

EXHIBIT

1

DECLARATION OF COURTNEY MAZZIO

I, Courtney Mazzio, Esq., under penalty of perjury, declare as follows:

1. I am over 18 years old, am suffering no disabilities, and am competent to execute this Affidavit.

2. I am a member of the bar of the State of New Jersey and the United States District Court for the District of New Jersey. The following facts are based on my personal knowledge and my review of and familiarity with pertinent records.

3. Exhibit A to this declaration is a true and correct copy of the current docket and pleadings in the Superior Court of New Jersey, Law Division, Camden County action downloaded from its Web site on March 18, 2022.

I, Courtney Mazzio, Esq., hereby declare that the statements contained in this declaration are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made under penalty of perjury and subject to 28 U.S.C. §1746 relating to unsworn falsification to authorities.

Dated: March 18, 2022

By:

Courtney Mazzio

EXHIBIT 1-A

Case Summary

Case Number: CAM L-000308-22**Case Caption:** Maldonado Felix Vs Certified Automotive Lease C**Court:** Civil Part**Venue:** Camden**Case Initiation Date:** 02/04/2022**Case Type:** Other**Case Status:** Active**Jury Demand:** 12 Jurors**Case Track:** 1**Judge:** Anthony M Pugliese**Team:** 301**Original Discovery End Date:****Current Discovery End Date:****# of DED Extensions:** 0**Original Arbitration Date:****Current Arbitration Date:****# of Arb Adjournments:** 0**Original Trial Date:****Current Trial Date:****# of Trial Date Adjournments:** 0**Disposition Date:****Case Disposition:** Open**Statewide Lien:****Plaintiffs****Felix Maldonado****Party Description:** Individual**Attorney Name:** Jonathan Shub**Address Line 1:** 202A Avon Avenue**Address Line 2:****Attorney Bar ID:** 317842020**City:** Newark**State:** NJ**Zip:** 07108**Phone:****Attorney Email:** JSHUB@SHUBLAWYERS.COM**Defendants****Certified Automotivelease Cor AKA Certified Automotive Lease Corp., Cal Automotive****Party Description:** Corp**Attorney Name:****Address Line 1:** 104 Route 73**Address Line 2:****Attorney Bar ID:****City:** Voorhees**State:** NJ**Zip:** 08053**Phone:****Attorney Email:****Case Actions**

Filed Date	Docket Text	Transaction ID	Entry Date
02/04/2022	Complaint with Jury Demand for CAM-L-000308-22 submitted by SHUB, JONATHAN , SHUB LAW FIRM LLC on behalf of FELIX MALDONADO against CERTIFIED AUTOMOTIVE LEASE COR	LCV2022514147	02/04/2022
02/04/2022	SUMMONS submitted by SHUB, JONATHAN of SHUB LAW FIRM LLC on behalf of FELIX MALDONADO against CERTIFIED AUTOMOTIVE LEASE CORP.	LCV2022515556	02/04/2022
02/05/2022	TRACK ASSIGNMENT Notice submitted by Case Management	LCV2022530488	02/05/2022
02/07/2022	DEFICIENCY NOTICE: re: SUMMONS [LCV2022515556] -Please resubmit Summons together with the Affidavit of Service. Any questions daniel.castelan@njcourts.gov.	LCV2022537520	02/07/2022
02/07/2022	AMENDED COMPLAINT submitted by SHUB, JONATHAN of SHUB LAW FIRM LLC on behalf of FELIX MALDONADO against CERTIFIED AUTOMOTIVE LEASE CORP.	LCV2022547630	02/07/2022

NJ Dkt. 1

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<p>FELIX MALDONADO, on behalf of himself and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>CERTIFIED AUTOMOTIVE LEASE CORP. DBA CAL AUTOMOTIVE,</p> <p style="text-align: center;">Defendant,</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION CAMDEN COUNTY</p> <p>Docket No.: _____</p> <p>CIVIL ACTION</p> <p>CLASS ACTION COMPLAINT</p> <p><u>JURY DEMAND</u></p>
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CLASS ACTION COMPLAINT

Plaintiff, FELIX MALDONADO, individually and on behalf of the Class defined below of similarly situated persons, alleges the following against CERTIFIED AUTOMOTIVE LEASE CORP. d/b/a/ CAL AUTOMOTIVE (“CAL Auto” or “Defendant”) based upon personal knowledge with respect to himself and on information and belief derived from, among other things, investigation of counsel and review of public documents as to all other matters:

INTRODUCTION

1. Plaintiff brings this class action against Defendant for its failure to properly secure and safeguard Personal Identifiable Information (“PII”) that Defendant required from customers as a condition of receiving car lease or loan services, including without limitation, names, Social Security numbers, and driver’s license numbers.

