



CIVIL COVER SHEET

16-cv-5713

JS 44 (Rev. 07/16)

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.)

I. (a) PLAINTIFFS
ALEX TAKSIR and ORIT TAKSIR, On Behalf of All Others Similarly Situated

DEFENDANTS
THE VANGUARD GROUP

16 5713

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant
(CHESTER COUNTY)
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Christopher L. Nelson
The Weiser Law Firm, P.C.
22 Cassatt Avenue, Berwyn, PA 19312

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)

- 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)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, Labor, etc.

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

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION

Brief description of cause:
Class Action

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
11/01/2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

NOV - 1 2016

Signature



FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 2241 Duanesburg Road, Duanesburg, NY 12056-4317

Address of Defendant: 100 Vangaurd Blvd, Malvern, PA 19355

Place of Accident, Incident or Transaction: (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes [ ] No [X]

Does this case involve multidistrict litigation possibilities? Yes [ ] No [X]

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes [ ] No [X]
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes [ ] No [X]
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes [ ] No [X]
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes [ ] No [X]

CIVIL: (Place [X] in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. [ ] Indemnity Contract, Marine Contract, and All Other Contracts
2. [ ] FELA
3. [ ] Jones Act-Personal Injury
4. [ ] Antitrust
5. [ ] Patent
6. [ ] Labor-Management Relations
7. [ ] Civil Rights
8. [ ] Habeas Corpus
9. [ ] Securities Act(s) Cases
10. [ ] Social Security Review Cases
11. [ ] All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases:

- 1. [ ] Insurance Contract and Other Contracts
2. [ ] Airplane Personal Injury
3. [ ] Assault, Defamation
4. [ ] Marine Personal Injury
5. [ ] Motor Vehicle Personal Injury
6. [ ] Other Personal Injury (Please specify)
7. [ ] Products Liability
8. [ ] Products Liability — Asbestos
9. [X] All other Diversity Cases (Please specify) 28 U.S.C. § 1332(a)(2)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Christopher L. Nelson, counsel of record do hereby certify:
[ ] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
[ ] Relief other than monetary damages is sought.

DATE: 11/1/2016

[Signature] Attorney-at-Law

85609 Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/1/2016

[Signature] Attorney-at-Law

85609 Attorney I.D.#

NOV - 1 2016



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

ALEX TAKSIR and ORIT TAKSIR,  
On Behalf of All Others Similarly Situated  
v.  
THE VANGUARD GROUP

:  
:  
:  
:  
:

CIVIL ACTION

**16 5713**  
NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks.  (X)

<u>11/1/2016</u>	<u>Christopher L. Nelson</u>	<u>Alex Taksir and Orit Taksir</u>
<b>Date</b>	<b>Attorney-at-law</b>	<b>Attorney for</b>
<u>610-249-0005</u>	<u>610-408-8062</u>	<u>cln@weiserlawfirm.com</u>
<b>Telephone</b>	<b>FAX Number</b>	<b>E-Mail Address</b>

(Civ. 660) 10/02

NOV - 1 2016

*A410*

*CMR*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

----- X

ALEX TAKSIR and ORIT TAKSIR, On  
Behalf of All Others Similarly Situated,

Plaintiffs,

V.

THE VANGUARD GROUP,

Defendant.

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16 5713

Civil Action No. \_\_\_\_\_

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**CLASS ACTION**

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**COMPLAINT**

Plaintiffs Alex Taksir and Orit Taksir (collectively “Plaintiffs”) by and through their attorneys, allege the following. Plaintiffs’ investigation into the factual allegations contained herein is continuing, and many of the relevant facts are known only by the defendant or are exclusively within Defendant’s custody or control. Plaintiffs believe that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for further investigation or discovery.

1. This is a class action on behalf of all clients of The Vanguard Group (“Vanguard” or the “Defendant”) who purchased securities pursuant to Vanguard’s Voyager Select program and/or other Vanguard Enhanced Services (defined herein) from the inception of the Enhanced Services through the present (the “Class Period”) and paid a commission and sales charge greater than the terms prescribed by the respective services (the “Class”).

2. Vanguard, one of the world’s largest investment companies and brokerage service providers, offers reduced commissions and sales charges for clients who maintain pre-



determined levels of assets with Vanguard. These programs are referred to by Vanguard as “Enhanced Services.”

