

EXHIBIT A

SUM-100

**SUMMONS
(CITACION JUDICIAL)****NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

WAL-MART STORES, INC., a Delaware corporation; and DOES 1 through 100, inclusive.

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

RANDY PITRE, on behalf of himself, all others similarly situated,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California,
County of Orange

06/20/2017 at 04:30:34 PM

Clerk of the Superior Court
By Sarah Loose, Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que lo dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):
Civil Complex Center
751 W. Santa Ana Blvd
Santa Ana, Ca 92701

CASE NUMBER:
(Número del Caso):

30-2017-00927440-CU-0E-CXC

Judge William Claster

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Shaun Setareh, Esq., 9454 Wilshire Boulevard, Suite 907, Beverly Hills, California 90212, (310) 888-7771

DATE: 06/20/2017
(Fecha)

Clerk, by
(Secretario)

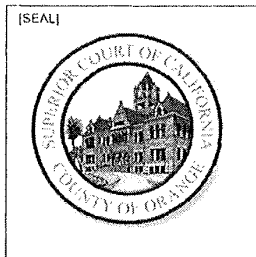
DAVID H. YAMASAKI, Clerk of the Court

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

Sarah Loose

**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

Page 1 of 1

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RANDY PITRE
7
8
9

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Superior Court of California,
County of Orange
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Clerk of the Superior Court
By Sarah Loose, Deputy Clerk

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
Civil Complex Center
FOR THE COUNTY OF ORANGE, ~~CENTRAL JUSTICE CENTER~~
11 UNLIMITED JURISDICTION
12

13 RANDY PITRE, on behalf of himself, all others
similarly situated,

14 Plaintiff,

15 vs.

16 WAL-MART STORES, INC., a Delaware
17 corporation; and DOES 1 through 100, inclusive,

18 Defendants.
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20
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23

Case No. 30-2017-00927449-CU-OE-CXC

CLASS ACTION

COMPLAINT FOR:

1. Violation of 15 U.S.C. §§ 1681b(b)(2)(A) (Fair Credit Reporting Act);
2. Violation of 15 U.S.C. §§ 1681d(a)(1) and 1681g(c) (Fair Credit Reporting Act);
3. Violation of California Civil Code § 1786 *et seq.* (Investigative Consumer Reporting Agencies Act);
4. Violation of California Civil Code § 1785 *et seq.* (Consumer Credit Reporting Agencies Act)
5. Unfair Competition (Bus. § Prof. Code §§ 17200 *et seq.*)

JURY TRIAL DEMANDED

Judge William Claster
CX102

COMES NOW, Plaintiff RANDY PITRE ("PLAINTIFF"), on behalf of himself, all others similarly situated, complains and alleges as follows:

INTRODUCTION

1. PLAINTIFF brings this class action against defendant WAL-MART STORES, INC., a Delaware corporation; and DOES 1 through 100, inclusively (collectively referred to as ("DEFENDANTS")) for alleged violations of the Fair Credit Reporting Act ("FCRA") and similar California laws.

2. PLAINTIFF alleges that DEFENDANTS routinely acquire consumer, investigative consumer and/or consumer credit reports (referred to collectively as "credit and background reports") to conduct background checks on PLAINTIFF and other prospective, current and former employees and use information from credit and background reports in connection with their hiring process without providing proper disclosures and obtaining proper authorization in compliance with the law.

3. PLAINTIFF, individually and on behalf of all others similarly situated current, former, and prospective employees, seeks compensatory and punitive damages due to DEFENDANTS' systematic and willful violations of the FCRA, 15 U.S.C. §§ 1681 *et seq.*, the California Investigative Consumer Reporting Agencies Act ("ICRAA") (Cal. Civ. Code § 1786, *et seq.*), and the California Consumer Credit Reporting Agencies Act ("CCRAA") (Cal. Civ. Code § 1785, *et seq.*).

PARTIES

4. PLAINTIFF was employed by DEFENDANTS as an hourly, non-exempt employee working in the State of California from approximately November 11, 2015 through August 22, 2016.

5. Defendant WAL-MART STORES, INC. ("WAL-MART") is a corporation organized and existing under the laws of Delaware and operates in the State of California.

6. PLAINTIFF is ignorant of the true names, capacities, relationships, and extent of participation in the conduct alleged herein, of the defendants sued as DOES 1 through 100, inclusive, but is informed and believes and thereon alleges that said defendants are legally

1 responsible for the wrongful conduct alleged herein and therefore sues these defendants by such
 2 fictitious names. PLAINTIFF will amend the Complaint to allege the true names and capacities of
 3 the DOE defendants when ascertained.

