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

10 CONOR SORAGHAN individually and on
behalf of all others similarly situated,

11
12 Plaintiff,

13 vs.

14 DRAEGER, INC.,

15
16 Defendant.
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Case No.: **'20CV0130 WQHAHG**

CLASS ACTION COMPLAINT FOR
VIOLATIONS OF:

1. CALIFORNIA'S CUSTOMER RECORDS ACT, CAL. CIV. CODE §§ 1798.80, ET SEQ.;
2. CALIFORNIA'S UNFAIR COMPETITION LAW, CAL. BUS. & PROF. CODE §§ 17200, ET SEQ.;
3. NEGLIGENCE; AND
4. BREACH OF IMPLIED CONTRACT

JURY TRIAL DEMANDED

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1 INTRODUCTION

- 2 1. Plaintiff CONOR SORAGHAN, individually and on behalf of all others
3 similarly situated (“Plaintiff”), through Plaintiff’s attorneys, brings this Class
4 Action Complaint to challenge the actions of Defendant DRAEGER, INC.
5 (“Defendant” or “Draeger”) and alleges the following based on personal
6 knowledge, the investigation of counsel, and information and belief.
- 7 2. Defendant’s current and former employees’ most sensitive, non-public personal
8 identifying information (“PII”), including Plaintiff and similarly situated
9 persons’ names, addresses, Form W-2 data, Social Security numbers, dates of
10 birth, and 2015 compensation information, was compiled and negligently
11 released by Defendant in response to a “phishing scam” and is now in the
12 possession of unknown third parties who are believed to have posted Plaintiff
13 and similarly situated persons PII on the dark web to be used for illegal
14 purposes.
- 15 3. Defendant owed a legal duty of care to Plaintiff and similarly situated
16 employees who work or worked for Draeger to maintain, protect, and safeguard
17 their personal identifying information and tax information. However, Defendant
18 breached this duty by negligently compiling and releasing Plaintiff and
19 similarly situated employees’ information to unauthorized third parties.
- 20 4. As a result of Defendant’s failure to protect Plaintiff and the Class members’
21 PII and private tax information, Plaintiff and similarly situated employees’
22 personal identifying information and private tax information were
23 compromised, permanently placing Plaintiff and similarly situated employees
24 at an increased risk of identity theft, fraud, and causing direct financial
25 expenses associated with credit monitoring, credit freezing, replacement of
26 compromised credit, debt, or bank cards, deprivation of the use and enjoyment
27 of their credit, and other measures needed to protect against the misuse of their
28 personal information.

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- 1 5. Defendant knew or should have known that such a security and data breach was
- 2 possible and should have implemented and maintained adequate security
- 3 procedures and practices to protect Plaintiff and other current and former
- 4 employees’ personal identifying information, including their Social Security
- 5 numbers and tax information.
- 6 6. While many violations are described below with specificity, this Complaint
- 7 alleges violations of the statutes cited in their entirety.
- 8 7. Unless otherwise alleged, any violations by Defendant were knowing, willful,
- 9 and intentional, and Defendant did not maintain procedures reasonably adapted
- 10 to avoid any such specific violation.
- 11 8. Unless otherwise indicated, the use of Defendant’s name in this Complaint
- 12 includes all agents, employees, officers, members, directors, heirs, successors,
- 13 assigns, principals, trustees, sureties, subrogees, representatives, and insurers of
- 14 the Defendant named herein.

JURISDICTION AND VENUE

- 16 10. Jurisdiction of this Court arises pursuant to the Class Action Fairness Act
- 17 (“CAFA”) 28 U.S.C. § 1332(d)(2).
- 18 11. This action arises out of Defendant's violations of California’s Customer
- 19 Records Act, Cal. Civ. Code §§ 1798.80, et seq., California’s Unfair
- 20 Competition Law, Cal. Bus. & Prof. Code §§ 17200, et seq.; Negligence; and
- 21 Breach of Implied Contract.
- 22 12. Because Defendant does business within the State of California, personal
- 23 jurisdiction is established.
- 24 13. Venue is proper pursuant to 28 U.S.C. § 1391.