3. Plaintiffs’ combined assets qualify them for the Voyager Select program. As of the date of filing of this complaint, Plaintiffs collectively hold approximately \$600,000 in assets through Vanguard in the Voyager Select program. Under the terms of the program, as outlined on Vanguard’s website and discussed herein, Plaintiffs’ securities transactions would be charged a commission of \$2.00.

4. On May 12, 2016, plaintiff Alex Taksir (“A. Taksir”) executed a transaction in his SEP-IRA account at Vanguard, which qualified for discounts under the Voyager Select program. The transaction, however, was charged a \$7.00 commission.

5. On May 12, 2016, plaintiff Orit Taksir (“O. Taksir”) executed a transaction in her SEP-IRA account at Vanguard, which qualified for discounts under the Voyager Select program. The transaction, however, was charged a \$7.00 commission.

6. Alex Taksir immediately wrote to Vanguard to seek an explanation as to why Vanguard would charge a commission over **300%** greater than the terms outlined on Vanguard’s website for transactions in his and his wife’s accounts.

7. In response to A. Taksir’s complaint, Vanguard justified the overcharged commission in O. Taksir’s account by stating that the published discounts were unavailable to her due to “IRS nondiscrimination rules.” Vanguard did not identify what provisions of the IRS regulations it was relying on to charge the commission, but did state that this mysterious exception to its stated policy was “not listed on the Vanguard Brokerage Commission and Fee Schedule.” Nor, in any case, did Vanguard explain why it was telling customers that they would be charged \$2.00 per trade, if it knew that it would be required to charge \$7.00 per trade.

8. In fact, there is no regulation that limits Vanguard's ability to apply the published commissions of the Voyager Select program to Plaintiffs' accounts.

9. This is beyond reasonable dispute, as Vanguard would reverse itself and charge the *discounted commission to O. Taksir only six weeks later*. On July 5, 2016, O. Taksir executed another transaction *purchasing the same security, in the same account*, but this time Vanguard charged her the proper \$2.00 commission.

10. Upon information and belief, during the Class Period, other clients were similarly over-charged by Vanguard, and have been damaged thereby.

### **JURISDICTION AND VENUE**

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(2) in that Plaintiff and defendants are citizens of different states and the matter in controversy exceeds \$75,000.00, exclusive of interests and costs. This Court has supplemental jurisdiction over the state law claims asserted herein pursuant to 28 U.S.C. §1367(a). This action is not a collusive one to confer jurisdiction on a court of the United States which it would not otherwise have.

12. Venue is proper in this district because a substantial portion of the transactions and wrongs complained of herein, including the defendants' primary participation in the wrongful acts detailed herein, occurred in this district. Defendants have received substantial compensation in this district by engaging in numerous activities and conducting business here, which had an effect in this district. In addition, Vanguard's headquarters and registered address are in this District at: 100 Vanguard Blvd., Malvern, PA 19355.

### **PARTIES**

13. Plaintiff A. Taksir is a Vanguard client and member of the Company's Voyager Select program. A. Taksir is a resident of New York. A. Taksir holds a DVM from the

University of Belgrade and owns a veterinary practice in New York.

14. Plaintiff O. Taksir is a Vanguard client and member of the Company's Voyager Select program. O. Taksir is a resident of New York. O. Taksir holds a Ph.D. in Economics from University of Vilnius.

15. A. Taksir and O. Taksir are married.

16. Defendant Vanguard is one of the world's largest investment companies, offering a large selection of low-cost mutual funds, ETFs, advice, and related services. Vanguard is a Delaware corporation, and headquartered in Malvern, Pennsylvania.

### **CLASS ACTION ALLEGATIONS**

17. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, the Vanguard's Enhanced Services programs had and continue to have thousands of members. While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are thousands of members in the proposed Class, residing in each of the United States, its territories and possessions.

18. Plaintiffs' claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of law that is complained of herein.

19. Plaintiffs will fairly and adequately protect the interests of the members of the Class and have retained competent counsel and counsel has retained experienced class action counsel.

20. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class, notably

whether members of the Class were overcharged for equity trades during the Class Period.

21. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation makes it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

### **SUBSTANTIVE ALLEGATIONS**

#### **Background of the Voyager Select Program**

22. According to its website, Vanguard is one of the world's largest investment companies, offering a large selection of low-cost mutual funds, ETFs, advice, and related services.

23. Vanguard also provides traditional brokerage services to clients. Vanguard clients can purchase securities through Vanguard and hold those securities in a Vanguard account. These transactions are charged a commission.

