

1 Rosemary M. Rivas (State Bar No. 209147)
Email: rivas@zlk.com

2 Quentin A. Roberts (State Bar No. 306687)
Email: qroberts@zlk.com

3 **LEVI & KORSINSKY LLP**
4 44 Montgomery Street, Suite 650
5 San Francisco, California 94104
Telephone: (415) 291-2420
Facsimile: (415) 484-1294

6 Gayle M. Blatt (State Bar No. 122048)
Email: gmb@cglaw.com

7 **CASEY GERRY SCHENK FRANCAVILLA**
8 **BLATT & PENFIELD LLP**
9 110 Laurel Street
San Diego, California 92101
Telephone: (619) 238-1811
Facsimile: (619) 544-9232

10 Counsel for Plaintiffs and the Proposed Classes

11
12 **UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 IRENE SUNG, KIMBERLY CARBONI, ANNIE
16 FULTON, CARY BERGER, EMMALYNE
17 OWENS, RUTH PHELPS, and CHRISTINE
WILLETTS, on behalf of themselves and all others
similarly situated,

18 Plaintiffs,

19 v.

20 SCHURMAN FINE PAPERS, d/b/a SCHURMAN
21 RETAIL GROUP,

22 Defendant.

Case No. 3:17-cv-02760

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

23 Plaintiffs Irene Sung, Kimberly Carboni, Annie Fulton, Cary Berger, Emmalyne Owens, Ruth
24 Phelps, and Christine Willetts (“Plaintiffs”), on behalf of themselves and the proposed Classes defined
25 herein, bring this class action suit against Defendant Schurman Fine Papers, doing business as
26 Schurman Retail Group, (“SRG” or “Company”). In support of this Class Action Complaint, Plaintiffs
27 allege, based on personal information and the investigation of their counsel, as follows:
28

NATURE OF THE ACTION

1
2 1. On January 18, 2017, in what is known as a “phishing” attack, a cybercriminal
3 pretending to be the Chief Financial Officer of SRG sent an email asking for the IRS Form W-2
4 (“W-2”) for all 2016 employees of SRG. A W-2 contains sensitive and personal identifying
5 information (“PII”), including name, address, salary, and social security number (“SSN”) of the
6 employee to whom it corresponds.

7 2. Unfortunately, an SRG employee provided the requested information. In its notice of
8 data breach to employees, SRG says it did not discover the fraudulent request until on or around
9 March 8, 2017.

10 3. To date, a number of current and former SRG employees have experienced identity
11 theft. Specifically, the cybercriminals responsible for the phishing attack have fraudulently filed tax
12 returns, requested tax information from the IRS, and filled out information to obtain federal student
13 loans, among other things, using the SRG W-2s it obtained.

14 4. It is remarkable that SRG fell for this trap. Such “phishing” or “spoofing” attacks on
15 businesses are not new and are widely reported in the media. Moreover, in 2016 and in 2017, the IRS
16 published and issued alerts to payroll and human resources professionals warning them of phishing
17 schemes designed to obtain personal information, such as W-2s for purposes of monetizing the data,
18 including by filing fraudulent tax returns for refunds.

19 5. Despite widespread warnings, SRG failed to implement proper security measures
20 and/or adequately train staff handling sensitive employee information, such as the W-2 information.
21 Now SRG’s former and current employees must pay the price.

22 6. Further, while SRG provided thieves with the W-2 information of all 2016 employees
23 in January 2017, the Company claims it did not learn about the fraud until sometime in March 2017,
24 when employees began reporting that fraudulent tax returns had been filed in their names.

25 7. SRG first notified current employees about the spoofing attack via an internal memo
26 sometime on March 10, 2017. However, it was not until around March 21, 2017, nearly two months
27 after the attack, that SRG sent letters notifying its 2016 employees of the spoofing attack. Moreover,
28 certain former employees, including Plaintiff Berger, did not receive a data breach notification letter

1 unless they contacted SRG directly after experiencing identity theft. By the time SRG notified its
2 current and former employees of the data breach, it was too late for many to protect themselves.

3 8. Both current and former employees have either suffered identity theft and/or will be at
4 a heightened risk for identity theft for the rest of their lives. With the PII contained within the W-2s,
5 criminals can fraudulently open credit card accounts; take out loans; file tax returns; apply for benefits;
6 and obtain employment, among other things.

7 9. Plaintiffs, on behalf of themselves and all others similarly situated, bring claims for
8 negligence, breach of contract, violations of the Unfair Competition Law, Cal. Bus. & Prof. Code
9 §§ 17200, *et seq.*, and for violations of state security breach notification laws.

10 **THE PARTIES**

11 10. Plaintiff Irene Sung is a citizen of Massachusetts. Plaintiff was employed by SRG in
12 2016 and received a notice data breach letter from SRG.

13 11. Plaintiff Kimberly Carboni is a citizen of Florida. Plaintiff was employed by SRG in
14 2016 and received a notice data breach letter from SRG.