PARTIES

- 26 15. Plaintiff is a resident of the State of California who is a former employee of
- 27 Defendant.

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1 16. Defendant is an international company based in Lübeck, Germany with more
2 than 13,000 employees worldwide and is present in over 190 countries around
3 the globe; and Defendant claims to be a leader in the fields of medical and IT
4 safety technology. In the United States, Defendant is incorporated under the
5 laws of the State of Pennsylvania, with a principal place of business or
6 headquarters located at 3135 Quarry Road, Telford, PA 18969.

7 **FACTUAL ALLEGATIONS**

8 17. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs
9 of this Complaint as if fully set forth herein..

10 18. Plaintiff commenced employment with Defendant Draeger, Inc. (“Defendant”)
11 on or about April 2015. During the course of being employed with Defendant,
12 Plaintiff was required to provide Defendant with personal information,
13 including Plaintiff’s full name, social security number, date of birth, address,
14 phone number, and other sensitive personal information to Defendant. In
15 providing such data to Defendant, Plaintiff entrusted Defendant with his
16 personal information and relied on Defendant to consistently implement and
17 maintain reasonable security measures to safeguard his personal information.

18 19. On or about January 19, 2016, some unknown person called Defendant
19 requesting the information of current United States employees of Draeger.

20 20. The following day, on or about January 20, 2016, Defendant sent a spreadsheet,
21 or similar document or file, containing Plaintiff and other Draeger employees’
22 Form W-2 information, including but not limited to personal identifying
23 information (“PII”), full names, addresses, Social Security numbers, dates of
24 birth, and 2015 compensation information, to an unknown and unauthorized
25 person in response to a “phishing scam.”

26 21. According to reports, Defendant’s employee received a call from someone who
27 claimed to be a Draeger executive on January 19, 2016; and on January 20,
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1 2016, this unknown and unauthorized person was provided a spreadsheet with
2 the information of Plaintiff and other U.S. employees of Draeger.

3 22. Approximately nine (9) days later, on or about January 29, 2016, Plaintiff and
4 other Draeger employees received an email notice from Defendant stating that
5 Defendant had experienced a security breach, informing Plaintiff and other
6 employees that their personal information had been released to an unknown and
7 unauthorized person in response to a “phishing scam.”

8 23. Cybercriminals were able to perpetrate a breach of this depth and scope because
9 Draeger failed to implement and maintain reasonable and adequate security
10 measures to safeguard Plaintiff and other employees’ personal information from
11 access and disclosure to unauthorized third parties. Draeger has obligations by
12 statute and otherwise to protect its employees’ employment and personnel
13 records from unauthorized access, yet failed to prevent, detect, end or limit the
14 scope of the breach. Defendant failed to maintain basic security measures such
15 as access controls, passwords, and data encryption, that would have ensured
16 that Plaintiff and other employees’ data would be harder to access or steal and,
17 in the event such data was accessed or stolen, it would have been unreadable
18 and thus would cause less damage to Plaintiff and other employees and their
19 families.

20 24. Defendant knew, or should have known, that it was foreseeable and Defendant
21 was susceptible to such a data breach as various companies, including banks
22 and hospitals, have been involved in similar phishing scams and data breaches
23 in general.

24 25. Following the breach, Defendant focused on its own remediation efforts rather
25 than protecting its employees’ sensitive personal information or minimizing the
26 harm to its employees and their families. Indeed, Draeger delayed announcing
27 or confirming the data breach and left its employees in the dark about the scope
28 of the breach, how they and their families were impacted, and what steps

1 Draeger would take to remedy or mitigate the breach. Due to Draeger's delay,
2 current and former employees could have immediately purchased identity
3 protection services and insurance and taken other measures to protect their
4 compromised PII, yet Plaintiff and other employees remained vulnerable to
5 identity theft, medical identity theft, tax fraud, and financial theft because their
6 Social Security numbers, financial information and personal identifying
7 information has been, and may still be, made publicly available to anyone with
8 an internet connection. Defendant's conduct is a direct cause of the ongoing
9 harm Plaintiff and similarly situated employees have suffered, are currently
10 suffering, and will continue to experience for the indefinite future.

