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6
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and the Plaintiff Class(es)

8
9 **UNITED STATES DISTRICT COURT FOR THE**
10 **SOUTHERN DISTRICT OF INDIANA**

11
12 RODNEY KRUPA, individually, and on
behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 TIC INTERNATIONAL
CORPORATION,

16 Defendant.

Case No.

CLASS ACTION

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

- 1. NEGLIGENCE;
- 2. NEGLIGENCE *PER SE*;
- 3. BREACH OF IMPLIED CONTRACT;
- 4. BREACH OF IMPLIED COVENANT OF
GOOD FAITH AND FAIR DEALING;
- 5. UNJUST ENRICHMENT

[JURY TRIAL DEMANDED]

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1 Representative Plaintiff alleges as follows:
2

3 **INTRODUCTION**

4 1. Representative Plaintiff Rodney Krupa (“Representative Plaintiff”), brings this
5 class action against Defendant TIC International Corporation (“Defendant” or “TIC”) for its failure
6 to properly secure and safeguard Representative Plaintiff’s and Class Members’ personally
7 identifiable information stored within Defendant’s information network, including, without
8 limitation, names and Social Security numbers (“personally identifiable information” or “PII”).¹

9 2. With this action, Representative Plaintiff seeks to hold Defendant responsible for
10 the harms it caused and will continue to cause Representative Plaintiff and, at least, 187,340² other
11 similarly situated persons in the massive and preventable cyberattack purportedly discovered by
12 Defendant on March 30, 2022, by which cybercriminals infiltrated Defendant’s inadequately
13 protected network servers and accessed highly sensitive PII and financial information, which was
14 being kept unprotected (the “Data Breach”).

15 3. While Defendant claims to have discovered the breach as early as March 30, 2022,
16 Defendant did not begin informing victims of the Data Breach until September 2022 and failed to
17 inform victims when or for how long the Data Breach occurred. Indeed, Representative Plaintiff
18 and Class Members were wholly unaware of the Data Breach until they received letters from
19 Defendant informing them of it. The notice received by Representative Plaintiff was dated
20 September 1, 2022.

21 4. Defendant acquired, collected and stored Representative Plaintiff’s and Class
22 Members’ PII and/or financial information. Therefore, at all relevant times, Defendant knew, or
23

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

² *Breach Portal*, <https://apps.web.maine.gov/online/aeviewer/ME/40/a08c2070-eb21-4246-9b25-7dadbb21919a.shtml> (last accessed September 30, 2022).

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1 should have known, that Representative Plaintiff and Class Members would use Defendant’s
2 services to store and/or share sensitive data, including highly confidential PII.

3 5. By obtaining, collecting, using, and deriving a benefit from Representative
4 Plaintiff’s and Class Members’ PII, Defendant assumed legal and equitable duties to those
5 individuals. These duties arise from state and federal statutes and regulations as well as common
6 law principles.

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

18
19 **JURISDICTION AND VENUE**

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

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

27 9. Defendant is headquartered and routinely conducts business in the State where this
28 district is located, has sufficient minimum contacts in this State, and has intentionally availed itself

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1 of this jurisdiction by marketing and selling products and services, and by accepting and processing
2 payments for those products and services within this State.

3 10. Venue is proper in this Court under 28 U.S.C. § 1391 because a substantial part of
4 the events that gave rise to Representative Plaintiff’s claims took place within this District, and
5 Defendant is domiciled in this Judicial District.

6
7 **PLAINTIFF**

8 11. Representative Plaintiff is an adult individual and, at all relevant times herein, a
9 resident and citizen of the state of Michigan. Representative Plaintiff is victims of the Data Breach.

10 12. Defendant received highly sensitive personal and financial information from
11 Representative Plaintiff in connection with Defendant’s administration of benefit funds. As a
12 result, Representative Plaintiff’s information was among the data accessed by an unauthorized
13 third-party in the Data Breach.

14 13. Representative Plaintiff received—and was a “consumer” for purposes of obtaining
15 services from Defendant within this state.

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

18 15. As required in order to obtain services from Defendant, Representative Plaintiff
19 provided Defendant with highly sensitive personal and financial information.

20 16. Representative Plaintiff’s PII was exposed in the Data Breach because Defendant
21 stored and/or shared Representative Plaintiff’s PII and financial information. His PII and financial
22 information was within the possession and control of Defendant at the time of the Data Breach.