4 7. PLAINTIFF is informed and believes and thereon alleges that, at all relevant times
 5 herein, all DEFENDANTS were the agents, employees and/or servants, masters or employers of
 6 the remaining DEFENDANTS, and in doing the things hereinafter alleged, were acting within the
 7 course and scope of such agency or employment, and with the approval and ratification of each of
 8 the other DEFENDANTS.

9 8. PLAINTIFF alleges that each and every one of the acts and omissions alleged
 10 herein were performed by, and/or attributable to, all DEFENDANTS, each acting as agents and/or
 11 employees, and/or under the direction and control of each of the other DEFENDANTS, and that
 12 said acts and failures to act were within the course and scope of said agency, employment and/or
 13 direction and control.

14 CLASS ALLEGATIONS

15 9. This action has been brought and may be maintained as a class action pursuant to
 16 California Code of Civil Procedure section 382 because there is a well-defined community of
 17 interest among the persons who comprise the readily ascertainable classes defined below and
 18 because PLAINTIFF is unaware of any difficulties likely to be encountered in managing this case
 19 as a class action.

20 10. **Class Definitions:** The classes are defined as follows:

21 A. **FCRA Class:** All of DEFENDANTS' current, former and prospective
 22 applicants for employment in the United States who applied for a job with DEFENDANTS at any
 23 time during the period for which a background check was performed beginning five years prior to
 24 the filing of this action and ending on the date that final judgment is entered in this action.

25 B. **ICRAA Class:** All of DEFENDANT'S current, former, and prospective
 26 applicants for employment in California, at any time during the period beginning five years prior to
 27 the filing of this action and ending on the date that final judgment is entered into this action.

28 C. **CCRAA Class:** All of DEFENDANT'S current, former, and prospective

1 applicants for employment in California, at any time during the period beginning seven years prior
 2 to the filing of this action and ending on the date that final judgment is entered in this action.

3 11. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), PLAINTIFF reserves
 4 the right to amend or modify the class definitions with greater specificity, by further division into
 5 subclasses and/or by limitation to particular issues.

6 12. **Numerosity:** The class members are so numerous that the individual joinder of each
 7 individual class member is impractical. While PLAINTIFF does not currently know the exact
 8 number of class members, PLAINTIFF is informed and believes that the actual number exceeds
 9 the minimum required for numerosity under California law.

10 13. **Commonality and Predominance:** Common questions of law and fact exist as to
 11 all class members and predominate over any questions which affect only individual class members.
 12 These questions include, but are not limited to:

- 13 A. Whether DEFENDANTS failed to comply with the requirements of 15
- 14 U.S.C 7001 section 101(c)(1)?
- 15 B. Wherein DEFENDANTS willfully failed to provide the class with stand-
- 16 alone written disclosures before obtaining a credit or background report in
- 17 compliance with the statutory mandates?
- 18 C. Whether DEFENDANTS willfully failed to identify the name, address,
- 19 telephone number, and/or website of the investigative consumer reporting
- 20 agency conducting the investigation?
- 21 D. Whether DEFENDANTS willfully failed to identify the source of the credit
- 22 report to be performed?
- 23 E. Wherein DEFENDANTS willfully failed to comply with the FCRA, ICRAA
- 24 and/or the CRAA?

25 14. **Typicality:** PLAINTIFF'S claims are typical of the other class members' claims.
 26 PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS have a policy,
 27 practice or a lack of a policy which resulted in DEFENDANTS failing to comply with the FCRA,
 28 ICRAA, and CCRAA as alleged herein.

1 15. **Adequacy of Class Representative:** PLAINTIFF is an adequate class
 2 representative in that she has no interests that are adverse to, or otherwise in conflict with, the
 3 interests of absent class members. PLAINTIFF is dedicated to vigorously prosecuting this action
 4 on behalf of class members. PLAINTIFF will fairly and adequately represent and protect the
 5 interests of class members.

6 16. **Adequacy of Class Counsel:** PLAINTIFF'S counsel are adequate class counsel in
 7 that they have no known conflicts of interest with PLAINTIFF or absent class members, are
 8 experienced in class action litigation and are dedicated to vigorously prosecuting this action on
 9 behalf of PLAINTIFF and absent class members.