11 26. As a result of Defendant's negligent and inadequate security practices and slow
12 response to the breach, Draeger's current and former employees and their
13 family members are subject to a heightened and concrete risk of identity theft
14 due to the exposure of their financial, tax and other personal identifying
15 information. Further, Plaintiff and other similarly situated employees have spent
16 and will have to continue to spend substantial time and money securing their
17 personal information and accounts and protecting their identities as a result of
18 Defendant's breach.

19 27. An identity thief uses another person's personal and financial information, such
20 as the person's name, address, and other information, without permission, to
21 commit fraud or other crimes. Identity thieves may commit various types of
22 crimes, from obtaining a driver's license or identification card in the victim's
23 name, using the victim's information to obtain government benefits, filing a
24 fraudulent tax return using the victim's information to obtain a refund. Identity
25 thieves may also obtain medical services using the victim's stolen data or
26 commit any number of other frauds, such as opening new financial accounts,
27 incurring charges in the victim's name, taking out loans in the victim's name, or
28 incurring unconsented charges on the victim's existing accounts. Also, an

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1 identity thief may obtain a job or procure housing using the victim’s personal
2 information, or even falsely give the victim’s information during an arrest.

3 28. Plaintiffs brings this action on behalf of himself and other Draeger employees
4 whose PII has been compromised as a result of the data breach. Plaintiff and
5 other class members, as well as their family members, will have to remain
6 vigilant for the rest of their lives to combat potential identity theft arising from
7 the staggering amount of financial, tax, and other personal information that is
8 not only in the hands of cyber criminals, but that has also been posted on the
9 internet for anyone to gather and use for any purpose, at any time, in perpetuity.
10 Despite all best efforts of Plaintiff, class members, or anyone else, this most
11 sensitive personal data can never be made private again.

12 29. Draeger failed to adequately safeguard its employees’ PII, including Social
13 Security numbers, Form W-2 data, and financial information, in compliance
14 with applicable law. Plaintiff seeks injunctive relief requiring Draeger to
15 implement and maintain security practices to comply with regulations designed
16 to prevent and remedy these types of breaches, as well as restitution, damages,
17 and other relief.

18 **CLASS ALLEGATIONS**

19 43. Plaintiff brings this case as a Class Action pursuant to Fed. R. Civ. P. 23 on
20 behalf of Plaintiff and all others similarly situated.

21 44. Plaintiff represents, and is a member of, the following class (the “Class”)
22 defined as:

23 All current and former Draeger employees, who reside or who
24 have resided in California, whose personal identifying
25 information was transmitted by Draeger to an unauthorized
third party as a result of the security breach on or around
January 20, 2016.

26 44. Plaintiff represents, and is a member of, the Class because Plaintiff was an
27 employee of Draeger’s whose personal information was transmitted by Draeger
28 to an unauthorized third party on or around January 20, 2016.

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- 1 45. Defendant, its employees and agents are excluded from the Class.
- 2 46. Plaintiff does not know the number of members in the Class, but believes the
3 number of Class members to be 40 or more individuals, if not more. Thus, this
4 matter should be certified as a Class Action to assist in the expeditious litigation
5 of this matter.
- 6 47. Common questions of fact and law exist as to Plaintiff and the Class and
7 predominate over any questions affecting solely individual members of the
8 Class, pursuant to Rule 23(b)(3). Among the questions of fact and law that
9 predominate over any individual issues are:
- 10 a) Whether Defendant failed to exercise reasonable care to protect Plaintiff and
11 the Class' Form W-2 information, full names, Social Security numbers,
12 dates of birth, PII, private financial and tax information;
- 13 b) Whether Defendant timely, accurately, and adequately informed Plaintiff
14 and the Class that their private information and Social Security numbers had
15 been compromised;
- 16 c) Whether Defendant's conduct with respect to the data breach was unfair,
17 unlawful, and/or deceptive;
- 18 d) Whether Defendant owed a legal duty to Plaintiff and the Class members to
19 protect their personal information and whether Defendant breached this
20 duty;
- 21 e) Whether Defendant was negligent;
- 22 f) Whether Plaintiff and the Class are at an increased risk of identity theft as a
23 result of Defendant's breach and failure to safeguard Plaintiff and the Class
24 members' personal information; and
- 25 g) Whether Plaintiff and the Class are entitled to the relief sought herein,
26 including injunctive relief.
- 27 48. Plaintiff's claims are typical of the claims of the Class because Plaintiff and the
28 Class members sustained damages arising out of Defendant's wrongful conduct