15 12. Plaintiff Annie Fulton is a citizen of California. Plaintiff was employed by SRG in
16 2016 and received a notice data breach letter from SRG.

17 13. Plaintiff Cary Berger is a citizen of Massachusetts. Plaintiff was employed by SRG in
18 2016 and received a notice data breach letter from SRG.

19 14. Plaintiff Emmalyne Owens is a citizen of North Carolina. Plaintiff was employed by
20 SRG in 2016 and received a notice data breach letter from SRG.

21 15. Plaintiff Ruth Phelps is a citizen of Massachusetts. Plaintiff is currently an SRG
22 employee and was an employee in 2016. Plaintiff received a notice data breach letter from SRG.

23 16. Plaintiff Christine Willetts is a citizen of Massachusetts. Plaintiff is currently an SRG
24 employee and was an employee in 2016. Plaintiff received a notice data breach letter from SRG.

25 17. Defendant SRG is a citizen and a corporation organized under the laws of the state of
26 California. SRG is headquartered at 500 Chadbourne Road, Fairfield, California 94534. The
27 Company has approximately 450 retail stores nationwide, including under the brand name Papyrus.
28

JURISDICTION AND VENUE

18. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), because the aggregate amount in controversy exceeds \$5 million, exclusive of interests and costs; the number of members of the proposed Class exceeds 100; and Plaintiffs and at least one Defendant are citizens of different states.

19. This Court has *in personam* jurisdiction over Defendant because Defendant is present and licensed to do business in this Judicial District, regularly conducts business in this Judicial District, and/or has extensive contacts with this forum.

20. Venue is proper in this Court pursuant to 28 U.S.C. § 1391. Defendant transacts substantial business in this District, including operating a number of retail stores under the name Papyrus.

21. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

FACTUAL ALLEGATIONS

What is a Phishing Attack?

22. A phishing attack is a scheme by cyber criminals to try to get people to share personal and financial data, such as W-2s during the upcoming tax season. In 2016, the IRS warned that criminals were targeting company payroll departments.

23. One phishing variation is known as a “spoofing” email that will contain the actual name of the company’s chief executive officer (“CEO”) or another executive; however, it is sent by a person pretending to be the CEO. The email will go to a company office employee and will request a list of employees and information, such as social security numbers.

24. Typical language contained in the spoofing emails are as follows:

- “Kindly send me the individual 2015 W-2 (PDF) and earnings summary of all W-2 of our company staff for a quick review.”
- “Can you send me the updated list of employees with full details (Name, Social Security Number, Date of Birth, Home Address, Salary).”
- “I want you to send me the list of W-2 copy of employees wage and tax statement

1 for 2015, I need them in PDF file type, you can send it as an attachment. Kindly
2 prepare the lists and email them to me asap.”

3 25. These spoofing emails are designed to trick company payroll departments into thinking
4 they are legitimate requests by company executives and into sending the requested information. The
5 spoofer can then use the information for a wide variety of identity fraud, including filing fraudulent tax
6 returns; opening credit card and bank accounts; obtaining loans; opening utility accounts; and filing
7 for student aid, among other things.

8 26. In 2016 alone, it was widely reported that 41 organizations were hit by phishing attacks
9 that compromised thousands of employee records.

10 ***Security Data Breaches Involving PII Lead to Identity Theft***

11 27. The United States Government Accountability Office noted in a June 2007 report on
12 Data Breaches (“GAO Report”) that identity thieves can use identifying information such as SSNs to
13 open financial accounts, receive government benefits, and incur charges and credit in a person’s
14 name.¹ As the GAO Report states, this type of identity theft is the most harmful because it may take
15 some time for the victim to become aware of the theft and can adversely impact the victim’s credit
16 rating. In addition, the GAO Report states that victims of identity theft will face “substantial costs and
17 inconvenience repairing damage to their credit records[] [and their] good name.”

18 28. According to the Federal Trade Commission (“FTC”), identity theft victims must spend
19 countless hours and money repairing the impact to their good name and credit record.² Identity thieves
20 use stolen personal information such as SSNs for a variety of crimes, including credit card fraud,
21 phone or utilities fraud, tax fraud, and bank/finance fraud.³

22
23 _____
24 ¹ See <http://www.gao.gov/new.items/d07737.pdf>.

25 ² See FTC Identity Theft site, <http://www.ftc.gov/bcp/edu/microsites/idtheft/consumers/about-identity-theft.html>.