10 17. **Superiority:** A class action is vastly superior to other available means for fair and
 11 efficient adjudication of class members' claims and would be beneficial to the parties and the
 12 Court. Class action treatment will allow a number of similarly situated persons to simultaneously
 13 and efficiently prosecute their common claims in a single forum without the unnecessary
 14 duplication of effort and expense that numerous individual actions would entail. In addition, the
 15 monetary amounts due to many individual class members are likely to be relatively small and
 16 would thus make it difficult, if not impossible, for individual class members to both seek and
 17 obtain relief. Moreover, a class action will serve an important public interest by permitting class
 18 members to effectively pursue the recovery of monies owed to them. Further, a class action will
 19 prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

20 **GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

21 18. When PLAINTIFF applied for employment with DEFENDANTS, DEFENDANTS
 22 performed a background check on PLAINTIFF and the putative class who did not properly and
 23 legally authorize the background check in accordance with federal and state laws nor give them a
 24 disclosure that complied with the Fair Credit Reporting Act and similar California laws.

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FIRST CAUSE OF ACTION

FAILURE TO MAKE PROPER DISCLOSURE IN VIOLATION OF THE FCRA

(15 U.S.C. §§ 1681b(b)(2)(A))

(By Plaintiff and the FCRA Class Against All Defendants)

19. PLAINTIFF incorporates all paragraphs of this Complaint as if fully alleged herein.

20. DEFENDANTS are “persons” as defined by Section 1681a(b) of the FCRA.

21. PLAINTIFF and class members are “consumers” within the meaning Section 1681a(c) of the FCRA, because they are “individuals.”

22. Section 1681a(d)(1) of the FCRA defines “consumer report” as any oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility” for employment purposes.

Thus a credit and background report qualifies as a consumer report.

23. Section 1681a(e) of the FCRA defines “investigative consumer report” as: a consumer report or portion thereof in which information on a consumer’s character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with whom he is acquainted or who may have knowledge concerning any such items of information.

Thus a credit and background report qualifies as an investigative consumer report.

24. Section 1681b(b) of the FCRA provides, in relevant part:
Conditions for furnishing and using consumer reports for employment purposes

(2) Disclosure to consumer

(A) In general

Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

- i. **a clear and conspicuous** disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that **consists solely of the disclosure**, that a consumer report may be obtained for employment purposes; and
- ii. the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person. (Emphasis Added).

1 25. Section 1681b(b)(2)(A)(i) requires that a clear and conspicuous disclosure be made
2 in writing.

3 26. Because DEFENDANTS' disclosures do not meet the requirement of Section
4 101(c)(1) of 15 U.S.C. 7001, the disclosures do not satisfy the written requirement.

5 27. As described above, PLAINTIFF alleges, on information and belief, that in
6 evaluating her and other class members for employment, DEFENDANTS procured or caused to be
7 prepared credit and background reports (i.e., a consumer report and/or investigative consumer
8 report, as defined by 15 U.S.C. § 1681a(d)(1)(B) and 15 U.S.C. § 1681a(e)).

9 28. The purported disclosures do not meet the requirements under the law because
10 they are embedded with extraneous information, and are not clear and unambiguous disclosures in
11 stand-alone documents.

12 29. Under the FCRA, it is unlawful to procure or caused to be procured, a consumer
13 report or investigative consumer report for employment purposes unless the disclosure is made in a
14 document that consists solely of the disclosure and the consumer has authorized, in writing, the
15 procurement of the report. 15 U.S.C. § 1681b(b)(2)(A)(i)-(ii). The inclusion of a release and other
16 extraneous information, therefore, violates § 1681b(b)(2)(A) of the FCRA.

17 30. Although the disclosure and the authorization may be combined in a single
18 document, the Federal Trade Commission ("FTC") has warned that the form should not include
19 any extraneous information or be part of another document. For example, in response to an inquiry
20 as to whether the disclosure may be set forth within an application for employment or whether it
21 must be included in a separate document, the FTC stated:

22 The disclosure may not be part of an employment application because the language
23 [of 15 U.S.C. § 1681b(b)(2)(A) is] intended to ensure that it appears conspicuously
24 in a document not encumbered by any other information. The reason for requiring
that the disclosure be in a stand-alone document is to prevent consumers from being
distracted by other information side-by-side within the disclosure.

25 31. In a report dated July 2011, the FTC reiterated that: "the notice [under 15 U.S.C §
26 1681b(b)(2)(A)] may not include extraneous or contradictory information, such as a request for a
27 consumer's waiver of his or her rights under the FCRA."

28 32. By including extraneous information, DEFENDANTS willfully disregarded the

1 FTC's regulatory guidance and violated Section 1681b(b)(2)(A) of the FCRA. Additionally, the
 2 inclusion of the extraneous provisions causes the disclosure to fail to be "clear and conspicuous"
 3 and "clear and accurate," and thus violates §§ 1681b(b)(2)(A) and 1681d(a).