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and/or omissions as alleged herein. Specifically, Plaintiff and the Class’ claims arise from Defendant’s failure to install and maintain reasonable security measures to protect Plaintiff and the Class members’ PII, Form W-2 tax information, Social Security numbers, and other private personal information; and Defendant failed to timely notify Plaintiff and the Class after the security breach occurred.

49. Plaintiff will fairly and adequately protect the interests of the Class and has retained counsel competent and experienced in class action litigation. Plaintiff has no interest antagonistic or in conflict with those in the Class and is therefore an adequate representative for the Class.

50. A Class Action is a superior method for the fair and efficient adjudication of this controversy because the joinder of all members of the Class is impracticable. Furthermore, the adjudication of this controversy through a class action will avoid the possibility of inconsistent and potentially conflicting adjudication of the claims asserted herein.

CAUSES OF ACTION

**COUNT I
VIOLATION OF CALIFORNIA’S CUSTOMER RECORDS ACT
CAL. CIV. CODE §§ 1798.80, ET SEQ.**

55. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs of this Complaint as if fully set forth herein..

56. “[T]o ensure that personal information about California residents is protected,” the California legislature enacted Cal. Civ. Code § 1798.81.5 which requires that any business that “owns or licenses personal information about a California resident shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.”

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- 1 57. Defendant is a “business: within the meaning of Cal. Civ. Code § 1798.80(a).
- 2
- 3 58. Plaintiff and each member of the Class is an “individual” as defined by Cal.
- 4 Civ. Code § 1798.80(d).
- 5 59. The employee information disclosed by Defendant in the breach was “personal
- 6 information” as defined by Cal. Civ. Code sections 1798.80(e) and
- 7 1798.91.5(d), which includes “information that identifies, relates to, describes,
- 8 or is capable of being associated with, a particular individual, including, but not
- 9 limited to, his or her name, signature, Social Security number, physical
- 10 characteristics or description, address, telephone number, passport number,
- 11 driver’s license or state identification card number, insurance policy number,
- 12 education, employment, employment history, bank account number, credit card
- 13 number, debit card number, or any other financial information, medical
- 14 information, or health insurance information.”
- 15 60. The unauthorized release and disclosure of Plaintiff and the Class members’
- 16 personal information constituted a “breach of the security system” of
- 17 Defendant.
- 18 61. Defendant unreasonably delayed informing Plaintiff and the Class members
- 19 about the data breach after Defendant knew or should have known that the
- 20 breach of security had occurred.
- 21 62. Defendant failed to disclose to Plaintiff and the Class, without unreasonable
- 22 delay, and in the most expedient time possible, the breach of security of their
- 23 unencrypted, or not properly and securely encrypted, personal information
- 24 when Defendant knew or had reason to believe that such information had been
- 25 compromised.
- 26 63. As a result of Defendant’s violation of Cal. Civ. Code § 1798.82, Plaintiff and
- 27 the Class members incurred damages relating to time and expenses spent for
- 28 credit monitoring, credit freezing, and other identity theft protection services.

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1 64. Plaintiff, individually and on behalf of the Class, seeks all remedies available
2 under Cal. Civ. Code § 1798.84, including but not limited to: (a) damages
3 suffered by Plaintiff and the Class; and (b) equitable relief.