2. Plaintiff also alleges that Defendant failed to provide timely, accurate, and adequate notice to Plaintiff and similarly situated individuals (“Class Members”) that their PII had been lost and precisely what type of information was unencrypted and is now in the possession of unknown third parties.

3. Defendant is a company in the United States that provides lease and loan services to car dealerships. Defendant’s prospective customers and current customers entrust them with an extensive amount of their PII to inquire about or obtain a car loan or car lease.

4. On September 18, 2021, Defendant exposed PII to “an unauthorized third party.”¹ The unauthorized third party “infiltrated [CAL Automotive’s] network.”²

5. Defendant waited almost six weeks to issue a notice to customers that their PII had been compromised. Defendant sent a letter dated October 26, 2021, to those whose PII may have been impacted.

6. By obtaining, collecting, using, and deriving a benefit from the PII of Plaintiff and Class Members, Defendant assumed legal and equitable duties to those individuals to protect and safeguard that information from unauthorized access and intrusion.

¹ <https://apps.web.maine.gov/online/aeviewer/ME/40/fe46a094-fb98-4b4c-b195-852ee8cfa3c3/99298116-6cbe-42c0-ae35-3c8b7fb3cbdc/document.html>

² *Id.*

7. Hackers can access and then offer for sale PII to criminals. The exposed PII of Plaintiff and Class Members can be sold on the dark web. Plaintiff and Class Members now face a present and lifetime risk of identity theft, which is heightened here by the loss of Social Security and driver's license information.

8. This PII was compromised due to Defendant's negligent and/or careless acts and omissions and the failure to protect the PII of Plaintiff and Class Members. In addition to Defendant's failure to prevent the Data Breach, after discovering the breach, Defendant waited too long to report it to the states' Attorneys General and affected individuals.

9. As a result of the delayed response in discovering and reporting the breach, Plaintiff and Class Members were in the dark for weeks that their PII had been compromised, and that they were, and continue to be, at significant risk of identity theft and various other forms of personal, social, and financial harm. The risk will remain for their respective lifetimes.

10. Plaintiff brings this action on behalf of all persons whose PII was compromised as a result of Defendant's failure to: (i) adequately protect the PII of Plaintiff and Class Members; (ii) warn Plaintiff and Class Members of Defendant's inadequate information security practices; and (iii) effectively secure hardware containing protected PII using reasonable and effective security procedures free of vulnerabilities and incidents. Defendant's conduct amounts to negligence and violates federal statutes.

11. Plaintiff and Class Members have suffered injury as a result of Defendant's conduct. These injuries include: (i) Plaintiff's stolen PII being posted on the Dark Web; (ii) Plaintiff experiencing a substantial increase in the amount of spam/phishing phone calls, emails, and texts after September 2021, with Plaintiff receiving calls, emails, and texts every day; (iii) lost or diminished value of PII; (iv) out-of-pocket expenses associated with the prevention, detection,

and recovery from identity theft, tax fraud, and/or unauthorized use of their PII; (v) lost opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach, including but not limited to lost time, and (vi) the continued and certainly increased present risk to their PII, which: (a) may be unencrypted and available for unauthorized third parties to access and abuse; and (b) may remain backed up in Defendant's possession and is subject to further unauthorized disclosures so long as Defendant fails to undertake appropriate and adequate measures to protect the PII.

12. Defendant disregarded the rights of Plaintiff and Class Members by intentionally, willfully, recklessly, or negligently failing to implement and maintain adequate and reasonable measures to ensure that the PII of Plaintiff and Class Members was safeguarded, failing to take available steps to prevent an unauthorized disclosure of data, and failing to follow applicable, required, and appropriate protocols, policies, and procedures regarding the encryption of data, even for internal use. As a result, the PII of Plaintiff and Class Members was compromised through disclosure to an unknown and unauthorized third party. Plaintiff and Class Members have a continuing interest in ensuring that their information is and remains safe, and they should be entitled to injunctive and other equitable relief.