26 ³ The FTC defines identity theft as “a fraud committed or attempted using the identifying information
27 of another person without authority.” 17 C.F.R. § 162.30. The FTC describes “identifying
28 information” as “any name or number that may be used, alone or in conjunction with any other
information, to identify a specific person,” including, among other things, “[n]ame, social security
number, date of birth, official State or government issued driver’s license or identification number,
alien registration number, government passport number, employer or taxpayer identification
number” *Id.*

1 29. Identity theft crimes often include more than just crimes of financial loss. Identity
2 thieves can also commit various types of government fraud, such as: obtaining a driver's license or
3 official identification card in the victim's name but with the thief's picture; using the victim's name
4 and SSN to obtain government benefits; or filing a fraudulent tax return using the victim's
5 information. In addition, identity thieves may obtain a job using the victim's SSN, rent a house or
6 receive medical services in the victim's name, and may even give the victim's personal information to
7 police during an arrest resulting in an arrest warrant being issued in the victim's name. Further, loss of
8 private and personal health information can expose the victim to loss of reputation, loss of job
9 employment, black mail, and other negative effects.

10 30. Additionally, identity theft crimes in today's world include more than just crimes for
11 financial misuse as identity thieves have used personal information to assist in preparing or
12 committing acts of domestic terrorism.

13 31. A person whose personal information has been compromised may not see any signs of
14 identity theft for *years*. According to the GAO Report:

15 [L]aw enforcement officials told us that in some cases, stolen data may be held for up
16 to one year or more before being used to commit identity theft. Further, once stolen
17 data has been sold or posted on the web, fraudulent attempt to measure the harm
18 resulting from data breaches cannot necessarily rule out all future harm.

18 32. Because personal information is such a valuable commodity to identity thieves, once
19 the information has been compromised, criminals often trade the information on the "cyber black-
20 market" for a number of years.⁴ As a result of recent large-scale data breaches, identity thieves and
21 cyber criminals have openly posted stolen credit card numbers, SSNs, and other personal information
22 directly on various Internet websites essentially making the information publicly available. One study
23 found hundreds of websites which displayed stolen personal information and that none of these
24 websites were blacklisted by Google's "Safe Browsing list." As the study concluded:

25
26
27 ⁴ Companies, in fact, also recognize personal information as an extremely valuable commodity akin to
28 a form of personal property. See T. Soma, et al., *Corporate Privacy Trend: The "Value" of
Personally Identifiable Information ("PII") Equals the "Value" of Financial Assets*, 15 Rich. J.L. &
Tech. 11, at *3-4 (2009) <http://law.richmond.edu/jolt/v15i4/article11.pdf>.

1 It is clear from the current state of the credit card black-market that cyber criminals can
2 operate much too easily on the Internet. They are not afraid to put out their email
3 addresses, in some cases phone numbers and other credentials in their advertisements.
It seems that the black market for cyber criminals is not underground at all. In fact, it's
very "in your face."⁵

4 33. Unlike credit card data theft, where the credit card numbers can be changed and
5 cancelled quickly, personal information such as birth dates and SSNs cannot be changed or as easily
6 cancelled.

7 CLASS ALLEGATIONS

8 34. Plaintiffs bring this action on behalf of themselves and all other members of the
9 proposed Classes initially defined as follows:

- 10 a. **Nationwide Employee Class:** All persons residing in the United States and who
11 (1) were employed by Schurman Fine Papers in 2016, and (2) whose PII was
12 compromised as a result of the data breach.
- 13 b. **California Employee Class:** All persons residing in California and who (1) were
14 employed by Schurman Fine Papers in 2016, and (2) whose PII was compromised as a
15 result of the data breach.
- 16 c. **Florida Employee Class:** All persons residing in Florida and who (1) were employed
17 by Schurman Fine Papers in 2016, and (2) whose PII was compromised as a result of
18 the data breach.
- 19 d. **Massachusetts Employee Class:** All persons residing in Massachusetts and who
20 (1) were employed by Schurman Fine Papers in 2016, and (2) whose PII was
21 compromised as a result of the data breach.
- 22 e. **North Carolina Employees Class:** All persons residing in North Carolina and who
23 (1) were employed by Schurman Fine Papers in 2016, and (2) whose PII was
24 compromised as a result of the data breach.
- 25 f. **Third-Party Class:** All persons not employed by Schurman Fine Papers in 2016,
26 whose PII was compromised as a result of the data breach, including but not limited to
27 spouses, children, or other individuals associated with SRG Employees.
- 28

⁵ <http://www.stopthehacker.com/2010/03/03/the-underground-credit-card-blackmarket/>

1 35. Excluded from the proposed Classes are: any entity in which SRG has a controlling
2 interest, is a parent or subsidiary, or which is controlled by SRG, as well as the officers, directors,
3 affiliates, legal representatives, heirs, predecessors, successors, and assigns of SRG. Also excluded
4 are the judges and court personnel in this case and any members of their immediate families. Plaintiffs
5 reserve the right to re-define the Class definitions after conducting discovery.

6 36. All members of the proposed Classes are readily ascertainable. SRG has access to
7 addresses and other contact information for thousands of members of the proposed Classes, which can
8 be used for providing notice to many Class members.

