experts;
- 4) Whether Defendant’s failure to implement adequate data security measures allowed the Data Breach to occur;
- 5) Whether Defendant failed to comply with its own policies and applicable laws, regulations, and industry standards relating to data security;
- 6) Whether Defendant adequately, promptly, and accurately informed Representative Plaintiff and Class Members that their PII had been compromised;
- 7) How and when Defendant actually learned of the Data Breach;
- 8) Whether Defendant’s conduct, including its failure to act, resulted in or was the proximate cause of the breach of its systems, resulting in the loss of the PII of Representative Plaintiff and Class Members;
- 9) Whether Defendant adequately addressed and fixed the vulnerabilities which permitted the Data Breach to occur;
- 10) Whether Defendant engaged in unfair, unlawful, or deceptive practices by failing to safeguard the PII of Representative Plaintiff and Class Members;
- 11) Whether Representative Plaintiff and Class Members are entitled to actual and/or statutory damages and/or whether injunctive, corrective and/or declaratory relief and/or an accounting is/are appropriate as a result of Defendant’s wrongful conduct;
- 12) Whether Representative Plaintiff and Class Members are entitled to restitution as a result of Defendant’s wrongful conduct.

c. Typicality: Representative Plaintiff’s claims are typical of the claims of the Plaintiff Classes. Representative Plaintiff and all members of the Plaintiff Classes sustained damages arising out of and caused by Defendant’s common course of conduct in violation of law, as alleged herein. The same event and conduct that gave rise to Representative Plaintiff’s claims are identical to those that give rise to the claims of every Class Member because Representative Plaintiff and Class Members alike had their Stored Data compromised in the same way by the same conduct of Defendant. Representative Plaintiff and Class Members face identical threats resulting from the resetting of their hard drives and/or access by cyber-criminals to the Stored Data maintained thereon.

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1 d. Adequacy of Representation: Representative Plaintiff in this class action is
2 an adequate representative of each of the Plaintiff Classes in that
3 Representative Plaintiff has the same interest in the litigation of this case as
4 the Class Members, is committed to vigorous prosecution of this case, and
5 has retained competent counsel who are experienced in conducting
6 litigation of this nature. Representative Plaintiff is not subject to any
7 individual defenses unique from those conceivably applicable to other Class
8 Members or the Classes in their entirety. Representative Plaintiff anticipates
9 no management difficulties in this litigation. Representative Plaintiff and its
10 counsel will fairly and adequately protect the interests of all Class Members.

11 e. Superiority of Class Action: The damages suffered by individual Class
12 Members are significant but may be small relative to the enormous expense
13 of individual litigation by each member. This makes, or may make it,
14 impractical for members of the Plaintiff Classes to seek redress individually
15 for the wrongful conduct alleged herein. Even if Class Members could
16 afford such individual litigation, the court system could not. Should separate
17 actions be brought or be required to be brought by each individual member
18 of the Plaintiff Classes, the resulting multiplicity of lawsuits would cause
19 undue hardship and expense for the Court and the litigants. The prosecution
20 of separate actions would also create a risk of inconsistent rulings which
21 might be dispositive of the interests of other Class Members who are not
22 parties to the adjudications and/or may substantially impede their ability to
23 adequately protect their interests. Individualized litigation increases the
24 delay and expense to all parties, and to the court system, presented by the
25 complex legal and factual issues of the case. By contrast, the class action
26 device presents far fewer management difficulties and provides benefits of
27 single adjudication, economy of scale, and comprehensive supervision by a
28 single court.

17 33. Class certification is proper because the questions raised by this Complaint are of
18 common or general interest affecting numerous persons, such that it is impracticable to bring all
19 Class Members before the Court.

20 34. This class action is also appropriate for certification because Defendant has acted
21 and/or has refused to act on grounds generally applicable to the Classes, thereby requiring the
22 Court's imposition of uniform relief to ensure compatible standards of conduct toward Class
23 Members and making final injunctive relief appropriate with respect to the Classes in their
24 entireties. Defendant's policies challenged herein apply to and affect Class Members uniformly
25 and Representative Plaintiff's challenge of these policies and conduct hinges on Defendant's
26 conduct with respect to the Classes in their entireties, not on facts or law applicable only to the
27 Representative Plaintiff.

1 35. Unless a Class-wide injunction is issued, Defendant’s violations may continue, and
2 Defendant may continue to act unlawfully as set forth in this Complaint.
3

4 **COMMON FACTUAL ALLEGATIONS**

5 **The Cyberattack**

6 36. In the course of the Data Breach, one or more unauthorized third-parties accessed
7 Class Members’ sensitive data including, but not limited to, full names addresses and Social
8 Security Numbers. Representative Plaintiff was among the individuals whose information was
9 accessed in the Data Breach.

10 37. According to the sample data breach notification Defendant provided to the
11 California Attorney General’s Office on January 28, 2022², Defendant learned that an employee’s
12 email account had been accessed by an “unknown actor.”

13 38. Representative Plaintiff was provided this information upon receipt of the Notice,
14 dated January 28, 2022. Representative was not aware of the Data Breach until receiving the
15 Notice.
16

17 **Defendant’s Failed Response to the Breach**

18 39. Not until two weeks after it claims to have discovered the specifics of the Data
19 Breach did Defendant begin sending the Notice to persons whose PII and/or financial information
20 Defendant confirmed was potentially compromised as a result of the Data Breach. The Notice
21 provided basic details of the Data Breach and Defendant’s recommended next steps.