23 17. As a result, Representative Plaintiff spent time dealing with the consequences of
24 the Data Breach, which included and continues to include, time spent verifying the legitimacy and
25 impact of the Data Breach, exploring credit monitoring and identity theft insurance options, self-
26 monitoring his accounts and seeking legal counsel regarding his options for remedying and/or
27 mitigating the effects of the Data Breach. This time has been lost forever and cannot be recaptured.
28

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1 18. Representative Plaintiff suffered actual injury in the form of damages to and
2 diminution in the value of his PII—a form of intangible property that he entrusted to Defendant,
3 which was compromised in and as a result of the Data Breach.

4 19. Representative Plaintiff suffered lost time, annoyance, interference, and
5 inconvenience as a result of the Data Breach and has anxiety and increased concerns for the loss
6 of privacy, as well as anxiety over the impact of cybercriminals accessing, using, and selling his
7 PII and/or financial information.

8 20. Representative Plaintiff has suffered imminent and impending injury arising from
9 the substantially increased risk of fraud, identity theft, and misuse resulting from his PII and
10 financial information, in combination with his name, being placed in the hands of unauthorized
11 third parties/criminals.

12 21. Representative Plaintiff has a continuing interest in ensuring that his PII and
13 financial information, which, upon information and belief, remains backed up in Defendant's
14 possession, is protected and safeguarded from future breaches.

15
16 **DEFENDANT**

17 22. Defendant is a Delaware corporation with a principal place of business located at
18 11590 North Meridian Street, Suite 600 Carmel, Indiana 46032.

19 23. Defendant provides benefit administration services. Defendant is domiciliary and
20 citizen of the State of Indiana and this judicial district.

21 24. The true names and capacities of persons or entities, whether individual, corporate,
22 associate, or otherwise, who may be responsible for some of the claims alleged here are currently
23 unknown to Representative Plaintiff. Representative Plaintiff will seek leave of court to amend
24 this Complaint to reflect the true names and capacities of such his responsible parties when its
25 identities become known.

26
27
28

CLASS ACTION ALLEGATIONS

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

Nationwide Class:

“All individuals within the United States of America whose PII and/or financial information was exposed to unauthorized third-parties as a result of the data breach discovered on March 30, 2022.”

Michigan Subclass:

“All individuals within the State of Michigan whose PII was stored by Defendant and/or was exposed to unauthorized third parties as a result of the data breach discovered by Defendant on March 30, 2022.”

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

27. Also, in the alternative, Representative Plaintiff requests additional Subclasses as necessary based on the types of information that was compromised.

28. Representative Plaintiff reserve the right to amend the above definition or to propose subclasses in subsequent pleadings and motions for class certification.

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

a. Numerosity: A class action is the only available method for the fair and efficient adjudication of this controversy. The members of the Plaintiff Classes are so numerous that joinder of all members is impractical, if not impossible. Representative Plaintiff is informed and believes and, on that basis, alleges that the total number of Class Members is in the hundreds of thousands of individuals. Membership in the classes will be determined by analysis of Defendant’s records.

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- b. Commonality: Representative Plaintiff and the Class Members share a community of interests in that there are numerous common questions and issues of fact and law which predominate over any questions and issues solely affecting individual members, including, but not necessarily limited to:
- 1) Whether Defendant had a legal duty to Representative Plaintiff and the Classes to exercise due care in collecting, storing, using and/or safeguarding their PII;
 - 2) Whether Defendant knew or should have known of the susceptibility of its data security systems to a data breach;
 - 3) Whether Defendant’s security procedures and practices to protect its systems was reasonable in light of the measures recommended by data security experts;
 - 4) Whether Defendant’s failure to implement adequate data security measures allowed the Data Breach to occur;
 - 5) Whether Defendant failed to comply with its own policies and applicable laws, regulations, and industry standards relating to data security;
 - 6) Whether Defendant adequately, promptly, and accurately informed Representative Plaintiff and Class Members that their PII had been compromised;
 - 7) How and when Defendant actually learned of the Data Breach;
 - 8) Whether Defendant’s conduct, including its failure to act, resulted in or was the proximate cause of the breach of its systems, resulting in the loss of the PII of Representative Plaintiff and Class Members;
 - 9) Whether Defendant adequately addressed and fixed the vulnerabilities which permitted the Data Breach to occur;
 - 10) Whether Defendant engaged in unfair, unlawful, or deceptive practices by failing to safeguard the PII of Representative Plaintiff and Class Members;
 - 11) Whether Representative Plaintiff and Class Members are entitled to actual and/or statutory damages and/or whether injunctive, corrective and/or declaratory relief and/or an accounting is/are appropriate as a result of Defendant’s wrongful conduct;
 - 12) Whether Representative Plaintiff and Class Members are entitled to restitution as a result of Defendant’s wrongful conduct.
- c. Typicality: Representative Plaintiff’s claims are typical of the claims of the Plaintiff Classes. Representative Plaintiff and all members of the Plaintiff Classes sustained damages arising out of and caused by Defendant’s common course of conduct in violation of law, as alleged herein.