4 **COUNT II**
5 **VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW**
6 **CAL. BUS. & PROF. CODE §§ 17200, ET SEQ.**

7 65. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs
8 of this Complaint as if fully set forth herein.

9 66. California’s Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, et seq.
10 (“UCL”), prohibits any “unlawful, unfair or fraudulent business act or practice
11 and unfair, deceptive, untrue or misleading advertising.” For the reasons
12 discussed above, Defendant engaged in unlawful, unfair, and fraudulent
13 business practices in violation of the UCL. Therefore, Defendant has violated
14 Cal. Bu. & Prof. Code §§ 17200, et seq.

15 67. Defendant’s acts, omissions, and conduct constitute unlawful, unfair, and
16 fraudulent business practices under the UCL.

17 68. Defendant’s acts, omissions, and conduct were unlawful because they violated
18 the California Customer Records Act, Cal. Civ. Code §§ 1798.80, et seq.

19 69. Defendant’s practices were unlawful and in violation of Cal. Civ. Code §
20 1798.81.5(b) because Defendant failed to take reasonable measures to protect
21 Plaintiff and other current and former employees’ personal information,
22 including their tax information, financial information, social security numbers,
23 and other private and sensitive data.

24 70. Defendant’s practices were also unlawful and in violation of Cal. Civ. Code §
25 1898.82 because Defendant unreasonably delayed informing Plaintiff and the
26 Class about the breach of security after Defendant knew or had reason to know
27 that the data breach had occurred.

28 71. Defendant’s acts, omissions, and conduct constitute violations of the unlawful
prong of the UCL because Defendant failed to comport with a reasonable

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1 standard of care and public policy as reflected in statutes like the Information
2 Practices Act of 1977 and the California Customer Records Act, which were
3 enacted by the California Legislature to protect individuals’ personal
4 information and ensure that entities that solicit or are entrusted with personal
5 information implement and utilize reasonable security measures to safeguard
6 their personal information.

7 72. In unduly delaying notice of the breach to Plaintiff and the Class, Defendant
8 engaged in unfair business practices by engaging in conduct that undermines or
9 violates the stated policies underlying the California Customer Records Act and
10 other privacy statutes. In enacting the California Customer Records Act, the
11 Legislature stated that “[i]dentity theft is costly to the marketplace and to
12 consumers” and that “victims of identity theft must act quickly to minimize the
13 damages; therefore expeditious notification of possible misuse of a person’s
14 personal information is imperative.” 2002 Cal. Legis. Serve. CH. 1054 (A.B.
15 700) (West).

16 73. Defendant’s conduct also undermines California public policy as reflected in
17 other statutes such as the Information Practices Act of 1977, which was enacted
18 to protect individuals’ data and ensure that entities who solicit consumers’
19 information or are entrusted with personal information use reasonable security
20 measures to safeguard such data.

21 74. Defendant’s acts and omissions also constitute unfair business conduct or
22 practices because they offend public policy and constitute unscrupulous
23 activities that caused substantial injury to Plaintiff and the Class. The gravity of
24 harm resulting from Defendant’s conduct outweighs any potential benefits
25 attributable to the conduct and there were reasonably available alternatives to
26 further Defendant’s legitimate business interests.

27 75. Defendant has engaged in fraudulent business practices by failing to disclose
28 material information regarding the breach of security and Defendant’s deficient

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1 security system, the security of the personal information, tax and financial
2 information, social security numbers, and other personal identifying
3 information of Plaintiff and the Class.

4 76. Defendant had exclusive knowledge of the material information regarding its
5 breach of security and deficient security policies and practices, and regarding
6 the security of the personal information, tax and financial information, social
7 security numbers, and other personal identifying information of Plaintiff and the
8 Class.

9 77. Defendant also had exclusive knowledge of the amount of time that it compiled
10 and maintained current and former employees' personal information, tax and
11 financial information, and other personal identifying information of current
12 employees and former employees after they were no longer employed with
13 Defendant.

14 78. Defendant failed to expeditiously notify Plaintiff and the Class and actively
15 concealed the material information it had regarding Defendant's deficient
16 security policies and practices, and regarding the security of the personal
17 information, tax and financial information, social security numbers, and other
18 personal identifying information of Plaintiff and the Class.