22 40. Upon information and belief, the unauthorized third-party cybercriminals gained
23 access to Representative Plaintiff’s and Class Members’ PII and financial information with the
24 intent of engaging in misuse of the PII and financial information, including marketing and selling
25 Representative Plaintiff’s and Class Members’ PII.
26

27 _____
28 ² <https://oag.ca.gov/ecrime/databreach/reports/sb24-550527> (last accessed February 14, 2022).

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1 41. Defendant had and continues to have obligations created by reasonable industry
2 standards, common law, state statutory law, and its own assurances and representations to keep
3 Representative Plaintiff's and Class Members' PII confidential and to protect such PII from
4 unauthorized access.

5 42. Representative Plaintiff and Class Members were required to provide their PII and
6 financial information to Defendant with the reasonable expectation and mutual understanding that
7 Defendant would comply with its obligations to keep such information confidential and secure
8 from unauthorized access.

9 43. Despite this, Representative Plaintiff and the Class Members remain, even today,
10 in the dark regarding what particular data was stolen, the particular malware used, and what steps
11 are being taken, if any, to secure their PII and financial information going forward. Representative
12 Plaintiff and Class Members are left to speculate as to the full impact of the Data Breach and how
13 exactly Defendant intended to enhance its information security systems and monitoring
14 capabilities so as to prevent further breaches.

15 44. Representative Plaintiff's and Class Members' PII and financial information may
16 end up for sale on the dark web, or simply fall into the hands of companies that will use the detailed
17 PII and financial information for targeted marketing without the approval of Representative
18 Plaintiff and/or Class Members. Either way, unauthorized individuals can now easily access the
19 PII and/or financial information of Representative Plaintiff and Class Members.

20
21 **Defendant Collected/Stored Class Members' PII and Financial Information**

22 45. Defendant acquired, collected, and stored and assured reasonable security over
23 Representative Plaintiff's and Class Members' PII and financial information.

24 46. To purchase or otherwise receive its goods/services, Defendant required that
25 Representative Plaintiff and Class Members provide it with, *inter alia*, their full names, addresses,
26 and Social Security numbers.

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1 47. By obtaining, collecting, and storing Representative Plaintiff’s and Class Members’
2 PII and financial information, Defendant assumed legal and equitable duties and knew or should
3 have known that they were thereafter responsible for protecting Representative Plaintiff’s and
4 Class Members’ PII and financial information from unauthorized disclosure.

5 48. Representative Plaintiff and Class Members have taken reasonable steps to
6 maintain the confidentiality of their PII and financial information. Representative Plaintiff and
7 Class Members relied on Defendant to keep their PII and financial information confidential and
8 securely maintained, to use this information for business purposes only, and to make only
9 authorized disclosures of this information.

10 49. Defendant could have prevented the Data Breach by properly securing and
11 encrypting and/or more securely encrypting its servers generally, as well as Representative
12 Plaintiff’s and Class Members’ PII and financial information.

13 50. Defendant’s negligence in safeguarding Representative Plaintiff’s and Class
14 Members’ PII and financial information is exacerbated by repeated warnings and alerts directed to
15 protecting and securing sensitive data, as evidenced by the trending data breach attacks in recent
16 years.

17 51. Due to the high-profile nature of many recent data breaches, Defendant was and/or
18 certainly should have been on notice and aware of such attacks occurring and, therefore, should
19 have assumed and adequately performed the duty of preparing for such an imminent attack.

20 52. Yet, despite the prevalence of public announcements of data breach and data
21 security compromises, Defendant failed to take appropriate steps to protect Representative
22 Plaintiff’s and Class Members’ PII and financial information from being compromised.

23
24 **Defendant Had an Obligation to Protect the Stolen Information**

25 53. Defendant’s failure to adequately secure Representative Plaintiff’s and Class
26 Members’ sensitive data breaches duties it owed Representative Plaintiff and Class Members
27 under statutory and common law. Representative Plaintiff and Class Members surrendered their
28

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1 highly sensitive personal data to Defendant under the implied condition that Defendant would keep
2 it private and secure. Accordingly, Defendant also had an implied duty to safeguard their data,
3 independent of any statute.

4 54. In addition to its obligations under federal and state laws, Defendant owed a duty
5 to Representative Plaintiff and Class Members to exercise reasonable care in obtaining, retaining,
6 securing, safeguarding, deleting, and protecting the PII and financial information in Defendant's
7 possession from being compromised, lost, stolen, accessed, and misused by unauthorized persons.
8 Defendant owed a duty to Representative Plaintiff and Class Members to provide reasonable
9 security, including consistency with industry standards and requirements, and to ensure that its
10 computer systems, networks, and protocols adequately protected the PII and financial information
11 of Representative Plaintiff and Class Members.

12 55. Defendant owed a duty to Representative Plaintiff and Class Members to design,
13 maintain, and test its computer systems, servers, and networks to ensure that the PII and financial
14 information in its possession was adequately secured and protected.

15 56. Defendant owed a duty to Representative Plaintiff and Class Members to create and
16 implement reasonable data security practices and procedures to protect the PII and financial
17 information in its possession, including not sharing information with other entities who maintained
18 sub-standard data security systems.