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

6 e. Superiority of Class Action: Since the damages suffered by individual Class
7 Members, while not inconsequential, may be relatively small, the expense
8 and burden of individual litigation by each member makes or may make it
9 impractical for members of the Plaintiff Classes to seek redress individually
10 for the wrongful conduct alleged herein. Should separate actions be brought
11 or be required to be brought, by each individual member of the Plaintiff
12 Classes, the resulting multiplicity of lawsuits would cause undue hardship
and expense for the Court and the litigants. The prosecution of separate
actions would also create a risk of inconsistent rulings which might be
dispositive of the interests of the Class Members who are not parties to the
adjudications and/or may substantially impede their ability to adequately
protect their interests.

13 30. This class action is also appropriate for certification because Defendant has acted
14 or refused to act on grounds generally applicable to Class Members, thereby requiring the Court's
15 imposition of uniform relief to ensure compatible standards of conduct toward the Class Members
16 and making final injunctive relief appropriate with respect to the Class in its entirety. Defendant's
17 policies and practices challenged herein apply to and affect Class Members uniformly and
18 Representative Plaintiff's challenge of these policies and practices hinges on Defendant's conduct
19 with respect to the Class in its entirety, not on facts or law applicable only to Representative
20 Plaintiff.

21 31. Unless a Class-wide injunction is issued, Defendant may continue in its failure to
22 properly secure the PII and/or financial information of Class Members, and Defendant may
23 continue to act unlawfully as set forth in this Complaint.

24 32. Further, Defendant has acted or refused to act on grounds generally applicable to
25 the Classes and, accordingly, final injunctive or corresponding declaratory relief with regard to the
26 Class Members as a whole is appropriate under Rule 23(b)(2) of the Federal Rules of Civil
27 Procedure.
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1 **COMMON FACTUAL ALLEGATIONS**

2 **The Cyberattack**

3 33. In the course of the Data Breach, one or more unauthorized third-parties accessed
4 Class Members’ sensitive data including, but not limited to, names and Social Security numbers.
5 Representative Plaintiff was among the individuals whose data was accessed in the Data Breach.

6 34. According to the Data Breach Notification, which Defendant filed with the Maine
7 Attorney General, 187,341 people were victims of this data breach.

8 35. Representative Plaintiff was provided the information detailed above upon their
9 receipt of a letter from Defendant, dated on or about September 1, 2022. Representative Plaintiff
10 was not aware of the Data Breach—or even that Defendant was still in possession of his data until
11 receiving that letter.

12
13 **Defendant’s Failed Response to the Breach**

14 36. Upon information and belief, the unauthorized third-party cybercriminals gained
15 access to Representative Plaintiff’s and Class Members’ PII and financial information with the
16 intent of engaging in misuse of the PII and financial information, including marketing and selling
17 Representative Plaintiff’s and Class Members’ PII.

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

22 38. The Notice included, *inter alia*, the claims that Defendant experienced a network
23 disruption on March 30, 2022 and launched an investigative process that concluded on August 20,
24 22.

25 39. Upon information and belief, the unauthorized third-party cybercriminals gained
26 access to Representative Plaintiff’s and Class Members’ PII and financial information with the
27 intent of engaging in misuse of that same PII and financial information, including marketing and
28 selling Representative Plaintiff’s and Class Members’ PII.

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

5 41. Representative Plaintiff and Class Members were required to provide their PII and
6 financial information to Defendant in order to receive healthcare, and as part of providing
7 healthcare, Defendant created, collected, and stored Representative Plaintiff and Class Members
8 with the reasonable expectation and mutual understanding that Defendant would comply with its
9 obligations to keep such information confidential and secure from unauthorized access.

10 42. Despite this, Representative Plaintiff and the Class Members remain, even today,
11 in the dark regarding what particular data was stolen, the particular malware used, and what steps
12 are being taken, if any, to secure their PII and financial information going forward. Representative
13 Plaintiff and Class Members are, thus, left to speculate as to where their PII ended up, who has
14 used it and for what potentially nefarious purposes. Indeed, they are left to further speculate as to
15 the full impact of the Data Breach and how exactly Defendant intend to enhance its information
16 security systems and monitoring capabilities so as to prevent further breaches.