PARTIES

13. Plaintiff Felix Maldonado is a resident of Newark, New Jersey and is (and was during the period of the data breach) a citizen of the State of New Jersey. Plaintiff Maldonado was a customer of Defendant, leasing a car from them, and providing his PII to Defendant as a requirement of the lease transaction.

14. Defendant Certified Automotive Lease Corp, d/b/a CAL Automotive is a corporation organized under the laws of the State of New Jersey, with a principle place of business at 104 Route 73, Voorhees New Jersey 08053.

JURISDICTION AND VENUE

15. This Court has personal jurisdiction over Defendant because it regularly conducts substantial business in New Jersey, has its principal place of business located in New Jersey and the amount in question in this litigation is greater than \$15,000.

16. Venue is proper in Camden County under R. 4:3-2(b) as Defendant conducts substantial business throughout Camden County and has its principal place of business in Camden County.

CLASS ACTION ALLEGATIONS

17. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

18. Pursuant to Rule 4:32 of the New Jersey Rules of Civil Procedure, Plaintiff brings this claim for relief to redress Defendant's violations the New Jersey Consumer Fraud Act (NJ Stat. Ann. § 56 :8-1 *et seq.*) and the common law of New Jersey on behalf of himself and those similarly situated ("the Class").

19. Plaintiff proposes the following Class definitions, subject to amendment as appropriate:

Nationwide Class ("the Class")

All residents of the United States whose personal information was compromised as a result of the Data Breach.

New Jersey Subclass (also including in "the Class," except as otherwise noted)

All residents of New Jersey whose personal information was compromised as a result of the Data Breach.

20. Excluded from the Class are Defendant and its parents or subsidiaries, any entities in which it has a controlling interest, as well as its officers, directors, affiliates, legal representatives, heirs, predecessors, successors, and assigns. Also excluded are any Judge to whom this case is assigned as well as his or her judicial staff and immediate family members.

21. The proposed class meets the criteria for certification under New Jersey Court Rule 4:32-1.

22. The Members of the Class are so numerous that joinder of all of them is impracticable. Defendant reported that there are at least 86,637 Class Members at this time. The members within the Class are scattered throughout the United States and so numerous that joinder of all members is impractical in satisfaction of New Jersey Court Rule 4:32-1(a)(1).

23. There are questions of law and fact common to the Class, which predominate over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

- a. Whether CAL Auto engaged in the conduct alleged herein;
- b. Whether CAL Auto's conduct violated the state consumer protection laws invoked below;
- c. Whether CAL Auto had a legal duty to adequately protect Plaintiff's and Class Members' personal information;
- d. Whether CAL Auto breached its legal duty by failing to adequately protect Plaintiff's and Class Members' personal information;
- e. Whether CAL Auto had a legal duty to provide timely and accurate notice of the data breach to Plaintiff and Class Members;

- f. Whether CAL Auto breached its duty to provide timely and accurate notice of the data breach to Plaintiff and Class Members;
- g. Whether Plaintiff and Class Members are entitled to recover actual damages and/or statutory damages; and
- h. Whether Plaintiff and Class Members are entitled to equitable relief, including injunctive relief, restitution, disgorgement, and/or the establishment of a constructive trust.

24. These questions of law and/or fact are common to the Class and predominate over any questions affecting only individual class members.

25. Plaintiff's claims are typical of the claims of their respective Class as required by New Jersey Court Rule 4:32-1(a)(3), in that all claims are based upon the same factual and legal theories. It is the same conduct by the Defendant that has injured each member of the Class the same way, by having their Private Information compromised in the Data Breach.

26. Plaintiff will fairly and adequately represent and protect the interests of the Members of the Class, as required by New Jersey Court Rule 4:32-1(a)(4). Plaintiff will fairly and adequately protect the interests of those similarly situated because Plaintiff's interests are coincident with, and not antagonistic to, those of the class.

27. Plaintiff has retained counsel with substantial experience in handling of data breach class actions. Plaintiff and his counsel are committed to the vigorous prosecution of this action on behalf of the classes and have the financial resources to do so. Neither Plaintiff nor counsel has any interest adverse to those of the Class.

28. Plaintiff's claims are typical of the claims of those similarly situated because Plaintiff, like all those similarly situated, had his PIII compromised in the Data Breach.