19 57. Defendant owed a duty to Representative Plaintiff and Class Members to
20 implement processes that would detect a breach on its data security systems in a timely manner.

21 58. Defendant owed a duty to Representative Plaintiff and Class Members to act upon
22 data security warnings and alerts in a timely fashion.

23 59. Defendant owed a duty to Representative Plaintiff and Class Members to disclose
24 if its computer systems and data security practices were inadequate to safeguard individuals' PII
25 and/or financial information from theft because such an inadequacy would be a material fact in the
26 decision to entrust this PII and/or financial information to Defendant.

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1 60. Defendant owed a duty of care to Representative Plaintiff and Class Members
2 because they were foreseeable and probable victims of any inadequate data security practices.

3 61. Defendant owed a duty to Representative Plaintiff and Class Members to encrypt
4 and/or more reliably encrypt Representative Plaintiff's and Class Members' PII and financial
5 information and monitor user behavior and activity in order to identify possible threats.

6
7 **Value of the Relevant Sensitive Information**

8 62. The ramifications of Defendant's failure to keep secure Representative Plaintiff's
9 and Class Members' PII and financial information are long lasting and severe. Once PII and
10 financial information is stolen, fraudulent use of that information and damage to victims may
11 continue for years. Indeed, the PII and/or financial information of Representative Plaintiff and
12 Class Members was taken by hackers to engage in identity theft or to sell it to other criminals who
13 will purchase the PII and/or financial information for that purpose. The fraudulent activity
14 resulting from the Data Breach may not come to light for years.

15 63. These criminal activities have and will result in devastating financial and personal
16 losses to Representative Plaintiff and Class Members. For example, it is believed that certain PII
17 compromised in the 2017 Experian data breach was being used, three years later, by identity
18 thieves to apply for COVID-19-related benefits in the state of Oklahoma. Such fraud will be an
19 omnipresent threat for Representative Plaintiff and Class Members for the rest of their lives. They
20 will need to remain constantly vigilant.

21 64. The FTC defines identity theft as "a fraud committed or attempted using the
22 identifying information of another person without authority." The FTC describes "identifying
23 information" as "any name or number that may be used, alone or in conjunction with any other
24 information, to identify a specific person," including, among other things, "[n]ame, Social Security
25 number, date of birth, official State or government issued driver's license or identification number,
26 alien registration number, government passport number, employer or taxpayer identification
27 number."

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1 65. Identity thieves can use PII and financial information, such as that of Representative
 2 Plaintiff and Class Members which Defendant failed to keep secure, to perpetrate a variety of
 3 crimes that harm victims. For instance, identity thieves may commit various types of government
 4 fraud such as immigration fraud, obtaining a driver's license or identification card in the victim's
 5 name but with another's picture, using the victim's information to obtain government benefits, or
 6 filing a fraudulent tax return using the victim's information to obtain a fraudulent refund.

7 66. There may be a time lag between when harm occurs versus when it is discovered,
 8 and also between when PII and/or financial information is stolen and when it is used. According
 9 to the U.S. Government Accountability Office ("GAO"), which conducted a study regarding data
 10 breaches:

11 [L]aw enforcement officials told us that in some cases, stolen data may be held for
 12 up to a year or more before being used to commit identity theft. Further, once stolen
 13 data have been sold or posted on the Web, fraudulent use of that information may
 14 continue for years. As a result, studies that attempt to measure the harm resulting
 15 from data breaches cannot necessarily rule out all future harm.³

16 67. If cyber criminals manage to access to personally sensitive data—as they did here—
 17 there is no limit to the amount of fraud to which Defendant may have exposed Representative
 18 Plaintiff and Class Members.

19 68. And data breaches are preventable.⁴ As Lucy Thompson wrote in the DATA BREACH
 20 AND ENCRYPTION HANDBOOK, "[i]n almost all cases, the data breaches that occurred could have
 21 been prevented by proper planning and the correct design and implementation of appropriate
 22 security solutions."⁵ She added that "[o]rganizations that collect, use, store, and share sensitive
 23 personal data must accept responsibility for protecting the information and ensuring that it is not
 24 compromised"⁶

25 _____
 26 ³ *Report to Congressional Requesters*, GAO, at 29 (June 2007), available at:
<http://www.gao.gov/new.items/d07737.pdf> (last accessed November 4, 2021).

27 ⁴ Lucy L. Thompson, "Despite the Alarming Trends, Data Breaches Are Preventable," in
 DATA BREACH AND ENCRYPTION HANDBOOK (Lucy Thompson, ed., 2012)

28 ⁵ *Id.* at 17.

⁶ *Id.* at 28.

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1 73. At all times herein relevant, Defendant owed Representative Plaintiff and Class
2 Members a duty of care, *inter alia*, to act with reasonable care to secure and safeguard their PII
3 and financial information and to use commercially reasonable methods to do so. Defendant took
4 on this obligation upon accepting and storing the PII and financial information of Representative
5 Plaintiff and Class Members in its computer systems and on its networks.

6 74. Among these duties, Defendant was expected:

- 7 a. to exercise reasonable care in obtaining, retaining, securing, safeguarding,
8 deleting and protecting the PII and financial information in its possession;
- 9 b. to protect Representative Plaintiff's and Class Members' PII and financial
10 information using reasonable and adequate security procedures and systems
11 that were/are compliant with industry-standard practices;
- 12 c. to implement processes to quickly detect the Data Breach and to timely act
13 on warnings about data breaches; and
- 14 d. to promptly notify Representative Plaintiff and Class Members of any data
15 breach, security incident, or intrusion that affected or may have affected
16 their PII and financial information.