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

22
23 **Defendant Collected/Stored Class Members' PII and Financial Information**

24 44. Defendant acquired, collected, and stored and assured reasonable security over
25 Representative Plaintiff's and Class Members' PII and financial information.

26 45. As a condition of its relationships with Representative Plaintiff and Class Members,
27 Defendant required that Representative Plaintiff and Class Members entrust Defendant with highly
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1 sensitive and confidential PII and financial information. Defendant, in turn, stored that information
2 of Defendant's system that was ultimately affected by the Data Breach.

3 46. By obtaining, collecting, and storing Representative Plaintiff's and Class Members'
4 PII and financial information, Defendant assumed legal and equitable duties and knew or should
5 have known that it was thereafter responsible for protecting Representative Plaintiff's and Class
6 Members' PII and financial information from unauthorized disclosure.

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

12 48. Defendant could have prevented the Data Breach, which began as early as March
13 30, 2022, by properly securing and encrypting and/or more securely encrypting its servers
14 generally, as well as Representative Plaintiff's and Class Members' PII and financial information.

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

19 50. Due to the high-profile nature of recent data breaches, Defendant was and/or
20 certainly should have been on notice and aware of such attacks occurring in the healthcare industry
21 and, therefore, should have assumed and adequately performed the duty of preparing for such an
22 imminent attack. This is especially true given that Defendant is a large, sophisticated operations
23 with the resources to put adequate data security protocols in place.

24 51. Yet, despite the prevalence of public announcements of data breach and data
25 security compromises, Defendant failed to take appropriate steps to protect Representative
26 Plaintiff's and Class Members' PII from being compromised.

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1 **Defendant Had an Obligation to Protect the Stolen Information**

2 52. Defendant's failure to adequately secure Representative Plaintiff's and Class
3 Members' sensitive data breaches duties it owes Representative Plaintiff and Class Members under
4 statutory and common law. Moreover, Representative Plaintiff and Class Members surrendered
5 their highly sensitive personal data to Defendant under the implied condition that Defendant would
6 keep it private and secure. Accordingly, Defendant also has an implied duty to safeguard their
7 data, independent of any statute.

8 53. Defendant was also prohibited by the Federal Trade Commission Act (the "FTC
9 Act") (15 U.S.C. § 45) from engaging in "unfair or deceptive acts or practices in or affecting
10 commerce." The Federal Trade Commission (the "FTC") has concluded that a company's failure
11 to maintain reasonable and appropriate data security for consumers' sensitive personal information
12 is an "unfair practice" in violation of the FTC Act. See, e.g., *FTC v. Wyndham Worldwide Corp.*,
13 799 F.3d 236 (3d Cir. 2015).

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

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

25 56. Defendant owed a duty to Representative Plaintiff and Class Members to create and
26 implement reasonable data security practices and procedures to protect the PII and financial
27 information in its possession, including not sharing information with other/her/their entities who
28 maintained sub-standard data security systems.

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

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

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

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

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

15
 16 **Value of the Relevant Sensitive Information**

17 62. The high value of PII and financial information to criminals is further evidenced by
 18 the prices they will pay through the dark web. Numerous sources cite dark web pricing for stolen
 19 identity credentials. For example, personal information can be sold at a price ranging from \$40 to
 20 \$200, and bank details have a price range of \$50 to \$200.³ Experian reports that a stolen credit or
 21 debit card number can sell for \$5 to \$110 on the dark web.⁴ Criminals can also purchase access to
 22 entire company data breaches from \$999 to \$4,995.⁵

23
 24
 25 ³ *Your personal data is for sale on the dark web. Here's how much it costs*, Digital Trends, Oct.
 16, 2019, available at: <https://www.digitaltrends.com/computing/personal-data-sold-on-the-dark-web-how-much-it-costs/> (last accessed July 28, 2021).

26 ⁴ *Here's How Much Your Personal Information Is Selling for on the Dark Web*, Experian, Dec.
 6, 2017, available at: <https://www.experian.com/blogs/ask-experian/heres-how-much-your-personal-information-is-selling-for-on-the-dark-web/> (last accessed November 5, 2021).

27 ⁵ *In the Dark*, VPNOverview, 2019, available at:
 28 <https://vpnoverview.com/privacy/anonymous-browsing/in-the-dark/> (last accessed January 21, 2022).