9 37. This action has been properly brought and may properly be maintained as a class action
10 under Rule 23(a)(1-4), Rule 23(b)(1-3), and Rule 23(c)(4) of the Federal Rules of Civil Procedure and
11 case law thereunder.

12 **Numerosity of the Proposed Classes**

13 **(Fed. R. Civ. P. 23(a)(1))**

14 38. The Classes are so numerous that joinder of all members would be impracticable.
15 While the precise number of Class members has not yet been determined, SRG has 450 retail stores
16 across the United States. Therefore, it is likely that Class members number in the thousands.

17 **Predominance of Common Questions of Fact and Law**

18 **(Fed. R. Civ. P. 23(a)(2); 23(b)(3))**

19 39. There are questions of law and fact common to all Class members, and they
20 predominate over any questions affecting only individual Class members, including, but not limited to
21 the following:

- 22 a. Whether and to what extent Defendant had a duty to protect the Class members' PII;
- 23 b. Whether Defendant breached its duty to protect the Class members' PII;
- 24 c. Whether Defendant failed to implement and maintain reasonable security procedures
25 and practices to protect Plaintiffs' and the Class members' PII;
- 26 d. Whether Defendant failed to provide adequate employee training on security
27 procedures and practices to protect Plaintiffs' and the Class members PII;
- 28 e. Whether Defendant notified Plaintiffs' and the Class members of the data breach in the

1 most expedient time possible and without unreasonable delay as required by the state
2 security breach notification laws alleged herein;

- 3 f. Whether Defendant engaged in unlawful and unfair conduct in violation of California
4 Business and Professions Code §§ 17200, *et seq.*, California’s Unfair Competition Law
5 (“UCL”);
- 6 g. Whether Defendant acted negligently in safeguarding, monitoring, and protecting
7 Plaintiffs’ and the Class members’ PII;
- 8 h. Whether Plaintiffs and Class members are entitled to damages;
- 9 i. Whether Defendant provided adequate credit monitoring; and
- 10 j. Whether Plaintiffs and Class members are entitled to equitable and/or injunctive relief.

11 **Typicality of Claims**

12 **(Fed. R. Civ. P. 23(a)(3))**

13 40. Plaintiffs’ claims are typical of the claims of the Class members. Plaintiffs and all
14 Class members were injured through SRG’s uniform misconduct described above and assert the same
15 claims for relief. The same events and conduct that give rise to Plaintiffs’ claims also give rise to the
16 claims of every other Class member because each Plaintiff and Class member is a person that has
17 suffered harm as a direct result of the same conduct engaged in by SRG and resulting in the data
18 breach.

19 **Adequacy of Representation**

20 **(Fed. R. Civ. P. 23(a)(4))**

21 41. Plaintiffs and their counsel will fairly and adequately represent the interests of the Class
22 members. Plaintiffs have no interest antagonistic to, or in conflict with, the interests of the Class
23 members. Plaintiffs’ lawyers are highly experienced in the prosecution of consumer class actions and
24 complex commercial litigation.

25 **Superiority of a Class Action**

26 **(Fed. R. Civ. P. 23(b)(3))**

27 42. A class action is an appropriate method for the fair and efficient adjudication of this
28 controversy. There is no special interest in the members of the Class individually controlling the

1 prosecution of separate actions. The loss of money and other harm sustained by many individual Class
2 members will not be large enough to justify individual actions, especially in proportion to the
3 significant costs and expenses necessary to prosecute this action. The expense and burden of
4 individual litigation make it impossible for many members of the Class individually to address the
5 wrongs done to them. Class treatment will permit the adjudication of claims of Class members who
6 could not afford individually to litigate their claims against SRG. Class treatment will permit a large
7 number of similarly situated persons to prosecute their common claims in a single form
8 simultaneously, efficiently, and without duplication of effort and expense that numerous individual
9 actions would entail. No difficulties are likely to be encountered in the management of this class
10 action that would preclude its maintenance as a class action, and no superior alternative exists for the
11 fair and efficient adjudication of this controversy. Furthermore, SRG transacts substantial business in
12 and perpetuated its unlawful conduct in California. SRG will not be prejudiced or inconvenienced by
13 the maintenance of this class action in this forum. Class certification, therefore, is appropriate under
14 Fed. R. Civ. P. 23(a) and (b)(3). The above common questions of law or fact predominate over any
15 questions affecting individual members of the Class, and a class action is superior to other available
16 methods for the fair and efficient adjudication of the controversy.

17 43. The expense and burden of litigation will substantially impair the ability of Plaintiffs
18 and Class members to pursue individual lawsuits to vindicate their rights. Absent a class action, SRG
19 will retain the benefits of its wrongdoing despite its serious violations of the law.