15 75. Defendant knew that the PII and financial information was private and confidential
16 and should be protected as private and confidential. Therefore, Defendant owed a duty of care not
17 to subject Representative Plaintiff and Class Members to an unreasonable risk of harm because
18 they were foreseeable and probable victims of any inadequate security practices.

19 76. Defendant knew, or should have known, of the risks inherent in collecting and
20 storing PII and financial information, the vulnerabilities of its data security systems, and the
21 importance of adequate security. Defendant knew about numerous, well-publicized data breaches.

22 77. Defendant knew, or should have known, that its data systems and networks did not
23 adequately safeguard Representative Plaintiff's and Class Members' PII and financial information.

24 78. Only Defendant was in the position to ensure that its systems and protocols were
25 sufficient to protect the PII and financial information that Representative Plaintiff and Class
26 Members had entrusted to it.

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1 79. Defendant breached its duties to Representative Plaintiff and Class Members by
2 failing to provide fair, reasonable, or adequate computer systems and data security practices to
3 safeguard the PII and financial information of Representative Plaintiff and Class Members.

4 80. Because Defendant knew that a breach of its systems could damage millions of
5 individuals, including Representative Plaintiff and Class Members, Defendant had a duty to
6 adequately protect those data systems and the PII and financial information contained thereon.

7 81. Representative Plaintiff's and Class Members' willingness to entrust Defendant
8 with their PII and financial information was predicated on the understanding that Defendant would
9 take adequate security precautions. Moreover, only Defendant had the ability to protect its systems
10 and the PII and financial information they stored on them from attack. Thus, Defendant had a
11 special relationship with Representative Plaintiff and Class Members.

12 82. Defendant also had independent duties under state and federal laws that required it
13 to reasonably safeguard Representative Plaintiff's and Class Members' PII and financial
14 information and promptly notify them about the Data Breach. These "independent duties" are
15 untethered to any contract between Defendant and Representative Plaintiff and/or the remaining
16 Class Members.

17 83. Defendant breached its general duty of care to Representative Plaintiff and Class
18 Members in, but not necessarily limited to, the following ways:

- 19
- 20 a. by failing to provide fair, reasonable, or adequate computer systems and
21 data security practices to safeguard the PII and financial information of
22 Representative Plaintiff and Class Members;
 - 23 b. by failing to timely and accurately disclose that Representative Plaintiff's
24 and Class Members' PII and financial information had been improperly
25 acquired or accessed;
 - 26 c. by failing to adequately protect and safeguard the PII and financial
27 information by knowingly disregarding standard information security
28 principles, despite obvious risks, and by allowing unmonitored and
unrestricted access to unsecured PII and financial information;
 - d. by failing to provide adequate supervision and oversight of the PII and
financial information with which they were and are entrusted, in spite of the
known risk and foreseeable likelihood of breach and misuse, which
permitted an unknown third-party to gather PII and financial information of

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- 1 Representative Plaintiff and Class Members, misuse the PII, and
2 intentionally disclose it to others without consent.
- 3 e. by failing to adequately train its employees to not store PII and financial
4 information longer than absolutely necessary;
 - 5 f. by failing to consistently enforce security policies aimed at protecting
6 Representative Plaintiff's and the Class Members' PII and financial
7 information;
 - 8 g. by failing to implement processes to quickly detect data breaches, security
9 incidents, or intrusions; and
 - 10 h. by failing to encrypt Representative Plaintiff's and Class Members' PII and
11 financial information and monitor user behavior and activity in order to
12 identify possible threats.

13 84. Defendant's willful failure to abide by these duties was wrongful, reckless, and
14 grossly negligent in light of the foreseeable risks and known threats.

15 85. As a proximate and foreseeable result of Defendant's grossly negligent conduct,
16 Representative Plaintiff and Class Members have suffered damages and are at imminent risk of
17 additional harms and damages (as alleged above).

18 86. The law further imposes an affirmative duty on Defendant to timely disclose the
19 unauthorized access and theft of the PII and financial information to Representative Plaintiff and
20 Class Members so that they could and/or still can take appropriate measures to mitigate damages,
21 protect against adverse consequences, and thwart future misuse of their PII and financial
22 information.

23 87. Defendant breached its duty to notify Representative Plaintiff and Class Members
24 of the unauthorized access by waiting months after the Data Breach to notify Representative
25 Plaintiff and Class Members and then by failing and continuing to fail to provide Representative
26 Plaintiff and Class Members sufficient information regarding the breach. To date, Defendant has
27 not provided sufficient information to Representative Plaintiff and Class Members regarding the
28 extent of the unauthorized access and continues to breach its disclosure obligations to
Representative Plaintiff and Class Members.

88. Further, through its failure to provide timely and clear notification of the Data
Breach to Representative Plaintiff and Class Members, Defendant prevented Representative

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1 Plaintiff and Class Members from taking meaningful, proactive steps to secure their PII and
2 financial information.