4 33. DEFENDANTS' conduct in violation of Section 1681b(b)(2)(A) of the FCRA was
 5 and is willful. DEFENDANTS acted in deliberate or reckless disregard of their obligations and the
 6 rights of applicants and employees, including PLAINTIFF and class members. DEFENDANTS'
 7 willful conduct is reflected by, among other things, the following facts:

8 (a) DEFENDANTS are a large corporation with access to legal advice;

9 (b) DEFENDANTS required a purported authorization to perform credit and
 10 background checks in the process of employing the class members which, although defective,
 11 evidences DEFENDANTS' awareness of and willful failure to follow the governing laws
 12 concerning such authorizations;

13 (c) The plain language of the statute unambiguously indicates that inclusion of
 14 extraneous information in a disclosure form violates the disclosure and authorization requirements;
 15 and

16 34. Based upon the facts likely to have evidentiary support after a reasonable
 17 opportunity for further investigation and discovery, PLAINTIFF alleges that DEFENDANTS have
 18 a policy and practice of procuring investigative consumer reports or causing investigative
 19 consumer reports to be procured for applicants and employees without properly and legally
 20 obtaining authorization as it included other extraneous information other than the disclosure; and
 21 without notifying such applicants of their right to request a summary of their rights under the
 22 FCRA at the same time as the disclosure explaining that an investigative consumer report may be
 23 made. Pursuant to that policy and practice, DEFENDANTS procured investigative consumer
 24 reports or caused investigative consumer reports to be procured for PLAINTIFF and class
 25 members, as described above, without informing class members of their rights to request a written
 26 summary of their rights under the FCRA.

27 35. Accordingly, DEFENDANTS willfully violated and continue to violate the FCRA
 28 including, but not limited to, §§ 1681b(b)(2)(A) and 1681d(a). DEFENDANTS' willful conduct is

1 reflected by, among other things, the facts set forth above.

2 36. As a result of DEFENDANTS' illegal procurement of credit and background
3 reports by way of their inadequate disclosures, as set forth above, PLAINTIFF and class members
4 have been injured including, but not limited to, having their privacy and statutory rights invaded in
5 violation of the FCRA.

6 37. PLAINTIFF, on behalf of himself and all class members, seeks all available
7 remedies pursuant to 15 U.S.C. § 1681n, including statutory damages and/or actual damages,
8 punitive damages, injunctive and equitable relief and attorneys' fees and costs.

9 38. In the alternative to PLAINTIFF'S allegation that these violations were willful,
10 PLAINTIFF alleges that the violations were negligent and seeks the appropriate remedy, if any,
11 under 15 U.S.C. § 1681o, including actual damages and attorneys' fees and costs.

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15 SECOND CAUSE OF ACTION

16 **FAILURE TO GIVE PROPER SUMMARY OF RIGHTS IN VIOLATION OF FCRA**

17 **(15 U.S.C. § 1681d(a)(1) and 1681g(c))**

18 **(By Plaintiff and the FCRA Class Against All Defendants)**

19 39. PLAINTIFF incorporates all paragraphs of this Complaint as if fully alleged herein.

20 40. Section 1681d provides:

21 (a) Disclosure of fact of preparation

22 A person may not procure or cause to be prepared an investigative consumer report
on any consumer unless—

23 (1) it is *clearly and accurately disclosed* to the consumer that an
24 investigative consumer report including information as to his character, general
reputation, personal characteristics, and mode of living, whichever are applicable, may
25 be made, and such disclosure;

26 (2) is *made in a writing mailed, or otherwise delivered*, to the
consumer, not later than three days after the date on which the report was first
27 requested, and

28 (3) *includes a statement informing the consumer of his right to request the additional
disclosures provided for under subsection (b) of this
section and the written summary of the rights of the consumer prepared pursuant to*

1 *section 1681g(c)* of this title; (Emphasis Added.)

2 (4) Subsection (b) of Section 1681d(a)(1) provides:

3 Any person who procures or causes to be prepared an investigative consumer report on
4 any consumer shall, upon written request made by the consumer within a reasonable
5 period of time after the receipt by him of the disclosure required by subsection (a)(1) of
6 this section (a)(1) of this section, make a *complete and accurate disclosure of the
nature and scope of the investigation requested*; (Emphasis Added). This disclosure
shall be made in a writing mailed, or otherwise delivered, to the consumer not later than
five days after the date on which the request for such disclosure was received from the
consumer or such report was first requested, whichever is the later.