19 79. Plaintiff was misled by Defendant's omissions about Defendant's data security,
20 and Plaintiff reasonably relied upon them to his detriment. But for Defendant's
21 omissions regarding the security of his personal information, Plaintiff would
22 have insisted that his personal information, including private tax and financial
23 information, social security number, and other personal identifying information
24 be more securely protected or removed from Defendant's system. Plaintiff
25 would have also taken additional steps to safeguard his identity and protect
26 himself from the harm that could flow from Defendant's lax security measures.
27 But for Defendant's omissions, Plaintiff would not be subject to the increased
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risk of identity theft and harm he is now facing and will continue to face as a result of Defendant’s breach.

80. As a direct and proximate result of Defendant’s unlawful, unfair, and fraudulent business practices as alleged herein, Plaintiff and the Class have suffered injury in fact. Plaintiff and the Class have been injured in that their personal information and social security numbers have been compromised by Defendant, subjecting them to a heightened risk of identity theft, identity fraud, and/or Plaintiff and the Class are at risk for future identity theft and fraudulent activity in their name or on their financial accounts.

81. As a result of Defendant’s violations of the UCL, Plaintiff and the Class are entitled to injunctive relief, including but not limited to an order that Defendant be required to (1) engage third party security auditors and penetration tests as well as internal security personnel to conduct testing consistent with industry practices, including simulated attacks, penetration tests, and audits on Defendant’s systems on a regular basis; (2) engage third party security and internal auditors to run automated security monitoring consistent with industry standards, (3) audit, test, and train security personnel regarding new or modified security procedures; (4) purge, delete, and destroy, in a secure manner, employee data not necessary or required to be maintained for business operations; (5) conduct regular database scanning and checks consistent with industry standards; (6) periodically conduct internal security training and education to inform internal security personnel how to identify and avoid or contain a breach when it occurs and what to do in response to such a breach consistent with prudent industry practices; (7) receive periodic compliance audits by third parties regarding the security of the systems Defendant uses to store consumers’ and current or former employees’ personal information; (8) meaningfully educate current and former employees about the threats and risks they now face as a result of their personal information, including private tax and

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1 financial information and social security numbers, being compromised and
2 released to unauthorized third parties. as well as any steps they should take for
3 self-protection; and (9) provide ongoing identity theft protection, credit
4 monitoring, and recovery services to Plaintiff and the Class.

5 82. Because of Defendant’s unlawful, unfair, and fraudulent business practices,
6 Plaintiff and the Class are entitled to relief, including but not limited to
7 restitution, declaratory relief, and a permanent injunction enjoining Defendant
8 from its unlawful and unfair conduct. Plaintiff also seeks attorneys’ fees and
9 costs under applicable law, including California Code of Civil Procedure §
10 1021.5 and Fed. R. Civ. P. Rule 23.

11 **COUNT III**

12 **NEGLIGENCE**

13 83. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs
14 of this Complaint as if fully set forth herein.

15 84. Defendant owed a duty to Plaintiff of the Class to exercise reasonable care in
16 obtaining, securing, compiling, safeguarding, deleting and protecting Plaintiff
17 and the Class members’ personal information, private tax information, financial
18 information, social security numbers, and other personal identifying
19 information. Thus duty included, among other things, designing, maintaining,
20 and testing Defendant’s security systems and taking reasonable security
21 measures to ensure that Plaintiff and the Class’ personal information in
22 Defendant’s possession was adequately secured and protected. Defendant
23 further owed Plaintiff and the Class a duty to implement measures that would
24 detect a breach of its security system in a timely manner and to expeditiously
25 act upon learning of a breach of security or data breach.