3 89. There is a close causal connection between Defendant’s failure to implement
4 security measures to protect the PII and financial information of Representative Plaintiff and Class
5 Members and the harm suffered, or risk of imminent harm suffered by Representative Plaintiff and
6 Class Members. Representative Plaintiff’s and Class Members’ PII and financial information was
7 accessed as the proximate result of Defendant’s failure to exercise reasonable care in safeguarding
8 such PII and financial information by adopting, implementing, and maintaining appropriate
9 security measures.

10 90. Defendant’s wrongful actions, inactions, and omissions constituted (and continues
11 to constitute) common law negligence.

12 91. The damages Representative Plaintiff and Class Members have suffered (as alleged
13 above) and will suffer were and are the direct and proximate result of Defendant’s grossly
14 negligent conduct.

15 92. Additionally, 15 U.S.C. §45 (FTC Act, Section 5) prohibits “unfair . . . practices in
16 or affecting commerce,” including, as interpreted and enforced by the FTC, the unfair act or
17 practice by businesses, such as Defendant, of failing to use reasonable measures to protect PII and
18 financial information. The FTC publications and orders described above also form part of the basis
19 of Defendant’s duty in this regard.

20 93. Defendant violated 15 U.S.C. §45 by failing to use reasonable measures to protect
21 PII and financial information and not complying with applicable industry standards, as described
22 in detail herein. Defendant’s conduct was particularly unreasonable given the nature and amount
23 of PII and financial information it obtained and stored and the foreseeable consequences of the
24 immense damages that would result to Representative Plaintiff and Class Members.

25 94. As a direct and proximate result of Defendant’s negligence and negligence *per se*,
26 Representative Plaintiff and Class Members have suffered and will suffer injury, including but not
27 limited to: (i) actual identity theft; (ii) the loss of the opportunity of how their PII and financial
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1 information is used; (iii) the compromise, publication, and/or theft of their PII and financial
2 information; (iv) out-of-pocket expenses associated with the prevention, detection, and recovery
3 from identity theft, tax fraud, and/or unauthorized use of their PII and financial information; (v)
4 lost opportunity costs associated with effort expended and the loss of productivity addressing and
5 attempting to mitigate the actual and future consequences of the Data Breach, including but not
6 limited to, efforts spent researching how to prevent, detect, contest, and recover from
7 embarrassment and identity theft; (vi) the continued risk to their PII and financial information,
8 which may remain in Defendant's possession and is subject to further unauthorized disclosures so
9 long as Defendant fail to undertake appropriate and adequate measures to protect Representative
10 Plaintiff's and Class Members' PII and financial information in its continued possession; (vii) and
11 future costs in terms of time, effort, and money that will be expended to prevent, detect, contest,
12 and repair the impact of the PII and financial information compromised as a result of the Data
13 Breach for the remainder of the lives of Representative Plaintiff and Class Members.

14 95. As a direct and proximate result of Defendant's negligence and negligence *per se*,
15 Representative Plaintiff and Class Members have suffered and will continue to suffer other forms
16 of injury and/or harm, including, but not limited to, anxiety, emotional distress, loss of privacy,
17 and other economic and non-economic losses.

18 96. Additionally, as a direct and proximate result of Defendant's negligence and
19 negligence *per se*, Representative Plaintiff and Class Members have suffered and will suffer the
20 continued risks of exposure of their PII and financial information, which remain in Defendant's
21 possession and are subject to further unauthorized disclosures so long as Defendant fails to
22 undertake appropriate and adequate measures to protect the PII and financial information in its
23 continued possession.

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SECOND CLAIM FOR RELIEF
Invasion of Privacy
(On behalf of the Nationwide Class)

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3 97. Each and every allegation of the preceding paragraphs is incorporated in this cause
4 of action with the same force and effect as though fully set forth herein.

5 98. Representative Plaintiff and Class Members had a legitimate expectation of privacy
6 to their PII and financial information and were entitled to the protection of this information against
7 disclosure to unauthorized third-parties.

8 99. Defendant owed a duty to Representative Plaintiff and Class Members to keep their
9 PII and financial information confidential.

10 100. Defendant failed to protect and released to unknown and unauthorized third-parties
11 the PII and financial information of Representative Plaintiff and Class Members.

12 101. Defendant allowed unauthorized and unknown third-parties access to and
13 examination of the PII and financial information of Representative Plaintiff and Class Members,
14 by way of Defendant's failure to protect the PII and financial information.

15 102. The unauthorized release to, custody of, and examination by unauthorized third-
16 parties of the PII and financial information of Representative Plaintiff and Class Members is highly
17 offensive to a reasonable person.

18 103. The unauthorized intrusion was into a place or thing which was private and is
19 entitled to be private. Representative Plaintiff and Class Members disclosed their PII and financial
20 information to Defendant as part of obtaining services from Defendant, but privately with an
21 intention that the PII and financial information would be kept confidential and would be protected
22 from unauthorized disclosure. Representative Plaintiff and Class Members were reasonable in their
23 belief that such information would be kept private and would not be disclosed without their
24 authorization.

25 104. The Data Breach constitutes an intentional interference with Representative
26 Plaintiff's and Class Members' interests in solitude or seclusion, either as to their persons or as to
27 their private affairs or concerns, of a kind that would be highly offensive to a reasonable person.

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1 and would not be accessed by, acquired by, appropriated by, disclosed to, encumbered by,
2 exfiltrated by, released to, stolen by, used by, and/or viewed by unauthorized third-parties.