7 41. As alleged previously, because DEFENDANTS' disclosures do not meet the
8 requirement of Section 101(c)(1) of 15 U.S.C. 7001, the disclosures do not satisfy the written
9 requirement.

10 42. Moreover, even if DEFENDANTS' disclosures are deemed to satisfy Section
11 101(c)(1), DEFENDANTS did not comply with Section 1681d(a)(1)(b) because the disclosures fail
12 to inform the consumer of the right to have the person who procured the report provide a complete
13 and accurate disclosure of the nature and scope of the investigation requested.

14 43. Section 1681g(c) further provides summary of rights to obtain and dispute
15 information in consumer reports and to obtain credit scores as:

16 (A) Commission summary of rights required

17 The Commission shall prepare a *model summary of the rights* of consumers under this subchapter.

18 (B) Content of summary

19 The summary of rights prepared under subparagraph (A) shall include a description of—

- 20 (1) the *right of a consumer to obtain a copy of a consumer*
21 *report* under subsection (a) of this section from each consumer
reporting agency;
- 22 (2) the *frequency and circumstances under which a*
consumer is entitled to receive a consumer report without charge
under section 1681j of this title;
- 23 (3) the right of a consumer to *dispute information* in the file
of the consumer under section 1681i of this title;
- 24 (4) *the right of a consumer to obtain a credit score* from a
consumer reporting agency, and a description of how to obtain a
25 credit score;
- 26 (5) *the method by which a consumer can contact, and*
obtain a consumer report from, a consumer reporting agency
without charge, as provided in the regulations of the Bureau
27 prescribed under section 211(c) of the Fair and Accurate Credit
Transactions Act of 2003; and
- 28 (6) the method by which a consumer can contact, and obtain
a consumer report from, a consumer reporting agency described in

section 1681a(w) of this title, as provided in the regulations of the Bureau prescribed under section 1681j(a)(1)(C) of this title; (Emphasis Added).

44. DEFENDANTS did not comply with 1681g(c)(B)(1) because the disclosure did not state the right of a consumer to obtain a copy of a consumer report from each consumer reporting agency.

45. DEFENDANTS did not comply with 1681g(c)(B)(2) because the disclosure did not state the frequency and circumstances under which a consumer is entitled to receive a consumer report without charge.

46. DEFENDANTS did not comply with 1681g(c)(B)(3) because the disclosure did not state the right of a consumer to dispute information in the file of the consumer.

47. DEFENDANTS did not comply with 1681g(c)(B)(4) because the disclosure did not state the right of a consumer to obtain a credit score from a consumer reporting agency and a description of how to obtain a credit score.

48. DEFENDANTS did not comply with 1681g(c)(B)(5) because the disclosure did not state the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency without charge.

49. DEFENDANTS did not comply with 1681g(c)(B)(6) because the disclosure did not state the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency described in section 1681a(w) of this title, as provided in the regulations of the Bureau prescribed under section 1681j(a)(1)(C) of this title; (Emphasis Added).

THIRD CAUSE OF ACTION

FAILURE TO MAKE PROPER DISCLOSURE IN VIOLATION OF ICRAA

(Cal. Civ. Code § 1786 *et seq.*)

(By Plaintiff and the ICRAA Class Against All Defendants)

50. PLAINTIFF incorporates all paragraphs of this Complaint as if fully alleged herein.

51. DEFENDANTS are "persons" as defined by Section 1786.2(a) of the Investigative Consumer Reporting Agencies Act ("ICRAA").

52. PLAINTIFF and **ICRAA Class** members are "consumers" within the meaning

1 Section 1786.2(b) of the ICRAA, because they are "individuals."

2 53. Section 1786.2(c) of the ICRAA defines "investigative consumer report" as:
3 a consumer report in which information on a consumer's character, general
4 reputation, personal characteristics, or mode of living is obtained through
5 any means.

6 54. Thus a background checks qualifies as an investigative consumer
7 report under the ICRAA

8 55. Section 1786.16(a)(2) of the ICRAA provides, in relevant part:

9 If, at any time, an investigative consumer report is sought for employment
10 purposes...the person seeking the investigative consumer report may procure the report,
or cause the report to be made, only if all of the following apply:

11 (B) The person procuring or causing the report to be made provides a *clear and conspicuous*
12 disclosure in writing to the consumer at any time before the report is procured or caused to
be made *in a document that consists solely of the disclosure*, that:

13 (i) An investigative consumer report may be obtained.