1 63. Between 2005 and 2019, at least 249 million people were affected by health care
2 data breaches.⁶ Indeed, during 2019 alone, over 41 million healthcare records were exposed,
3 stolen, or unlawfully disclosed in 505 data breaches.⁷ In short, these sorts of data breaches are
4 increasingly common, especially among healthcare systems, which account for 30.03% of overall
5 health data breaches, according to cybersecurity firm Tenable.⁸

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

12 65. The FTC defines identity theft as “a fraud committed or attempted using the
13 identifying information of another person without authority.” The FTC describes “identifying
14 information” as “any name or number that may be used, alone or in conjunction with any other
15 information, to identify a specific person,” including, among other things, “[n]ame, Social Security
16 number, date of birth, official State or government issued driver’s license or identification number,
17 alien registration number, government passport number, employer or taxpayer identification
18 number.”

19 66. Identity thieves can use PII and financial information, such as that of Representative
20 Plaintiff and Class Members which Defendant failed to keep secure, to perpetrate a variety of
21 crimes that harm victims. For instance, identity thieves may commit various types of government
22 fraud such as immigration fraud, obtaining a driver’s license or identification card in the victim’s
23 name but with another’s picture, using the victim’s information to obtain government benefits, or
24 filing a fraudulent tax return using the victim’s information to obtain a fraudulent refund.

25
26 ⁶ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7349636/#B5-healthcare-08-00133> (last
accessed January 21, 2022).

27 ⁷ <https://www.hipaajournal.com/december-2019-healthcare-data-breach-report/> (last accessed
January 21, 2022).

28 ⁸ [https://www.tenable.com/blog/healthcare-security-ransomware-plays-a-prominent-role-in-
covid-19-era-breaches](https://www.tenable.com/blog/healthcare-security-ransomware-plays-a-prominent-role-in-covid-19-era-breaches) (last accessed January 21, 2022).

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1 67. The ramifications of Defendant’s failure to keep secure Representative Plaintiff’s
2 and Class Members’ PII and financial information are long lasting and severe. Once PII and
3 financial information is stolen, particularly identification numbers, fraudulent use of that
4 information and damage to victims may continue for years. Indeed, the PII and/or financial
5 information of Representative Plaintiff and Class Members was taken by hackers to engage in
6 identity theft or to sell it to other criminals who will purchase the PII and/or financial information
7 for that purpose. The fraudulent activity resulting from the Data Breach may not come to light for
8 years.

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

13 [L]aw enforcement officials told us that in some cases, stolen data may be held for
14 up to a year or more before being used to commit identity theft. Further, once stolen
15 data have been sold or posted on the Web, fraudulent use of that information may
16 continue for years. As a result, studies that attempt to measure the harm resulting
17 from data breaches cannot necessarily rule out all future harm.⁹

18 69. When cyber criminals access Social Security numbers—as they did here—there is
19 no limit to the amount of fraud to which Defendant may have exposed Representative Plaintiff and
20 Class Members.

21 70. And data breaches are preventable.¹⁰ As Lucy Thompson wrote in the DATA
22 BREACH AND ENCRYPTION HANDBOOK, “[i]n almost all cases, the data breaches that occurred could
23 have been prevented by proper planning and the correct design and implementation of appropriate
24 security solutions.”¹¹ She/he/they added that “[o]rganizations that collect, use, store, and share
25 sensitive personal data must accept responsibility for protecting the information and ensuring that
26 it is not compromised”¹²

26 ⁹ *Report to Congressional Requesters*, GAO, at 29 (June 2007), available at:
27 <http://www.gao.gov/new.items/d07737.pdf> (last accessed January 21, 2022).

27 ¹⁰ Lucy L. Thompson, “Despite the Alarming Trends, Data Breaches Are Preventable,” in
28 DATA BREACH AND ENCRYPTION HANDBOOK (Lucy Thompson, ed., 2012)

¹¹ *Id.* at 17.

¹² *Id.* at 28.

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1 71. Most of the reported data breaches are a result of lax security and the failure to
2 create or enforce appropriate security policies, rules, and procedures ... Appropriate information
3 security controls, including encryption, must be implemented and enforced in a rigorous and
4 disciplined manner so that a *data breach never occurs*.¹³

5 72. Here, Defendant knew of the importance of safeguarding PII and financial
6 information and of the foreseeable consequences that would occur if Representative Plaintiff's and
7 Class Members' PII and financial information was stolen, including the significant costs that
8 would be placed on Representative Plaintiff and Class Members as a result of a breach of this
9 magnitude. As detailed above, Defendant is large, sophisticated organizations with the resources
10 to deploy robust cybersecurity protocols. They knew, or should have known, that the development
11 and use of such protocols were necessary to fulfill its statutory and common law duties to
12 Representative Plaintiff and Class Members. Its failure to do so is, therefore, intentional, willful,
13 reckless, and/or grossly negligent.