20 **Risk of Inconsistent or Dispositive Adjudications and the**
21 **Appropriateness of Final Injunctive or Declaratory Relief**

22 **(Fed. R. Civ. P. 23(b)(1) and (2))**

23 44. In the alternative, this action may properly be maintained as a class action, because:
24 a. the prosecution of separate actions by individual Class members would create a risk of
25 inconsistent or varying adjudication with respect to individual Class members, which would establish
26 incompatible standards of conduct for Defendant; or
27 b. the prosecution of separate actions by individual Class members would create a risk of
28 adjudications with respect to individual members of the Class which would, as a practical matter, be

1 dispositive of the interests of other Class members not parties to the adjudications, or substantially
2 impair or impede their ability to protect their interests; or

3 c. Defendant has acted or refused to act on grounds generally applicable to the Class,
4 thereby making appropriate final injunctive or corresponding declaratory relief with respect to the
5 Class as a whole.

6 **Issue Certification**

7 **(Fed. R. Civ. P. 23(c)(4))**

8 45. In the alternative, the common questions of fact and law, set forth in Paragraph 39, are
9 appropriate for issue certification on behalf of the proposed class.

10 **FIRST CAUSE OF ACTION**

11 **Negligence—On Behalf of All Classes**

12 46. Plaintiffs hereby incorporate all other paragraphs of this Complaint and restates them as
13 if fully set forth herein.

14 47. Defendant requested and came into possession of Plaintiffs' and Class members' PII,
15 and had a duty to exercise reasonable care in safeguarding and protecting such information from
16 unlawful intrusion. Defendant's duty arose from, among other things, the legal requirements and its
17 relationship with its employees.

18 48. Defendant had a duty to have procedures in place to detect and prevent the improper
19 access and misuse of Plaintiffs' and Class members' PII, and a duty to timely notify Plaintiffs of a data
20 breach of their PII. Defendant also had a duty to adequately train personnel regarding the protection
21 of Plaintiffs' and Class members' PII. The breach of security, unauthorized access, and resulting
22 injury to Plaintiffs' and the Class were reasonably foreseeable, particularly in light of its inadequate
23 data security policies and procedures and lack of training and widely reported spoofing incidents.

24 49. Defendant, through its actions and/or omissions, unlawfully breached its duty to
25 Plaintiffs and Class members by failing to implement industry protocols and exercise reasonable care
26 in protecting and safeguarding Plaintiffs' and Class members' PII within Defendant's control, and in
27 promptly notifying Plaintiffs and Class members. But for Defendant's breach of its duties, Plaintiffs'
28 and Class members' PII would not have been compromised.

1 50. Plaintiffs' and Class members' PII was stolen and used for identity theft as the
2 proximate result of Defendant failing to exercise reasonable care in safeguarding such information by
3 adopting, implementing or maintaining appropriate security measures and training.

4 51. As a result of Defendant's conduct, Plaintiffs and Class members have suffered identity
5 theft and/or are at a continued significant increased risk of identity theft for years to come. Plaintiffs
6 and Class members suffered and will continue to suffer actual damages including, but not limited to,
7 expenses and/or time spent on communicating and/or visiting with the IRS; expenses and/or time spent
8 on credit monitoring, black market website surveillance, public record scanning, credit freezes, and
9 identity theft insurance; time spent scrutinizing bank statements, credit card statements, and credit
10 reports; and time spent initiating fraud alerts.

11 **SECOND CAUSE OF ACTION**

12 **(“Unlawful” Business Practices in Violation of the Unfair Competition Law, 13 Cal. Bus. & Prof. Code §§ 17200, *et seq.*—On Behalf of All Classes)**

14 52. Plaintiffs hereby incorporate all other paragraphs of this Complaint and restates them as
15 if fully set forth herein.

16 53. The UCL defines unfair business competition to include any “unlawful, unfair or
17 fraudulent” act or practice, as well as any “unfair, deceptive, untrue or misleading” advertising. Cal.
18 Bus. Prof. Code § 17200.

19 54. A business act or practice is “unlawful” if it violates any established state or federal
20 law.

21 55. SRG's practices were unlawful and in violation of Civil Code § 1798.81.5(b) because
22 SRG failed to take reasonable measures in protecting Plaintiffs' and Class members' PII, as alleged
23 herein.

24 56. SRG's practices were also unlawful and in violation of Civil Code § 1798.82 because
25 SRG unreasonably delayed informing Plaintiffs and Class members about the breach of security after
26 SRG knew the breach occurred.

27 57. Plaintiffs reserve the right to identify other violations of law as the facts develop.

28 58. As a result of SRG's practices, Plaintiffs have suffered injury in fact and lost money or

1 property. Specifically, Plaintiffs and Class members have already suffered identity theft and/or are at
2 a continued significant increased risk of identity theft for years to come. Plaintiffs and Class members
3 suffered and will continue to suffer actual damages including, but not limited to, expenses and/or time
4 spent on communicating and/or visiting with the IRS; expenses and/or time spent on credit monitoring,
5 black market website surveillance, public record scanning, credit freezes, and identity theft insurance;
6 time spent scrutinizing bank statements, credit card statements, and credit reports; and time spent
7 initiating fraud alerts.