14 (ii) The permissible purpose of the report is identified.

15 (iii) The disclosure may include information on the consumer's character, general
reputation, personal characteristics, and mode of living.

16 (iv) Identifies the *name, address, and telephone number of the investigative*
17 *consumer reporting agency* conducting the investigation.

18 (v) Notifies the consumer in writing of the nature and scope of the investigation
requested, including the provisions of Section 1786.22.

19 (vi) *Notifies the consumer of the Internet Web site address of the investigative*
20 *consumer reporting agency* identified in clause (iv), or, *if the agency has no*
21 *Internet Web site address, the telephone number of the agency*, where the
22 consumer may find information about the investigative reporting agency's privacy
practices, including whether the consumer's personal information will be sent outside
the United States or its territories and information that complies with subdivision (d)
of Section 1786.20. This clause shall become operative on January 1, 2012.

23 (C) The consumer has authorized in writing the procurement of the report.
24 (Emphasis added.)

25 56. As alleged above, because DEFENDANTS' disclosures do not meet the
26 requirements of Section 101(c)(1) of 15 U.S.C. 7001, the disclosures do not satisfy Section
27 1786.16(a)(2) of the ICRAA requirement that the disclosures be made in writing.
28

1 57. As described above, PLAINTIFF alleges that in evaluating her and other class
2 members for employment, DEFENDANTS procured or caused to be prepared investigative
3 consumer report (e.g. background checks), as defined by Cal. Civ. Code § 1786.2(c).

4 58. Because the purported disclosures are embedded with extraneous information, and
5 are not clear and unambiguous disclosures in stand-alone documents, they do not meet the
6 requirements under the law.

7 59. Under the ICRAA, it is unlawful to procure or caused to be procured, a consumer
8 report or investigative consumer report for employment purposes unless the disclosure is made in a
9 document that consists solely of the disclosure and the consumer has authorized, in writing, the
10 procurement of the report. Cal. Civ. Code § 1786.16(a)(2)(B)-(C). The inclusion of the Release and
11 other extraneous information, therefore, violates § 1786.16(a)(2)(B) of the ICRAA.

12 60. The plain language of the statute clearly indicates that the inclusion of a liability
13 release in a disclosure form violates the disclosure and authorization requirements of the ICRAA,
14 because such a form would not consist “solely” of the disclosure.

15 61. By including the Release and other extraneous information, DEFENDANTS
16 willfully violated § 1786.16(a)(2)(B) of the ICRAA. Additionally, the inclusion of the extraneous
17 provisions causes the disclosure to fail to be “clear and conspicuous” and thus violates §
18 1786.16(a)(2)(B).

19 62. Based upon facts that are likely to have evidentiary support after a reasonable
20 opportunity for investigation and discovery, PLAINTIFF alleges that DEFENDANTS have a
21 policy and practice of failing to provide adequate written disclosures to applicants and employees,
22 before procuring background checks or causing background checks to be procured, as described
23 above. Pursuant to that policy and practice, DEFENDANTS procured background checks or
24 caused background checks to be procured for PLAINTIFF and class members without first
25 providing a written disclosure in compliance with § 1786.16(a)(2)(B) of the ICRAA, as described
26 above.

27 63. DEFENDANTS’ conduct in violation of § 1786.16(a)(2)(B) of the ICRAA was and
28 is willful and/or grossly negligent. DEFENDANTS acted in deliberate or reckless disregard of

1 their obligations and the rights of applicants and employees, including PLAINTIFF and class
2 members. DEFENDANTS' willful conduct is reflected by, among other things, the following facts:

3 (d) DEFENDANTS are large corporations with access to legal advice;

4 (e) DEFENDANTS required a purported authorization to perform credit and
5 background checks in the process of employing the class members which, although defective,
6 evidences DEFENDANTS' awareness of and willful failure to follow the governing laws
7 concerning such authorizations; and

8 (f) The plain language of the statute unambiguously indicates that inclusion of a
9 liability release and other extraneous information in a disclosure form violates the disclosure and
10 authorization requirements, and that the disclosure form must contain the name, address, phone
11 number, and/or website address of the investigative consumer reporting agency conducting the
12 investigation.

13 64. As a result of DEFENDANTS' illegal procurement of background reports by way
14 of their inadequate disclosures, as set forth above, PLAINTIFF and class members have been
15 injured including, but not limited to, having their privacy and statutory rights invaded in violation
16 of the ICRAA.