29. Class certification is proper under New Jersey Rule 4:32-1(b)(1)(A)-(B), because a class action is superior to other available methods for the fair and efficient adjudication of the controversy. Class treatment of common questions of law and fact is superior to multiple individual actions or piecemeal litigation. Absent a class action, most Class Members would likely find that the cost of litigating their individual claims is prohibitively high and would therefore have no effective remedy. The prosecution of separate actions by individual Class Members would create a risk of inconsistent or varying adjudications with respect to individual Class Members, which would establish incompatible standards of conduct for Defendant. In contrast, the conduct of this action as a class action presents far fewer management difficulties, conserves judicial resources and the parties' resources, and protects the rights of each Class Member.

30. Class certification is proper under New Jersey Rule 4:32-1(b)(2), because CAL Auto has acted or has refused to act on grounds generally applicable to the Class, so that final injunctive relief or corresponding declaratory relief is appropriate as to the Class as a whole.

31. Class certification is proper under New Jersey Rule 4:32-1(b)(3), because Defendant has engaged in a common course of conduct toward Plaintiff and Class Members, in that all the Plaintiff's and Class Members' Private Information was stored on the same computer systems and unlawfully accessed in the same way. The common issues arising from Defendant's conduct affecting Class Members set out above predominate over any individualized issues. Adjudication of these common issues in a single action has important and desirable advantages of judicial economy.

32. A class action is superior to other available methods for the fair and efficient adjudication of the controversy under New Jersey Court Rule 4:32-1(b)(3).

33. Absent a class action, most members of the Class likely would find the cost of litigating their claims to be prohibitive, and will have no effective remedy at law.

34. The class treatment of common questions of law and fact is also superior to multiple individual actions or piecemeal litigation in that it conserves the resources of the courts and the litigants and promotes consistency and efficiency of adjudication.

35. Maintenance of this action as a class action is a fair and efficient method for adjudication of this controversy. It would be impracticable and undesirable for each member of each putative class who has suffered harm to bring a separate action. In addition, the maintenance of separate actions would place a substantial and unnecessary burden on the courts and could result in inconsistent adjudications, while a single class action can determine, with judicial economy, the rights of all putative class members.

36. Class certification is also appropriate because this Court can designate particular claims or issues for class-wide treatment and may designate one or more Subclasses pursuant to New Jersey Court Rule 4:32-2(d).

37. No unusual difficulties are likely to be encountered in the management of this action as a class action.

38. Finally, all members of the proposed Class are readily ascertainable. CAL Auto has access to addresses and other contact information for all members of the Class, which can be used to identify Class Members.

FACTUAL BACKGROUND

39. CAL Auto is a company that provides leases and leasing services to car dealerships and customers of car dealerships.

40. CAL Auto focuses on providing leases in New Jersey, New York, Massachusetts and Pennsylvania.

41. Plaintiff and Class Members who received leases and leasing services from Defendant were required to provide sensitive and confidential PII, including their names, Social Security numbers, and other PII, which is static, does not change, and can be used to commit countless different types of financial crimes.

42. Upon information and belief, during the process of consummating the lease and leasing services transactions, Defendant provided Plaintiff and Class Members with oral and written assurances that their PII would be kept confidential and securely maintained.

43. Plaintiff and Class Members, as customers of Defendant, relied on the sophistication of Defendant to keep their PII confidential and securely maintained, to use this information for business purposes only, and to make only authorized disclosures of this information. Plaintiff and Class Members demand security to safeguard their PII.

44. Defendant had a duty to adopt reasonable measures to protect the PII of Plaintiff and Class Members from involuntary disclosure to third parties.

The Data Breach

45. Beginning on or about October 26, 2021, Defendant sent 68,837 people including Plaintiff a letter, which informed the recipients that:

We are writing to notify you of an incident that may have exposed your personal information. . . On September 18, 2021 CAL Automotive detected and stopped a network security incident in which an unauthorized third party infiltrated our network. . . The data accessed included some or all of the following information: first and last name, personal or business mailing address, email address or phone

number. In some instances, the data also included information about a vehicle purchased, leased or inquired about, such as the Vehicle Identification Number. The data also included more sensitive information relating to eligibility for a purchase, loan, or lease. This included driver's license numbers, dates of birth, Social Security numbers, account or loan numbers, and tax identification numbers.³

46. The unencrypted PII of Plaintiff and Class Members has ended up for sale on the dark web, or may simply fall into the hands of companies that will use the detailed PII for targeted marketing without the approval of Plaintiff and Class Members. Unauthorized individuals can easily access the PII of Plaintiff and Class Members.