24. Vanguard offers its clients a tiered cost structure with respect to commissions and other sales charges. These tiers are referred by Vanguard as "Enhanced Services" programs. Vanguard clients receive an increase in the number of services they are offered and a discount on commissions based on the combined value of the assets they maintain at Vanguard. As the value of assets increases, the commissions and fees decrease.

25. For example, clients with less than \$50,000 in assets are in the lowest tier and receive no discounts on Vanguard's brokerage services.



26. Clients with combined assets valuing between \$50,000 and \$500,000 enter the “Voyager Services” tier, and pay \$7.00 for online trades.

27. The next tier, for clients with asset values between \$500,000 and \$1 million, is the Voyager Select tier, which promises \$2.00 commission for stock purchases. This rate is detailed on Vanguard’s website as follows:

#### Investors with \$500,000 to \$1 million\*

You’re a Voyager Select client at Vanguard, which offers you a team of experienced investment professionals, access to Certified Financial Planner™ (CFP®) professionals, and additional discounts on brokerage trades.

Your Voyager Select® benefits include:

- A team of experienced investment professionals who will act as your guide to all we have to offer. They can answer your questions, make transactions, and help you learn about all of the products and services available to you.
- Consult with a CFP professional through Vanguard Personal Advisor Services if you have a specific investment question. Or, for a low fee, you can partner with a dedicated financial advisor who’s a CFP professional for ongoing advisory and portfolio management services.

- Discounts on brokerage costs, which include—in addition to commission-free Vanguard ETF trades—\$2 commissions for stock and non-Vanguard ETF trades.\*\*

(emphasis added).<sup>1</sup>

28. The double asterisk leads to a footnote, which itself contains a link to Vanguard’s commission and fee schedule. This table makes clear that Voyager Select clients are to pay \$2.00 for all stock trades, whether those trades are made online or by telephone:

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<sup>1</sup> Available at <https://investor.vanguard.com/investing/benefits/voyager>.

## As of July 2016

Vanguard mutual funds & ETFs (exchange-traded funds)			+
Stocks & ETFs from other companies			-
ASSETS INVESTED IN VANGUARD FUNDS AND VANGUARD ETFs®	ONLINE	BY PHONE	
<b>Less than \$50,000 Standard<sup>1</sup></b>	First 25 trades: \$7 <sup>2</sup> Subsequent trades: \$20	All trades: \$25	
<b>\$50,000-\$500,000 Voyager Services®</b>	All trades: \$7	All trades: \$25	
<b>\$500,000-\$1 million Voyager Select Services®</b>	All trades: \$2	All trades: \$2	
<b>\$1 million-\$5 million Flagship Services®</b>	First 25 trades: Free <sup>2</sup> Subsequent trades: \$2	First 25 trades: Free <sup>2</sup> Subsequent trades: \$2	
<b>\$5 million and above Flagship Select Services®</b>	First 100 trades: Free <sup>2</sup> Subsequent trades: \$2	First 100 trades: Free <sup>2</sup> Subsequent trades: \$2	
Options			+

(emphasis added).<sup>2</sup>

### Vanguard Overcharges Plaintiffs

29. On May 12, 2016, A. Taksir purchased 1,100 shares of Nokia Corporation stock online in his brokerage account at Vanguard. A. Taksir, despite being a Voyager Select client, was charged a \$7.00 commission in contravention of Vanguard's stated policy.

<sup>2</sup> Available at <https://investor.vanguard.com/investing/trading-fees-commissions>

30. On May 12, 2016, O. Taksir purchased 384 shares of Nokia Corporation stock online in her brokerage account at Vanguard. O. Taksir, despite being a Voyager Select client, was charged a \$7.00 commission in contravention of Vanguard's stated policy.

31. After noticing the incorrect sales charges in both accounts, A. Taksir contacted Vanguard seeking an explanation and refund.

32. On May 24, 2016, Velma Tucker ("Tucker"), a Registered Representative in the Vanguard Retail Investor Group responded to A. Taksir's inquiry via email. The May 24, 2016 email states, in relevant part:

Mr. Taksir,

Thank you for taking the time to contact us.

***SEP IRA accounts are not eligible for discounts for trading stocks and other brokerage securities because of IRS nondiscrimination rules.*** This will apply even if the client is a member of one of our Enhanced Services programs (such as Vanguard Voyager Select Services, for example). Because of this, we are unable to refund you for the discounted commission for brokerage trades placed in you SEP-IRA that you were eligible for in a non-small business account (such as your Roth IRA or joint brokerage account for example).