17 65. PLAINTIFF, on behalf of himself and all class members, seeks all available
18 remedies pursuant to Cal. Civ. Code § 1786.50, including statutory damages and/or actual
19 damages, punitive damages, and attorneys' fees and costs.

20 66. In the alternative to PLAINTIFF'S allegation that these violations were willful
21 or grossly negligent, PLAINTIFF alleges that the violations were negligent and seeks the
22 appropriate remedy, if any, under Cal. Civ. Code § 1786.50(a), including actual damages and
23 attorneys' fees and costs.

24 **FOURTH CAUSE OF ACTION**

25 **FAILURE TO MAKE PROPER DISCLOSURE IN VIOLATION OF CCRAA**

26 **(Cal. Civ. Code § 1785 *et seq.*)**

27 **(By Plaintiff and the CCRAA Class Against All Defendants)**

28 67. PLAINTIFF incorporates all paragraphs of this Complaint as if fully alleged herein.

1 68. DEFENDANTS are “persons” as defined by Section 1785.3(j) of the Consumer
2 Credit Reporting Agencies Act (“CCRAA”).

3 69. PLAINTIFF and **CCRAA Class** members are “consumers” within the meaning
4 Section 1785.3(b) of the CCRAA, because they are “natural individuals.”

5 70. Section 1785.3(c) of the ICRAA defines “consumer credit report” as:

6 any written, oral, or other communication of any information by a consumer credit
7 reporting agency bearing on a consumer’s credit worthiness, credit standing, or
8 credit capacity, which is used or is expected to be used, or collected in whole or in
part, for the purpose of serving as a factor in establishing the consumer’s eligibility
for: ... (2) employment purposes...

9 Thus a credit report qualifies as a consumer credit report under the CCRAA.

10 71. Section 1785.20.5(a) of the CCRAA provides, in relevant part:

11 Prior to requesting a consumer credit report for employment purposes, the user of
12 the report shall provide written notice to the person involved. The notice shall
13 inform the person that a report will be used, and *shall identify the specific basis
under subdivision (a) of Section 1024.5 of the Labor Code for use of the report.
The notice shall also inform the person of the source of the report...*

14 (Emphasis added.)

15 72. As described above, PLAINTIFF alleges that in evaluating her and other class
16 members for employment, DEFENDANTS procured or caused to be prepared consumer credit
17 reports (e.g. credit reports), as defined by Cal. Civ. Code § 1785.3(c).

18 73. DEFENDANTS did not identify the specific basis under subdivision (a) of Section
19 1024.5 of the Labor Code for use of the credit report. This omission clearly violates § 1785.20.5(a)
20 of the CCRAA, as delineated above.

21 74. Based upon facts that are likely to have evidentiary support after a reasonable
22 opportunity for investigation and discovery, PLAINTIFF alleges that DEFENDANTS have a
23 policy and practice of failing to provide adequate written disclosures to applicants and employees,
24 before procuring credit reports or causing credit reports to be procured, as described above.
25 Pursuant to that policy and practice, DEFENDANTS procured credit reports or caused credit
26 reports to be procured for PLAINTIFF and class members without first providing a written notice
27 in compliance with § 1785.20.5(a) of the CCRAA, as described above.

28 75. DEFENDANTS’ conduct in violation of § 1785.20.5(a) of the CCRAA was and is

1 willful and/or grossly negligent. DEFENDANTS acted in deliberate or reckless disregard of their
 2 obligations and the rights of applicants and employees, including PLAINTIFF and class members.
 3 DEFENDANTS' willful conduct is reflected by, among other things, the following facts:

4 (g) DEFENDANTS are large corporations with access to legal advice;

5 (h) DEFENDANTS required a purported authorization to perform credit checks
 6 in the process of employing the class members which, although defective, evidences
 7 DEFENDANTS' awareness of and willful failure to follow the governing laws concerning such
 8 authorizations; and

9 (i) The plain language of the statute unambiguously indicates that failure to
 10 include the provisions identified above violates the CCRAA's notice requirements, and that the
 11 notice must identify the specific basis under subdivision (a) of Section 1024.5 of the Labor Code
 12 for use of the credit report and must identify the source of any credit report.

13 76. As a result of DEFENDANTS' illegal procurement of credit reports by way of their
 14 inadequate notice, as set forth above, PLAINTIFF and class members have been injured including,
 15 but not limited to, having their privacy and statutory rights invaded in violation of the CCRAA.

16 77. PLAINTIFF, on behalf of himself and all class members, seeks all available
 17 remedies pursuant to Cal. Civ. Code § 1785.31, including statutory damages and/or actual
 18 damages, punitive damages, injunctive relief, and attorneys' fees and costs.