47. Defendant did not use reasonable security procedures and practices appropriate to the nature of the sensitive information they were maintaining for Plaintiff and Class Members, causing the exposure of PII for many customers, such as encrypting the information or deleting it when it is no longer needed.

48. As explained by the New Jersey Cybersecurity & Communicates Integration Cell of the New Jersey Office of Homeland Security ("NJCCIC"), "cybersecurity is a shared responsibility" between the public sector and the private sector.⁴

49. To prevent and detect data breaches, Defendant could and should have implemented, as recommended by NJCCIC, certain security measures. For example, the standards published by the National Institute of Standards and Technology (NIST) Special Publication 800-

³ <https://apps.web.maine.gov/online/aeviewer/ME/40/fe46a094-fb98-4b4c-b195-852ee8cfa3c3/99298116-6cbe-42c0-ae35-3c8b7fb3cbdc/document.html>

⁴ *Cybersecurity Strategic Plan*, New Jersey Cybersecurity & Communications Integration Cell, available at: <https://www.cyber.nj.gov/cybersecurity-strategic-plan/#new-jerseys-approach-to-cybersecurity> (last visited Dec. 14, 2021)

53 and the Framework for Improving Critical Infrastructure Cybersecurity.⁵ Further, the NJCCIC recommends that all organizations implement the Center for Internet Security's (CIS) Critical Security Controls.

50. To protect data, CIS recommends several safeguards, which include:

- a. Establishing and Maintaining a Data Management Process
- b. Establish and Maintain a Data Inventory
- c. Enforce Data Retention
- d. Securely Dispose of Data
- e. Encrypt Data on End-User Devices
- f. Encrypt Data on Removable Media
- g. Encrypt Sensitive Data in Transit
- h. Encrypt Sensitive Data at Rest
- i. Deploy a Data Loss Prevention Solution⁶

51. The occurrence of the Data Breach indicates that Defendant failed to adequately implement one or more of the above measures to prevent unauthorized access, resulting in the Data Breach and the exposure of the PII of 68,837 people, including Plaintiff and Class Members.⁷

Defendant Acquires, Collects, and Stores the PII of Plaintiff and Class Members.

52. Defendant has historically acquired, collected, and stored the PII of Plaintiff and Class Members.

⁵ *New Jersey Statewide Information Security Manual*, New Jersey Cybersecurity & Communications Integration Cell, available at: <https://www.cyber.nj.gov/learn/business-government-resources/#publications> (last visited Dec. 14, 2021)

⁶ *See Center for Internet Security Critical Security Controls*, Center for Internet Security, May 2021, available at: <https://www.cisecurity.org/> (last visited Dec. 14, 2021)

⁷ <https://apps.web.maine.gov/online/aeviewer/ME/40/fe46a094-fb98-4b4c-b195-852ee8cfa3c3.shtml>

53. As a condition of receiving leases and leasing services from Defendant, Defendant requires that its customers entrust them with highly confidential PII.

54. By obtaining, collecting, and storing the PII of Plaintiff and Class Members, Defendant assumed legal and equitable duties and knew or should have known that they were responsible for protecting the PII from disclosure.

55. Plaintiff and Class Members have taken reasonable steps to maintain the confidentiality of their PII and relied on Defendant to keep their PII confidential and maintained securely, to use this information for business purposes only, and to make only authorized disclosures of this information.

Securing PII and Preventing Breaches

56. Defendant could have prevented this Data Breach by properly securing and encrypting the files and file servers containing the PII of Plaintiff and Class Members. Alternatively, Defendant could have destroyed the data that it no longer needed.

57. Defendant's negligence in safeguarding the PII of Plaintiff and Class Members is exacerbated by the repeated warnings and alerts directed to protecting and securing sensitive data.

58. The New Jersey agency charged with engaging with the public and private sector on cybersecurity issues (NJCCIC) released an information report on June 6, 2021, which stated that to prevent data breaches "it is important for organizations to prepare for and respond efficiently and effectively to cyber incidents . . . and to implement cybersecurity best practices."⁸ This report recommends that organizations implement the NJ Statewide information Security Manual, which in turn recommends the implementation of the security protocols mentioned above

⁸ *Informational Report*, NJCCIC, Jun. 16, 2021, available at: <https://www.cyber.nj.gov/instructional-guides/data-breach-prevention-response-and-resources> (last visited Dec. 14, 2021).