8 59. Plaintiffs, on behalf of themselves and the Class members, seek appropriate injunctive
9 relief designed to ensure against the recurrence of a data breach by adopting and implementing best
10 security data practices to safeguard employee PII and that would include, without limitation, an order
11 and judgment directing SRG to: (1) implement policies and procedures for the securing of data that
12 complies with all legal requirements; (2) encrypt all PII; (3) provide training to employees; and
13 (4) provide to Plaintiffs and Class members appropriate monitoring services, including credit
14 monitoring, black website surveillance, and public record scanning, among other things.

15 **THIRD CAUSE OF ACTION**

16 **(“Unfair” Business Practices in Violation of the Unfair Competition Law, 17 Cal. Bus. & Prof. Code §§ 17200, *et seq.*—On Behalf of All Classes)**

18 60. Plaintiffs hereby incorporate all other paragraphs of this Complaint and restates them as
19 if fully set forth herein.

20 61. The UCL defines unfair business competition to include any “unlawful, unfair or
21 fraudulent” act or practice, as well as any “unfair, deceptive, untrue or misleading” advertising. Cal.
22 Bus. Prof. Code § 17200.

23 62. SRG’s practices constitute unfair business practices in violation of the UCL because,
24 among other things, they are immoral, unethical, oppressive, unscrupulous, or substantially injurious
25 to employees and/or any utility of such practices is outweighed by the harm caused to employees.
26 SRG’s practices violate the legislative policies of the underlying statutes alleged herein: namely,
27 protecting employee PII. SRG’s practices caused substantial injury to Plaintiffs and are not
28 outweighed by any benefits, and Plaintiffs could not have reasonably avoided injuries.

1 efforts to safeguard employees' PII.

2 70. SRG's current and former employees, including Plaintiffs and the Employee Class
3 members, relied upon this covenant and would not have disclosed their PII without assurances that it
4 would be properly safeguarded. Moreover, the covenant to adequately safeguard the PII of Plaintiffs
5 and the Employee Class members is an implied term, to the extent it is not an express term.

6 71. Plaintiffs and the Employee Class members fulfilled their obligations under the contract
7 by providing their PII to SRG.

8 72. SRG however, failed to safeguard and protect the PII of Plaintiffs and the Employee
9 Class members. SRG's breach of its obligations under the contract between the parties directly caused
10 Plaintiffs and Employee Class members to suffer injuries.

11 73. Plaintiffs, on behalf of themselves and the Employee Class members, respectfully
12 request this Court award all relevant damages for SRG's breach of contract.

13 **FIFTH CAUSE OF ACTION**

14 **Violation of the Security Breach Notification Law, Cal. Civil Code § 1798.82—by Annie Fulton**
15 **on Behalf of the California Employee Class**

16 74. Plaintiff Annie Fulton hereby incorporates all other paragraphs of this Complaint and
17 restates them as if fully set forth herein.

18 75. Defendant conducts business in California and owns computerized data that includes
19 the PII of California residents, including Plaintiff's PII.

20 76. Plaintiff Annie Fulton was a California resident at the time she worked for Defendant.

21 77. Defendant's information security systems were breached in January 2017, however,
22 Defendant did not inform Plaintiff and the California Employee Class until sometime in late March
23 2017.

24 78. By failing to timely disclose to Plaintiff and each member of the proposed California
25 Employee Class that their unencrypted Personal Information was reasonably believed to have been
26 acquired by an unauthorized person, Defendant violated Cal. Civ. Code § 1798.82. Defendant failed
27 to notify Plaintiff and the proposed California Employee Class of the 2017 data breach in the most
28 expedient time possible and unreasonably delayed notifying those affected since law enforcement did

1 not determine notification would hinder a criminal investigation.

2 79. Defendant could have notified Plaintiff and the proposed California Employee Class
3 sooner had it implemented and maintained adequate policies and procedures.

4 80. As a direct and proximate result of Defendant's violation of Cal. Civ. Code § 1798.82,
5 Plaintiff and California Employee Class members have been injured. Plaintiff and California
6 Employee Class members are therefore entitled to damages, injunctive relief, and reasonable
7 attorneys' fees and costs.

8 **SIXTH CAUSE OF ACTION**

9 **Violation of the Security Breach Notification Law, Mass. Gen. Laws §§ 93H-1, et seq.—by Cary**
10 **Berger, Christine Willetts, Ruth Phelps, and Irene Sung on Behalf of the Massachusetts**
11 **Employee Class**

11 81. Plaintiffs Cary Berger, Christine Willetts, Ruth Phelps, and Irene Sung hereby
12 incorporate all other paragraphs of this Complaint and restates them as if fully set forth herein.

13 82. Defendant conducts business in Massachusetts and owns computerized data that
14 includes the PII of Massachusetts residents, including Plaintiffs' PII.