26 85. Defendant owed a duty to Plaintiff and the Class to provide security measures,
27 including security consistent with industry standards, to ensure that its systems
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- and networks and Defendant’s personnel responsible for them, adequately protected the personal information of Plaintiff and the Class.
86. Defendant owed a duty of care to Plaintiff and the Class because they were foreseeable victims of any inadequate security measures or practices. Defendant knew or should have known that it had inadequately safeguarded Plaintiff and other employees’ personal information and failed to implement adequate precautionary measures, including ample training, policies, and procedures to protect Plaintiff and the Class members’ personal information, tax and financial information, social security numbers, and other personal identifying information.
87. Defendant owed a duty to expeditiously notify Plaintiff and the Class that their personal information, tax and financial information, social security numbers, and other personal identifying information had been or were reasonably believed to have been compromised. Prompt disclosure was required, appropriate, and necessary so that, among other things, Plaintiff and the Class members could take measures to avoid identity theft or fraudulent charges, including monitoring their accounts and credit reports for fraudulent activity, contacting their creditors and financial institutions, obtaining credit monitoring and identity theft protection services, filing reports with law enforcement and other governmental agencies, requesting a credit freeze, and other steps to mitigate or ameliorate the damages caused by Defendant compromising Plaintiff and the Class members’ personal information.
88. Plaintiff and the Class entrusted Defendant with their personal information, private tax and financial information, and social security numbers, relying on the understanding that Defendant would implement policies and procedures and take measures to protect their personal information and protect Plaintiff and the Class from harm in the event of a data breach.

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- 1 89. Defendant knew or should have known of the inherent risks of collecting and
2 storing employees’ personal information, including their private tax information
3 and social security numbers, and the critical importance and requirement to
4 provide adequate security of that information for Plaintiff and the Class.
- 5 90. Through its acts and omissions described herein, Defendant unlawfully
6 breached its duty of reasonable care, and its duty under Cal. Civ. Code sections
7 1798.81.5(b) and 1898.82, to implement security measures to protect the
8 personal information of Plaintiff and the Class members within Defendant’s
9 possession and control. Defendant further breached its duty by failing to
10 expeditiously notify and accurately disclose to Plaintiff and the Class that their
11 personal information, private tax information and social security numbers
12 compiled and maintained by Defendant were known or reasonably believed to
13 have been stolen or compromised.
- 14 91. As a direct and proximate result of Defendant’s breach of its duties of care,
15 Plaintiff and the Class have been harmed by the unauthorized release of their
16 personal information, private tax information, social security numbers, and
17 other personal identifying information, causing Plaintiff and the Class to spend
18 time and personal funds on credit monitoring services, identity theft services,
19 credit protection services, and putting Plaintiff and the Class at an increased risk
20 of identity theft. Plaintiff and the Class members will further continue to be
21 required to spend time and money to monitor and protect their personal
22 information, identities, tax and financial information, social security numbers,
23 their credit, reputations, and other personal identifying information for the
24 foreseeable future as they will always be at a heightened risk as a result of their
25 personal information being compromised by Defendant.

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COUNT IV

BREACH OF IMPLIED CONTRACT

- 1
- 2
- 3 92. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs
- 4 of this Complaint as if fully set forth herein.
- 5 93. Defendant offered employment to Plaintiff and the Class members in exchange
- 6 for compensation and other employment benefits. To receive said compensation
- 7 and other employment benefits, Defendant required Plaintiff and the Class
- 8 members to provide their PII, including names, addresses, Social Security
- 9 numbers, and other personal information.
- 10 94. Defendant had an implied duty of good faith to ensure that the PII of Plaintiff
- 11 and the Class that Defendant compiled and kept in its possession and control
- 12 was only used to provide the agreed upon compensation and other employment
- 13 benefits from Defendant; and that this PII would not be disclosed or released to
- 14 any unauthorized third parties outside of Defendant.
- 15 95. Defendant was required to reasonably safeguard and protect the PII of Plaintiff
- 16 and the Class members from unauthorized use, and to timely and accurately
- 17 notify Plaintiff and the Class if their PII was compromised so that Plaintiff and
- 18 the Class could act to mitigate the harm caused by the unauthorized disclosure
- 19 or release of their personal information to unknown and unauthorized third
- 20 parties.
- 21 96. Plaintiff and the Class accepted Defendant's employment offer and fully
- 22 performed their obligations under the implied contract with Defendant by
- 23 providing their personal information to Defendant, among other obligations.
- 24 97. Plaintiff and the Class would not have provided and entrusted their personal
- 25 information to Defendant in the absence of their implied contract with
- 26 Defendant, and would have instead retained the opportunity and ability to
- 27 control their personal information rather than entrusting such personal
- 28 information with Defendant.