14 73. Defendant disregarded the rights of Representative Plaintiff and Class Members by,
15 *inter alia*, (i) intentionally, willfully, recklessly, or negligently failing to take adequate and
16 reasonable measures to ensure that its network servers were protected against unauthorized
17 intrusions; (ii) failing to disclose that they did not have adequately robust security protocols and
18 training practices in place to adequately safeguard Representative Plaintiff's and Class Members'
19 PII and/or financial information; (iii) failing to take standard and reasonably available steps to
20 prevent the Data Breach; (iv) concealing the existence and extent of the Data Breach for an
21 unreasonable duration of time; and (v) failing to provide Representative Plaintiff and Class
22 Members prompt and accurate notice of the Data Breach.

23
24 **FIRST CLAIM FOR RELIEF**

Negligence

25 **(On behalf of the Nationwide Class and the Michigan Subclass)**

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

28 ¹³ *Id.*

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

6 76. Among these duties, Defendant was expected:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 89. Defendant breached its duty to notify Representative Plaintiff and Class Members of the unauthorized access by waiting months after learning of the Data Breach to notify Representative Plaintiff and Class Members and then by failing and continuing to fail to provide Representative Plaintiff and Class Members sufficient information regarding the breach. To date, Defendant have not provided sufficient information to Representative Plaintiff and Class Members regarding the extent of the unauthorized access and continues to breach its disclosure obligations to Representative Plaintiff and Class Members.

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

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1 Plaintiff and Class Members from taking meaningful, proactive steps to secure its PII and financial
2 information, and to access its medical records and histories.

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

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

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

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

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

25 96. As a direct and proximate result of Defendant’s negligence and negligence *per se*,
26 Representative Plaintiff and Class Members have suffered and will suffer injury, including but not
27 limited to: (i) actual identity theft; (ii) the loss of the opportunity of how its PII and financial
28 information is used; (iii) the compromise, publication, and/or theft of its PII and financial

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1 information; (iv) out-of-pocket expenses associated with the prevention, detection, and recovery
2 from identity theft, tax fraud, and/or unauthorized use of its PII and financial information; (v) lost
3 opportunity costs associated with effort expended and the loss of productivity addressing and
4 attempting to mitigate the actual and future consequences of the Data Breach, including but not
5 limited to, efforts spent researching how to prevent, detect, contest, and recover from
6 embarrassment and identity theft; (vi) lost continuity in relation to its healthcare; (vii) the
7 continued risk to its PII and financial information, which may remain in Defendant's possession
8 and is subject to further unauthorized disclosures so long as Defendant fails to undertake
9 appropriate and adequate measures to protect Representative Plaintiff's and Class Members' PII
10 and financial information in its continued possession; and (viii) future costs in terms of time, effort,
11 and money that will be expended to prevent, detect, contest, and repair the impact of the PII and
12 financial information compromised as a result of the Data Breach for the remainder of the lives of
13 Representative Plaintiff and Class Members.

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

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

24
25 **SECOND CLAIM FOR RELIEF**

Negligence Per Se

26 **(On behalf of the Nationwide Class and the Michigan Subclass)**

27 99. Each and every allegation of the preceding paragraphs is incorporated in this cause
28 of action with the same force and effect as though fully set forth therein.

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1 100. Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45 prohibits
2 companies such as Defendant from “using any unfair method of competition or unfair or deceptive
3 act or practice in or affecting commerce,” including failing to use reasonable measures to protect
4 PII. In addition to the FTC Act, the agency also enforces other federal laws relating to consumers’
5 privacy and security. The FTC publications and orders described above also form part of the basis
6 of Defendant’s duty in this regard.

7 101. In addition to the FTC rules and regulations, and state law, other states, and
8 jurisdictions where victims of the Data Breach are located require that Defendant protect PII from
9 unauthorized access and disclosure, and timely notify the victim of a data breach.

10 102. Defendant violated FTC rules and regulations obligating companies to use
11 reasonable measures to protect PII by failing to comply with applicable industry standards; and by
12 unduly delaying reasonable notice of the actual breach. Defendant’s conduct was particularly
13 unreasonable given the nature and amount of PII it obtained and stored, the foreseeable
14 consequences of a Data Breach and the exposure of Representative Plaintiff’s and Class Members’
15 highly sensitive PII.

16 103. Each of Defendant’s statutory violations of Section 5 of the FTC Act and other
17 applicable statutes, rules, and regulations, constitute negligence *per se*.

18 104. Representative Plaintiff and the Class Members are within the category of persons
19 the FTC Act were intended to protect.