15 83. Plaintiffs were at all relevant times residents of Massachusetts.

16 84. Defendant's information security systems were breached in January 2017, however,
17 Defendant did not inform Plaintiffs until sometime in late March 2017.

18 85. By failing to timely disclose to Plaintiffs and each member of the proposed
19 Massachusetts Employee Class that their PII was reasonably believed to have been acquired by an
20 unauthorized person, Defendant violated Mass. Gen. Laws §§ 93H-1, et seq. Defendant failed to
21 notify Plaintiffs and the proposed Massachusetts Employee Class of the 2017 data breach in the most
22 expedient time possible and unreasonably delayed notifying those affected since law enforcement did
23 not determine notification would hinder a criminal investigation.

24 86. Defendant could have notified Plaintiffs and the proposed Massachusetts Employee
25 Class sooner had it implemented and maintained adequate policies and procedures.

26 87. As a direct and proximate result of Defendant's violation of Mass. Gen. Laws §§ 93H-
27 1, Plaintiffs and Massachusetts Employee Class members have been injured. Plaintiffs and
28 Massachusetts Employee Class members are therefore entitled to damages, injunctive relief, and

1 reasonable attorneys' fees and costs.

2 **SEVENTH CAUSE OF ACTION**

3 **Violation of the Security Breach Notification Law, Fla. Stat. §§ 501.171, 292.0041, 282.318(2)(i),**
4 **et seq.—by Kimberly Carboni on Behalf of the Florida Employee Class**

5 88. Plaintiff Kimberly Carboni hereby incorporates all other paragraphs of this Complaint
6 and restates them as if fully set forth herein.

7 89. Defendant conducts business in Florida and owns computerized data that includes the
8 PII of Florida residents, including Plaintiff's PII.

9 90. Plaintiff was at all relevant times a resident of Florida.

10 91. Defendant's information security systems were breached in January 2017, however,
11 Defendant did not inform Plaintiff until sometime in late March 2017.

12 92. By failing to timely disclose to Plaintiff and each member of the proposed Florida
13 Employee Class that their PII was reasonably believed to have been acquired by an unauthorized
14 person, Defendant violated Fla. Sta. §§ 501.171, 292.0041, 282.318(2)(i), *et seq.* Defendant failed to
15 notify Plaintiff and the proposed Florida Employee Class of the 2017 data breach in the most
16 expedient time possible and unreasonably delayed notifying those affected since law enforcement did
17 not determine notification would hinder a criminal investigation.

18 93. Defendant could have notified Plaintiff and the proposed Florida Employee Class
19 sooner had it implemented and maintained adequate policies and procedures.

20 94. As a direct and proximate result of Defendant's violation of Fla. Sta. §§ 501.171,
21 292.0041, 282.318(2)(i), *et seq.*, Plaintiff and Florida Employee Class members have been injured.
22 Plaintiff and Florida Employee Class members are therefore entitled to damages, injunctive relief, and
23 reasonable attorneys' fees and costs.

24 **EIGHTH CAUSE OF ACTION**

25 **Violation of the Security Breach Notification Law, N.C. Gen. Stat. §§ 75-61, 75-65, et seq.—by**
26 **Emmalyne Owens on Behalf of the North Carolina Employee Class**

27 95. Plaintiff Emmalyne Owens hereby incorporates all other paragraphs of this Complaint
28 and restates them as if fully set forth herein.

1 96. Defendant conducts business in North Carolina and owns computerized data that
2 includes the PII of North Carolina residents, including Plaintiffs' PII.

3 97. Plaintiff was at all relevant times a resident of North Carolina.

4 98. Defendant's information security systems were breached in January 2017, however,
5 Defendant did not inform Plaintiff until sometime in late March 2017.

6 99. By failing to timely disclose to Plaintiff and each member of the proposed North
7 Carolina Employee Class that their PII was reasonably believed to have been acquired by an
8 unauthorized person, Defendant violated N.C. Gen. Stat. §§ 75-61, 75-65. Defendant failed to notify
9 Plaintiff and the proposed North Carolina Employee Class of the 2017 data breach in the most
10 expedient time possible and unreasonably delayed notifying those affected since law enforcement did
11 not determine notification would hinder a criminal investigation.

12 100. Defendant could have notified Plaintiff and the proposed North Carolina Employee
13 Class sooner had it implemented and maintained adequate policies and procedures.