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1 98. Defendant breached the implied contracts with Plaintiff and the Class by failing
2 to reasonably safeguard and protect Plaintiff and the Class members' personal
3 information by failing to provide expeditious and accurate notice to Plaintiff
4 and the Class that their personal information was compromised as a result of the
5 data breach.

6 99. As a proximate and direct result of Defendant's breaches of its implied
7 contracts with Plaintiff and the Class members, Plaintiff and the Class have
8 suffered and will suffer injury, including but not necessarily limited to: (1) the
9 loss of the opportunity and ability to control how their personal information is
10 used; (2) the diminution in the value and/or use of their personal information
11 entrusted to Defendant; (3) the compromise, publication, and/or theft of their
12 personal information; (4) out-of-pocket expenses associated with the
13 prevention, detection, monitoring, protection, and recovery of their personal
14 information from identity theft and/or unauthorized use of their PII, private tax
15 and financial information and accounts; (5) lost opportunity costs associated
16 with effort expended and the loss of productivity addressing and attempting to
17 mitigate the actual and future consequences of the data breach, including but
18 not limited to efforts spent researching how to prevent, detect, and recover from
19 identity theft and personal data misuse; (6) costs associated with the ability to
20 freely utilize credit and assets frozen or flagged due to credit misuse, including
21 denial of credit and/or increased costs to use credit, credit scores, credit reports,
22 and assets; (7) unauthorized use of compromised PII; (8) tax fraud; (9) the
23 continued risk to Plaintiff and the Class members' PII, which remains in
24 Defendant's possession and are subject to further breaches so long as Defendant
25 fails to undertake reasonable and appropriate measures to protect the PII in its
26 possession; and (10) future costs in terms of time, effort, and expense that will
27 be expended by Plaintiff and the Class to prevent, detect, contest, monitor,
28

1 protect, and repair the impact of compromised PII as a result of the data breach
2 for the remainder of the lives of Plaintiff and the Class.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, prays
5 that the Court enter judgment against Defendant as follows:

- 6 • That this action be certified as a Class Action on behalf of the Class;
- 7 • That Plaintiff be appointed as the representative of the Class;
- 8 • That Plaintiff’s counsel be appointed as Class Counsel;
- 9 • That the Court find that Defendant violated the California Customer Records
- 10 Act, Cal. Civ. Code §§ 1798.80, et seq.;
- 11 • That the Court find that Defendant violated the California Unfair Competition
- 12 Law, Cal. Bus. & Prof Code §§ 17200, et seq.;
- 13 • That the Court find that Defendant is liable for Negligence;
- 14 • That the Court find that Defendant is liable for Breach of Implied Contract;
- 15 • That the Court find that Defendant breached its duty to safeguard and protect
- 16 Plaintiff and the Class members’ personal information, including private tax
- 17 information, social security numbers, and other personal identifying
- 18 information, that were compromised by the data breach;
- 19 • That the Court award Plaintiff and the Class relief, including any actual and
- 20 statutory damages, restitution, and disgorgement;
- 21 • That the Court award reasonable attorney’s fees and costs of prosecuting this
- 22 action pursuant to California Code of Civil Procedure § 1021.5 and Fed. R.
- 23 Civ. P. Rule 23;
- 24 • That the Court award pre-judgment and post-judgment interest as prescribed by
- 25 law; and
- 26 • Any and all other relief that this Court may deem just and proper.

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TRIAL BY JURY

61. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted,

Date: January 17, 2020

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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: [Draeger Hit with Class Action After Disclosing Employee Information in 2016 Phishing Scam](#)