3 112. Representative Plaintiff and Class Members provided their respective PII and
4 financial information to Defendant with the explicit and implicit understandings that Defendant
5 would protect and not permit the PII and financial information to be accessed by, acquired by,
6 appropriated by, disclosed to, encumbered by, exfiltrated by, released to, stolen by, used by, and/or
7 viewed by unauthorized third-parties.

8 113. Representative Plaintiff and Class Members also provided their PII and financial
9 information to Defendant with the explicit and implicit understanding that Defendant would take
10 precautions to protect their PII and financial information from unauthorized access, acquisition,
11 appropriation, disclosure, encumbrance, exfiltration, release, theft, use, and/or viewing, such as
12 following basic principles of protecting its networks and data systems.

13 114. Defendant voluntarily received, in confidence, Representative Plaintiff's and Class
14 Members' PII and financial information with the understanding that the PII and financial
15 information would not be accessed by, acquired by, appropriated by, disclosed to, encumbered by,
16 exfiltrated by, released to, stolen by, used by and/or viewed by the public or any unauthorized
17 third-parties.

18 115. Due to Defendant's failure to prevent, detect, and avoid the Data Breach from
19 occurring by, *inter alia*, not following best information security practices to secure Representative
20 Plaintiff's and Class Members' PII and financial information, Representative Plaintiff's and Class
21 Members' PII and financial information was accessed by, acquired by, appropriated by, disclosed
22 to, encumbered by, exfiltrated by, released to, stolen by, used by and/or viewed by unauthorized
23 third-parties beyond Representative Plaintiff's and Class Members' confidence, and without their
24 express permission.

25 116. As a direct and proximate cause of Defendant's actions and/or omissions,
26 Representative Plaintiff and Class Members have suffered damages, as alleged herein.

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1 117. But for Defendant's failure to maintain and protect Representative Plaintiff's and
2 Class Members' PII and financial information in violation of the parties' understanding of
3 confidence, their PII and financial information would not have been accessed by, acquired by,
4 appropriated by, disclosed to, encumbered by, exfiltrated by, released to, stolen by, used by and/or
5 viewed by unauthorized third-parties. The Data Breach was the direct and legal cause of the misuse
6 of Representative Plaintiff's and Class Members' PII and financial information, as well as the
7 resulting damages.

8 118. The injury and harm Representative Plaintiff and Class Members suffered and will
9 continue to suffer was the reasonably foreseeable result of Defendant's unauthorized misuse of
10 Representative Plaintiff's and Class Members' PII and financial information. Defendant knew its
11 data systems and protocols for accepting and securing Representative Plaintiff's and Class
12 Members' PII and financial information had security and other vulnerabilities that placed
13 Representative Plaintiff's and Class Members' PII and financial information in jeopardy.

14 119. As a direct and proximate result of Defendant's breaches of confidence,
15 Representative Plaintiff and Class Members have suffered and will suffer injury, as alleged herein,
16 including, but not limited to, (a) actual identity theft; (b) the compromise, publication, and/or theft
17 of their PII and financial information; (c) out-of-pocket expenses associated with the prevention,
18 detection, and recovery from identity theft and/or unauthorized use of their PII and financial
19 information; (d) lost opportunity costs associated with effort expended and the loss of productivity
20 addressing and attempting to mitigate the actual and future consequences of the Data Breach,
21 including but not limited to, efforts spent researching how to prevent, detect, contest, and recover
22 from identity theft; (e) the continued risk to their PII and financial information, which remains in
23 Defendant's possession and is subject to further unauthorized disclosures so long as Defendant
24 fails to undertake appropriate and adequate measures to protect Class Members' PII and financial
25 information in its continued possession; (f) future costs in terms of time, effort, and money that
26 will be expended as result of the Data Breach for the remainder of the lives of Representative
27 Plaintiff and Class Members; (g) the diminished value of Representative Plaintiff's and Class
28

1 Members' PII and financial information; and (h) the diminished value of Defendant's services for
2 which Representative Plaintiff and Class Members paid and received.

3
4 **FOURTH CLAIM FOR RELIEF**
5 **Breach of Implied Contract**
6 **(On behalf of the Nationwide Class)**

7 120. Each and every allegation of the preceding paragraphs is incorporated in this cause
8 of action with the same force and effect as though fully set forth herein.

9 121. Through its course of conduct, Defendant, Representative Plaintiff, and Class
10 Members entered into implied contracts for Defendant to implement data security adequate to
11 safeguard and protect the privacy of Representative Plaintiff's and Class Members' PII and
12 financial information.

13 122. Defendant required Representative Plaintiff and Class Members to provide and
14 entrust their PII and financial information, including full names, addresses, and Social Security
15 Numbers, to purchase products/services.

16 123. Defendant solicited and invited Representative Plaintiff and Class Members to
17 provide their PII and financial information as part of Defendant's regular business practices.
18 Representative Plaintiff and Class Members accepted Defendant's offers and provided their PII
19 and financial information to Defendant.

20 124. As a condition of receiving services from Defendant, Representative Plaintiff and
21 Class Members provided and entrusted their PII and financial information to Defendant. In so
22 doing, Representative Plaintiff and Class Members entered into implied contracts with Defendant
23 by which Defendant agreed to safeguard and protect such non-public information, to keep such
24 information secure and confidential, and to timely and accurately notify Representative Plaintiff
25 and Class Members if their data had been breached and compromised or stolen.