14 101. As a direct and proximate result of Defendant's violation of N.C. Gen. Stat. §§ 75-61,
15 75-65, Plaintiff and North Carolina Employee Class members have been injured. Plaintiff and North
16 Carolina Employee Class members are therefore entitled to damages, injunctive relief, and reasonable
17 attorneys' fees and costs.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiffs, on behalf of themselves and the proposed Classes set forth herein,
20 respectfully request the following relief:

21 A. That the Court certify this case as a class action pursuant to Fed. R. Civ. P. 23(a),
22 (b)(1), (b)(2), (b)(3), and (c)(4), and pursuant to Fed. R. Civ. P. 23(g), appoint the named Plaintiffs to
23 be the Class representatives and their undersigned counsel as Class counsel;

24 B. Find that SRG breached its duty to safeguard and protect Plaintiffs' and the Class
25 members' PII which was compromised in the data breach;

26 C. That the Court award Plaintiffs and the Class members appropriate relief, including
27 actual damages;

28 D. That the Court award Plaintiffs and the Class members equitable, injunctive and

1 declaratory relief as may be appropriate. Plaintiffs, on behalf of the proposed Classes, seek
2 appropriate injunctive relief designed to ensure against the recurrence of a data breach by adopting and
3 implementing best security data practices to safeguard employee PII and that would include, without
4 limitation, an order and judgment directing SRG to: (1) implement policies and procedures for the
5 securing of data that complies with all legal requirements; (2) encrypt all PII; (3) provide training to
6 employees; and (4) provide to Plaintiffs and Class members appropriate monitoring services, including
7 credit monitoring, black website surveillance, and public record scanning, among other things.

8 E. That the Court award Plaintiffs and the Class members pre-judgment and post-
9 judgment interest;

10 F. That the Court award Plaintiffs and the Class members reasonable attorneys' fees and
11 costs as allowable by law;

12 G. Such additional orders or judgments as may be necessary to prevent these practices and
13 to restore any interest or any money or property which may have been acquired by means of the
14 violations set forth in this Complaint;

15 H. That the Court award Plaintiffs and Class members such other, favorable relief as
16 allowable under law or at equity.

17 **JURY TRIAL DEMANDED**

18 Plaintiffs demand a trial by jury on all issues so triable.

19 Dated: May 12, 2017

LEVI & KORSINSKY LLP

20 By: /s/ Rosemary M. Rivas
Rosemary M. Rivas

21 Quentin A. Roberts
22 44 Montgomery Street, Suite 650
23 San Francisco, CA 94104
24 Telephone: (415) 291-2420
Facsimile: (415) 484-1294

**CASEY GERRY SCHENK FRANCAVILLA
BLATT & PENFIELD LLP**

25 Gayle M. Blatt
26 110 Laurel St.
27 San Diego, California 92101
28 Telephone: (619) 238-1811
Facsimile: (619) 544-9232

Counsel for Plaintiffs and the Proposed Classes

CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
IRENE SUNG, KIMBERLY CARBONI, ANNIE FULTON, CARY BERGER, EMMALYNE OWENS, RUTH PHELPS, and CHRISTINE WILLETTS, on behalf of themselves and all others similarly situated
(b) County of Residence of First Listed Plaintiff Middlesex, Massachusetts
(c) Attorneys (Firm Name, Address, and Telephone Number) Rosemary M. Rivas; Quentin A. Roberts; Levi & Korsinsky LLP, 44 Montgomery Street, Suite 650, San Francisco, CA 94104 415-291-2420

DEFENDANTS
SCHURMAN FINE PAPERS, d/b/a SCHURMAN RETAIL GROUP
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment Of Veteran's Benefits, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excludes Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise
REAL PROPERTY: 210 Land Condemnation, 220 Foreclosure, 230 Rent Lease & Ejectment, 240 Torts to Land, 245 Tort Product Liability, 290 All Other Real Property
PERSONAL INJURY: 310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury, 362 Personal Injury - Medical Malpractice
PERSONAL INJURY - PRODUCT LIABILITY: 365 Personal Injury - Product Liability, 367 Health Care/Pharmaceutical Personal Injury Product Liability, 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY: 370 Other Fraud, 371 Truth in Lending, 380 Other Personal Property Damage, 385 Property Damage Product Liability
LABOR: 710 Fair Labor Standards Act, 720 Labor/Management Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Employee Retirement Income Security Act
IMMIGRATION: 462 Naturalization Application, 465 Other Immigration Actions
FORFEITURE/PENALTY: 625 Drug Related Seizure of Property 21 USC § 881, 690 Other
BANKRUPTCY: 422 Appeal 28 USC § 158, 423 Withdrawal 28 USC § 157
PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 840 Trademark
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g))
FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS-Third Party 26 USC § 7609
OTHER STATUTES: 375 False Claims Act, 376 Qui Tam (31 USC § 3729(a)), 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit, 490 Cable/Sat TV, 850 Securities/Commodities/Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of State Statutes

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(d)
Brief description of cause: Negligence; Violation of Cal. Bus. & Prof. Code §§ 17200 et seq., Cal. Civil Code § 1798.82; breach of contract

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions): JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2) (Place an "X" in One Box Only)
SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE: 05/12/2017 SIGNATURE OF ATTORNEY OF RECORD: /s/ Rosemary M. Rivas

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Jan. '17 Phishing Attack Sparks Class Action Against Schurman Fine Papers](#)