***Unfortunately, this information is not listed on the Vanguard Brokerage Commission and Fee Schedule.*** Your suggestion to have this information reported on the Vanguard Brokerage Commission and Fee Schedule has been forwarded to the Vanguard Brokerage management team for review and consideration. We welcome your feedback and hope you'll continue to share your thoughts on how we can further enhance our products and services and serve you better.

(emphasis added)

33. A. Taksir did not accept this explanation and continued to correspond with Vanguard over the course of the following week.

34. Tucker replied again via email on June 2, 2016. Ms. Tucker's response is nearly identical to the May 24, 2016 email, noting in pertinent part:

Dear Dr. Taksir:

Thank you again for taking the time to contact us.

As I have discussed in my previous reply to you from May 24, 2016 SEP IRA accounts are not eligible for discounts for trading stocks and other brokerage securities because of IRS nondiscrimination rules. This will apply even if a member of one of our Enhanced Services programs (such as Vanguard Voyager Select Services, for example). Because of this, we are unable to refund you for the discounted commission for brokerage trades placed in your SEP-IRA that you were eligible for in a non-small business account (such as your Roth IRA or joint brokerage account, for example).

35. That Vanguard's position is untenable is beyond dispute. A mere six weeks later, on July 8, 2016, O. Taksir made another transaction in the *same account*, acquiring 1,210 shares of Nokia Corporation, and was charged a \$2.00 commission – the correct commission rate under the published rates of the Voyager Select program. That is, O. Taksir was charged two different commissions for two different transactions where she purchased the same security, in the same account within six weeks.

36. That Vanguard charged differing commissions in the same account is evidence that its defense of the overcharge provided by its representative Velma Tucker is inaccurate.

37. Upon information and belief, Plaintiffs are not alone. Vanguard is overcharging or has overcharged sales commissions to Voyager Select clients and clients of its other Enhanced Services during the Class Period.

## **COUNT I**

### **BREACH OF CONTRACT**

38. Plaintiffs, individually and on behalf of the Class, incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint.

39. As part of the process to open an account with Vanguard, Plaintiffs and the Class entered into a contract with Vanguard.



40. By further maintaining assets with Vanguard of over \$500,000 but less than \$1 million, Plaintiffs and the Class entered into a contract with Vanguard that was governed by the publicly available commission and fee schedule available on Vanguard's website.

41. Under the terms of the contract, all transactions in publicly traded securities were to be assessed a \$2.00 commission charge.

42. By charging Plaintiffs and the Class more than \$2.00 per transaction, Vanguard violated the express terms of the contract. As a result, Vanguard breached its contract with Plaintiffs and the Class.

43. As a direct and proximate cause of the United States' breach of contract, Plaintiffs and the Class were harmed and are owed compensatory damages.

## **COUNT II**

### **VIOLATION OF §201-2(4)(XXI) OF THE UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW**

44. Plaintiffs, individually and on behalf of the Class, incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint.

45. Defendant engaged in unfair practices, in violation of Pennsylvania's Unfair Trade Practices and Consumer Protection Law.

46. Because Defendant has engaged in commercial activity, which creates a likelihood of confusion or of misunderstanding, Defendant is in violation of Pennsylvania law.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for relief and judgment, as follows:

A. Determining that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure;

B. Awarding compensatory damages in favor of Plaintiffs and the other Class members, injunctive relief, rescission, and disgorgement of all ill-gotten gains against Defendant, jointly and severally, for all damages sustained as a result of Defendant's wrongdoing in an amount to be proven at trial, including interest thereon;

C. Awarding Plaintiffs, the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

D. Such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiffs hereby demand a trial by jury.

DATED: October 31, 2016

**THE WEISER LAW FIRM, P.C.**

By: 

CHRISTOPHER L. NELSON

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JAMES M. FICARO

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Facsimile: (610) 408-8062

*Of Counsel to Law Offices of Samuel L. Rosenberg*

**LAW OFFICES OF SAMUEL L. ROSENBERG**

By: 

SAMUEL L. ROSENBERG (to be admitted pro  
habe vice)

15 Astor Place

Wesley Hills, N.Y. 10952

Telephone: (845) 354-1368

*Lead Counsel for Plaintiffs*

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [The Vanguard Group Hit with Securities Lawsuit Over Enhanced Services](#)

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