26 125. A meeting of the minds occurred when Representative Plaintiff and Class Members
27 agreed to, and did, provide their PII and financial information to Defendant, in exchange for,
28 amongst other things, the protection of their PII and financial information.

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1 other personal information after Defendant knew, or should have known, of the security
2 vulnerabilities of the systems that were exploited in the Data Breach.

3 133. Defendant acted in bad faith and/or with malicious motive in denying
4 Representative Plaintiff and Class Members the full benefit of their bargains as originally intended
5 by the parties, thereby causing them injury in an amount to be determined at trial.

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8 **SIXTH CLAIM FOR RELIEF**
9 **Unfair Business Practices**
10 **(Cal. Bus. & Prof. Code, §17200, et seq.)**
11 **(On behalf of the California Subclass)**

12 134. Each and every allegation of the preceding paragraphs is incorporated in this cause
13 of action with the same force and effect as though fully set forth herein.

14 135. Representative Plaintiff and California Subclass Members further bring this cause
15 of action, seeking equitable and statutory relief to stop the misconduct of Defendant, as complained
16 of herein.

17 136. Defendant has engaged in unfair competition within the meaning of California
18 Business & Professions Code §§17200, et seq., because Defendant’s conduct is unlawful, unfair
19 and/or fraudulent, as herein alleged.

20 137. Representative Plaintiff, the California Subclass Members, and Defendant are each
21 a “person” or “persons” within the meaning of § 17201 of the California Unfair Competition Law
22 (“UCL”).

23 138. The knowing conduct of Defendant, as alleged herein, constitutes an unlawful
24 and/or fraudulent business practice, as set forth in California Business & Professions Code
25 §§17200-17208. Specifically, Defendant conducted business activities while failing to comply
26 with the legal mandates cited herein. Such violations include, but are not necessarily limited to:

- 27 a. failure to maintain adequate computer systems and data security practices
28 to safeguard PII and financial information;
- b. failure to disclose that its computer systems and data security practices were
inadequate to safeguard PII and financial information from theft;

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- c. failure to timely and accurately disclose the Data Breach to Representative Plaintiff and California Subclass Members;
- d. continued acceptance of PII and financial information and storage of other personal information after Defendant knew or should have known of the security vulnerabilities of the systems that were exploited in the Data Breach; and
- e. continued acceptance of PII and financial information and storage of other personal information after Defendant knew or should have known of the Data Breach and before they allegedly remediated the Data Breach.

139. Defendant knew or should have known that its computer systems and data security practices were inadequate to safeguard the PII and financial information of Representative Plaintiff and California Subclass Members, deter hackers, and detect a breach within a reasonable time and that the risk of a data breach was highly likely.

140. In engaging in these unlawful business practices, Defendant has enjoyed an advantage over its competition and a resultant disadvantage to the public and California Subclass Members.

141. Defendant’s knowing failure to adopt policies in accordance with and/or adhere to these laws, all of which are binding upon and burdensome to Defendant’s competitors, engenders an unfair competitive advantage for Defendant, thereby constituting an unfair business practice, as set forth in California Business & Professions Code §§17200-17208.

142. Defendant has clearly established a policy of accepting a certain amount of collateral damage, as represented by the damages to Representative Plaintiff and California Subclass Members herein alleged, as incidental to its business operations, rather than accept the alternative costs of full compliance with fair, lawful and honest business practices ordinarily borne by responsible competitors of Defendant and as set forth in legislation and the judicial record.

143. The UCL is, by its express terms, a cumulative remedy, such that remedies under its provisions can be awarded in addition to those provided under separate statutory schemes and/or

1 common law remedies, such as those alleged in the other causes of action of this Complaint. *See*
2 Cal. Bus. & Prof. Code § 17205.

3 144. Representative Plaintiff and California Subclass Members request that this Court
4 enter such orders or judgments as may be necessary to enjoin Defendant from continuing its unfair,
5 unlawful, and/or deceptive practices and to restore to Representative Plaintiff and California
6 Subclass Members any money Defendant acquired by unfair competition, including restitution
7 and/or equitable relief, including disgorgement or ill-gotten gains, refunds of moneys, interest,
8 reasonable attorneys' fees, and the costs of prosecuting this class action, as well as any and all other
9 relief that may be available at law or equity.

10
11 **SEVENTH CLAIM FOR RELIEF**
12 **Unjust Enrichment**
(On behalf of the Nationwide Class)

13 145. Each and every allegation of the preceding paragraphs is incorporated in this cause
14 of action with the same force and effect as though fully set forth herein.

15 146. By its wrongful acts and omissions described herein, Defendant has obtained a
16 benefit by unduly taking advantage of Representative Plaintiff and Class Members.

17 147. Defendant, prior to and at the time Representative Plaintiff and Class Members
18 entrusted their PII and financial information to Defendant for the purpose of purchasing
19 products/services from Defendant, caused Representative Plaintiff and Class Members to
20 reasonably believe that Defendant would keep such PII and financial information secure.

21 148. Defendant was aware, or should have been aware, that reasonable consumers would
22 have wanted their PII and financial information kept secure and would not have contracted with
23 Defendant, directly or indirectly, had they known that Defendant's information systems were sub-
24 standard for that purpose.