20 105. The harm that occurred as a result of the Data Breach described herein is the type
21 of harm the FTC Act was intended to guard against.

22 106. As a direct and proximate result of Defendant’s negligence *per se*, Plaintiff and
23 Class Members have been damaged as described herein, continue to suffer injuries as detailed
24 above, are subject to the continued risk of exposure of their PII in Defendant’s possession, and are
25 entitled to damages in an amount to be proven at trial.

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THIRD CLAIM FOR RELIEF
Breach of Implied Contract
(On behalf of the Nationwide Class and the Michigan Subclass)

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

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

109. Defendant required Representative Plaintiff and Class Members to provide and entrust their PII and financial information as a condition of obtaining Defendant's services.

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

111. As a condition of their relationship with Defendant, Representative Plaintiff and Class Members provided and entrusted their PII and financial information to Defendant. In so doing, Representative Plaintiff and Class Members entered into implied contracts with Defendant by which Defendant agreed to safeguard and protect such non-public information, to keep such information secure and confidential, and to timely and accurately notify Representative Plaintiff and Class Members if its data had been breached and compromised or stolen.

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

113. Representative Plaintiff and Class Members fully performed their obligations under the implied contracts with Defendant.

114. Defendant breached the implied contracts it made with Representative Plaintiff and Class Members by failing to safeguard and protect its PII and financial information and by failing

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1 to provide timely and accurate notice to them that their PII and financial information was
2 compromised as a result of the Data Breach.

3 115. As a direct and proximate result of Defendant's above-described breach of implied
4 contract, Representative Plaintiff and Class Members have suffered (and will continue to suffer)
5 (a) ongoing, imminent, and impending threat of identity theft crimes, fraud, and abuse, resulting
6 in monetary loss and economic harm; (b) actual identity theft crimes, fraud, and abuse, resulting
7 in monetary loss and economic harm; (c) loss of the confidentiality of the stolen confidential data;
8 (d) the illegal sale of the compromised data on the dark web; (e) lost work time; and (f) other
9 economic and non-economic harm.

10
11 **FOURTH CLAIM FOR RELIEF**
12 **Breach of the Implied Covenant of Good Faith and Fair Dealing**
13 **(On behalf of the Nationwide Class and the Michigan Subclass)**

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

16 117. Every contract in this state has an implied covenant of good faith and fair dealing.
17 This implied covenant is an independent duty and may be breached even when there is no
18 breach of a contract's actual and/or express terms.

19 118. Representative Plaintiff and Class Members have complied with and performed all
20 conditions of their contracts with Defendant.

21 119. Defendant breached the implied covenant of good faith and fair dealing by failing
22 to maintain adequate computer systems and data security practices to safeguard PII and financial
23 information, failing to timely and accurately disclose the Data Breach to Representative Plaintiff
24 and Class Members and continued acceptance of PII and financial information and storage of other
25 personal information after Defendant knew, or should have known, of the security vulnerabilities
26 of the systems that were exploited in the Data Breach.

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

FIFTH CLAIM FOR RELIEF

Unjust Enrichment

(On behalf of the Nationwide Class and the Michigan Subclass)

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

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

7 123. Representative Plaintiff entrusted his PII and financial information to Defendant in
8 the course of Defendant's administration of the Millwright's Local 1102 Fringe Benefit Funds, in
9 which Representative Plaintiff is or was a participant. This caused Representative Plaintiff to
10 reasonably believe that Defendant would keep such PII and financial information secure. The
11 remaining Class Members provided Defendant with their PII and financial information for similar
12 purposes and—likewise—reasonably believed Defendant would keep their PII and financial
13 information secure.

14 124. Defendant was aware, or should have been aware, that reasonable patients and
15 consumers would have wanted their PII and financial information kept secure and would not have
16 contracted with Defendant, directly or indirectly, had they known that Defendant's information
17 systems were sub-standard for that purpose.

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

21 126. Defendant failed to disclose facts pertaining to its substandard information systems,
22 defects, and vulnerabilities therein before Representative Plaintiff and Class Members made its
23 decisions to make purchases, engage in commerce therewith, and seek services or information.
24 Instead, Defendant suppressed and concealed such information. By concealing and suppressing
25 that information, Defendant denied Representative Plaintiff and Class Members the ability to make
26 a rational and informed purchasing and health care decision and took undue advantage of
27 Representative Plaintiff and Class Members.
28

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1 127. Defendant was unjustly enriched at the expense of Representative Plaintiff and
 2 Class Members. Defendant received profits, benefits, and compensation, in part, at the expense of
 3 Representative Plaintiff and Class Members. By contrast, Representative Plaintiff and Class
 4 Members did not receive the benefit of their bargain because they paid for products and/or health
 5 care services that did not satisfy the purposes for which they bought/sought them.