19 78. In the alternative to PLAINTIFF'S allegation that these violations were willful,
 20 Plaintiff alleges that the violations were negligent and seeks the appropriate remedy, if any, under
 21 Cal. Civ. Code § 1785.31(a)(1), including but not limited to actual damages and attorneys' fees and
 22 costs.

23 **FIFTH CAUSE OF ACTION**

24 **UNFAIR COMPETITION**

25 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

26 **(By Plaintiff and FCRA, ICRAA and CCRAA Class)**

27 79. PLAINTIFF incorporates the preceding paragraphs of the Complaint as if
 28 fully alleged herein.

1 80. Business and Professions Code section 17200 defines “unfair competition” to
2 include any unlawful business practice.

3 81. Business and Professions Code sections 17203–17204 allow a person who has
4 lost money or property as a result of unfair competition to bring a class action in accordance with
5 Code of Civil Procedure section 382 to recover money or property that may have been acquired
6 from similarly situated persons by means of unfair competition.

7 82. Federal and California laws require certain disclosures and proper authorization
8 before conducting background checks and obtaining information from credit and background
9 reports in connection with a hiring process.

10 83. PLAINTIFF and the UCL Class re-alleges and incorporates by reference the
11 FIRST, SECOND, THIRD and FOURTH causes of action herein.

12 84. PLAINTIFF lost money or property as a result of the aforementioned unfair
13 competition.

14 85. DEFENDANTS have, or may have, acquired money by means of unfair
15 competition.

16 86. DEFENDANTS have violated Federal and California laws through their policies
17 and practices of, *inter alia*, routinely acquiring consumer, investigative consumer and/or consumer
18 credit reports (referred to collectively as “credit and background reports”) to conduct background
19 checks on PLAINTIFF and other prospective, current and former employees and use information
20 from credit and background reports in connection with their hiring process without providing
21 proper disclosures and obtaining proper authorization in compliance with the law.

22 87. The unlawful conduct of DEFENDANTS alleged herein amounts to and
23 constitutes unfair competition within the meaning of Business and Professions Code sections
24 17200, *et seq.* Business and Professions Code section 17200, *et seq.*, protects against unfair
25 competition and allows a person who has suffered an injury-in-fact and has lost money or property
26 as a result of an unfair, unlawful, or fraudulent business practice to seek restitution on his own
27 behalf and on behalf of other similarly situated persons in a class action proceeding.

28 88. PLAINTIFF is informed and believes that other similarly situated persons

1 have been subject to the same unlawful policies or practices of DEFENDANTS.

2 89. Due to its unfair and unlawful business practices in violation of Federal and
3 California laws as alleged herein, DEFENDANTS have gained a competitive advantage over other
4 comparable companies doing business in the State of California that comply with their legal
5 obligations.

6 90. Pursuant to Business and Professions Code section 17203, PLAINTIFF, on behalf
7 of himself and the other members of the **FCRA, ICRAA and CCRAA Class**, seeks declaratory
8 relief and restitution of all monies rightfully belonging to them that did not pay them or otherwise
9 retained by means of its unlawful and unfair business practices.

10 91. Pursuant to Code of Civil Procedure § 1021.5, the substantial benefit
11 doctrine and/or the common fund doctrine, and the other members of the **FCRA, ICRAA and**
12 **CCRAA Class** are entitled to recover reasonable attorneys' fees in connection with their unfair
13 competition claims.

14 ///

15 **PRAYER FOR RELIEF**

16 WHEREFORE, PLAINTIFF, on behalf of himself and all others similarly situated, prays
17 for relief and judgment against DEFENDANTS as follows:

- 18 A. An order that the action be certified as a class action;
- 19 B. An order that PLAINTIFF be appointed class representative;
- 20 C. An order that counsel for PLAINTIFF be appointed class counsel;
- 21 D. Statutory penalties;
- 22 E. Civil penalties;
- 23 F. Punitive damages;
- 24 G. Injunctive relief;
- 25 H. Costs of suit;
- 26 I. Interest;
- 27 J. Restitution;
- 28 K. Reasonable attorneys' fees; and

1 L. Such other relief as the Court deems just and proper.

2 **DEMAND FOR JURY TRIAL**

3 PLAINTIFF, on behalf of himself and all others similarly situated, hereby demands a jury
4 trial on all issues so triable.

5
6 Dated: June 20, 2017

SETAREH LAW GROUP

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9 SHAUN SETAREH
10 Attorney for Plaintiff,
11 RANDY PITRE
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