25 149. Defendant was also aware that, if the substandard condition of and vulnerabilities
26 in its information systems were disclosed, it would negatively affect Representative Plaintiff's and
27 Class Members' decisions to seek services therefrom.

28

1 Rule 23 (b)(1), (b)(2), and/or (b)(3), including appointment of Representative Plaintiff's counsel
2 as Class Counsel;

3 2. For an award of damages, including actual, nominal, and consequential damages,
4 as allowed by law in an amount to be determined;

5 3. That the Court enjoin Defendant, ordering it to cease and desist from unlawful
6 activities in further violation of California Business and Professions Code §17200, *et seq.*;

7 4. For equitable relief enjoining Defendant from engaging in the wrongful conduct
8 complained of herein pertaining to the misuse and/or disclosure of Representative Plaintiff's and
9 Class Members' PII, and from refusing to issue prompt, complete, and accurate disclosures to
10 Representative Plaintiff and Class Members;

11 5. For injunctive relief requested by Representative Plaintiff, including but not limited
12 to, injunctive and other equitable relief as is necessary to protect the interests of Representative
13 Plaintiff and Class Members, including but not limited to an Order:

- 14 a. prohibiting Defendant from engaging in the wrongful and unlawful acts
15 described herein;
- 16 b. requiring Defendant to protect, including through encryption, all data
17 collected through the course of business in accordance with all applicable
18 regulations, industry standards, and federal, state, or local laws;
- 19 c. requiring Defendant to delete and purge the PII of Representative Plaintiff
20 and Class Members unless Defendant can provide to the Court reasonable
21 justification for the retention and use of such information when weighed
22 against the privacy interests of Representative Plaintiff and Class Members;
- 23 d. requiring Defendant to implement and maintain a comprehensive
24 Information Security Program designed to protect the confidentiality and
25 integrity of Representative Plaintiff's and Class Members' PII;
- 26 e. requiring Defendant to engage independent third-party security auditors and
27 internal personnel to run automated security monitoring, simulated attacks,
28 penetration tests, and audits on Defendant's systems on a periodic basis;
- 29 f. prohibiting Defendant from maintaining Representative Plaintiff's and
30 Class Members' PII on a cloud-based database;
- 31 g. requiring Defendant to segment data by creating firewalls and access
32 controls so that, if one area of Defendant's network is compromised,
33 hackers cannot gain access to other portions of Defendant's systems;

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- h. requiring Defendant to conduct regular database scanning and securing checks;
- i. requiring Defendant to establish an information security training program that includes at least annual information security training for all employees, with additional training to be provided as appropriate based upon the employees’ respective responsibilities with handling PII, as well as protecting the PII of Representative Plaintiff and Class Members;
- j. requiring Defendant to implement a system of tests to assess its respective employees’ knowledge of the education programs discussed in the preceding subparagraphs, as well as randomly and periodically testing employees’ compliance with Defendant’s policies, programs, and systems for protecting personal identifying information;
- k. requiring Defendant to implement, maintain, review, and revise as necessary a threat management program to appropriately monitor Defendant’s networks for internal and external threats, and assess whether monitoring tools are properly configured, tested, and updated;
- l. requiring Defendant to meaningfully educate all Class Members about the threats that they face as a result of the loss of their confidential personal identifying information to third parties, as well as the steps affected individuals must take to protect themselves.

- 6. For prejudgment interest on all amounts awarded, at the prevailing legal rate;
- 7. For an award of attorneys’ fees, costs, and litigation expenses, as allowed by law;
- 8. For all other Orders, findings, and determinations identified and sought in this


Complaint.

JURY DEMAND

Representative Plaintiff, individually and on behalf of the Plaintiff Class(es) and/or Subclass(es), hereby demands a trial by jury for all issues triable by jury.

Dated: February 15, 2022

COLE & VAN NOTE

By: 
Cody A. Bolce, Esq.
Attorneys for Representative Plaintiff
and the Plaintiff Class(es)

JS 44 (Rev. 10/20)

CIVIL COVER SHEET

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

<p>I. (a) PLAINTIFFS</p> <p style="text-align: center;">CHRISTOPHER MEDVIGY</p> <p>(b) County of Residence of First Listed Plaintiff <u>San Diego County</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i></p> <p style="text-align: center;">Cole & Van Note (510) 891-9800 555 12th Street, Suite 1725, Oakland, CA 94607</p>	<p style="text-align: center;">DEFENDANTS</p> <p style="text-align: center;">ACCUTECH SYSTEMS CORPORATION</p> <p>County of Residence of First Listed Defendant <u>Delaware County</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p> <p style="text-align: right; font-weight: bold; font-size: 1.2em;">'22CV207 LL BLM</p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input checked="" type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">PTF</td> <td style="width:33%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 2</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> </tr> <tr> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1																				
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Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT *(Place an "X" in One Box Only)* Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from Another District *(specify)*
 6 Multidistrict Litigation - Transfer
 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
 28 U.S.C. § 1332

Brief description of cause:
 Def. Failed to properly secure and safeguard Plaintiff's and Class Members' personally identifiable info stored within Def's info network.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):*

JUDGE _____ DOCKET NUMBER _____

DATE: February 15, 2022

SIGNATURE OF ATTORNEY OF RECORD:

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Accutech Systems Facing Class Action Over August 2021 Data Breach](#)