6 128. Since Defendant's profits, benefits, and other compensation were obtained by
 7 improper means, Defendant is not legally or equitably entitled to retain any of the benefits,
 8 compensation or profits it realized from these transactions.

9 129. Representative Plaintiff and Class Members seek an Order of this Court requiring
 10 Defendant to refund, disgorge, and pay as restitution any profits, benefits and other compensation
 11 obtained by Defendant from its wrongful conduct and/or the establishment of a constructive trust
 12 from which Representative Plaintiff and Class Members may seek restitution.

13
 14 **RELIEF SOUGHT**

15 **WHEREFORE**, Representative Plaintiff, on behalf of herself and each member of the
 16 proposed National Class and the Michigan Subclass, respectfully request that the Court enter
 17 judgment in their favor and for the following specific relief against Defendant as follows:

18 1. That the Court declare, adjudge, and decree that this action is a proper class action
 19 and certify each of the proposed classes and/or any other appropriate subclasses under F.R.C.P.
 20 Rule 23 (b)(1), (b)(2), and/or (b)(3), including appointment of Representative Plaintiff's counsel
 21 as Class Counsel;

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

24 3. That the Court enjoin Defendant, ordering them to cease and desist from unlawful
 25 activities;

26 4. For equitable relief enjoining Defendant from engaging in the wrongful conduct
 27 complained of herein pertaining to the misuse and/or disclosure of Representative Plaintiff's and
 28

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1 Class Members' PII, and from refusing to issue prompt, complete, any accurate disclosures to
2 Representative Plaintiff and Class Members;

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

- 6 a. prohibiting Defendant from engaging in the wrongful and unlawful acts
7 described herein;
- 8 b. requiring Defendant to protect, including through encryption, all data
9 collected through the course of business in accordance with all applicable
10 regulations, industry standards, and federal, state, or local laws;
- 11 c. requiring Defendant to delete and purge the PII of Representative Plaintiff
12 and Class Members unless Defendant can provide to the Court reasonable
13 justification for the retention and use of such information when weighed
14 against the privacy interests of Representative Plaintiff and Class Members;
- 15 d. requiring Defendant to implement and maintain a comprehensive
16 Information Security Program designed to protect the confidentiality and
17 integrity of Representative Plaintiff's and Class Members' PII;
- 18 e. requiring Defendant to engage independent third-party security auditors and
19 internal personnel to run automated security monitoring, simulated attacks,
20 penetration tests, and audits on Defendant's systems on a periodic basis;
- 21 f. prohibiting Defendant from maintaining Representative Plaintiff's and
22 Class Members' PII on a cloud-based database;
- 23 g. requiring Defendant to segment data by creating firewalls and access
24 controls so that, if one area of Defendant's network is compromised,
25 hackers cannot gain access to other portions of Defendant's systems;
- 26 h. requiring Defendant to conduct regular database scanning and securing
27 checks;
- 28 i. requiring Defendant to establish an information security training program
that includes at least annual information security training for all employees,
with additional training to be provided as appropriate based upon the
employees' respective responsibilities with handling PII, as well as
protecting the PII of Representative Plaintiff and Class Members;
- j. requiring Defendant to implement a system of tests to assess its respective
employees' knowledge of the education programs discussed in the
preceding subparagraphs, as well as randomly and periodically testing
employees' compliance with Defendant's policies, programs, and systems
for protecting personal identifying information;
- k. requiring Defendant to implement, maintain, review, and revise as
necessary a threat management program to appropriately monitor

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Defendant’s networks for internal and external threats, and assess whether monitoring tools are properly configured, tested, and updated;

1. requiring Defendant to meaningfully educate all Class Members about the threats that they face as a result of the loss of its confidential personal identifying information to third parties, as well as the steps affected individuals must take to protect themselves.

6. For prejudgment interest on all amounts awarded, at the prevailing legal rate;

7. For an award of attorneys’ fees, costs, and litigation expenses, as allowed by law;

8. For all other Orders, findings, and determinations identified and sought in this

Complaint.

JURY DEMAND

Representative Plaintiff, individually and on behalf of the Plaintiff Classes and/or Subclasses, hereby demands a trial by jury for all issues triable by jury.

Dated: October 3, 2022

COLE & VAN NOTE

By: /s/ Cody A. Bolce.
Cody A. Bolce, Esq. (*pro hac vice* forthcoming)
Attorneys for Representative Plaintiff
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