(NIST 800-53 and CIS Controls).⁹

59. Further, the NJCCIC reported in their 2021-2025 Cybersecurity Strategic Plan that “since 2019, over 1,500 cybersecurity incidents were reported to the NJCCIC by impacted individuals and organizations.”¹⁰

60. Despite the prevalence of public announcements of data breach and data security compromises, Defendant failed to take appropriate steps to protect the PII of Plaintiff and Class Members from being compromised.

Value of Personally Identifiable Information or Personal Information

61. The Federal Trade Commission (“FTC”) defines identity theft as “a fraud committed or attempted using the identifying information of another person without authority.”¹¹ The FTC describes “identifying information” as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific person,” including, among other things, “[n]ame, Social Security number, date of birth, official State or government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number.”¹²

62. The PII of individuals remains of high value to criminals, as evidenced by the prices they will pay through the dark web. Numerous sources cite dark web pricing for stolen identity credentials. For example, Personal Information can be sold at a price ranging from \$40 to \$200,

⁹ *Id.*

¹⁰ *Cybersecurity Strategic Plan*, New Jersey Cybersecurity & Communications Integration Cell, available at: <https://www.cyber.nj.gov/cybersecurity-strategic-plan/#new-jerseys-approach-to-cybersecurity> (last visited Dec. 14, 2021)

¹¹ 17 C.F.R. § 248.201 (2013).

¹² *Id.*

and bank details have a price range of \$50 to \$200.¹³ Experian reports that a stolen credit or debit card number can sell for \$5 to \$110 on the dark web.¹⁴ Criminals can also purchase access to entire company data breaches from \$900 to \$4,500.¹⁵

63. Social Security numbers, for example, are among the worst kind of PII to have stolen because they may be put to a variety of fraudulent uses and are difficult for an individual to change. The Social Security Administration stresses that the loss of an individual's Social Security number, as is the case here, can lead to identity theft and extensive financial fraud:

A dishonest person who has your Social Security number can use it to get other personal information about you. Identity thieves can use your number and your good credit to apply for more credit in your name. Then, they use the credit cards and don't pay the bills, it damages your credit. You may not find out that someone is using your number until you're turned down for credit, or you begin to get calls from unknown creditors demanding payment for items you never bought. Someone illegally using your Social Security number and assuming your identity can cause a lot of problems.¹⁶

64. What's more, it is no easy task to change or cancel a stolen Social Security number. An individual cannot obtain a new Social Security number without significant paperwork and

¹³ *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 visited Dec. 14, 2021).

¹⁴ *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 visited Dec. 14, 2021).

¹⁵ *In the Dark*, VPNOverview, 2019, available at: <https://vpnoverview.com/privacy/anonymous-browsing/in-the-dark/> (last visited Dec. 14, 2021).

¹⁶ Social Security Administration, *Identity Theft and Your Social Security Number*, available at: <https://www.ssa.gov/pubs/EN-05-10064.pdf> (last visited Dec. 14, 2021).

evidence of actual misuse. In other words, preventive action to defend against the possibility of misuse of a Social Security number is not permitted; an individual must show evidence of actual, ongoing fraud activity to obtain a new number.

65. Even then, a new Social Security number may not be effective. According to Julie Ferguson of the Identity Theft Resource Center, “[t]he credit bureaus and banks are able to link the new number very quickly to the old number, so all of that old bad information is quickly inherited into the new Social Security number.”¹⁷

66. Based on the foregoing, the information compromised in the Data Breach is significantly more valuable than the loss of, for example, credit card information in a retailer data breach because, there, victims can cancel or close credit and debit card accounts. The information compromised in this Data Breach is impossible to “close” and difficult, if not impossible, to change—Social Security number, driver’s license number, name, and date of birth.

67. This data demands a much higher price on the black market. Martin Walter, senior director at cybersecurity firm RedSeal, explained, “Compared to credit card information, personally identifiable information and Social Security numbers are worth more than 10x on the black market.”¹⁸

68. Among other forms of fraud, identity thieves may obtain driver’s licenses, government benefits, medical services, and housing or even give false information to police.

69. The fraudulent activity resulting from the Data Breach may not come to light for

¹⁷ Bryan Naylor, *Victims of Social Security Number Theft Find It’s Hard to Bounce Back*, NPR (Feb. 9, 2015), available at: <http://www.npr.org/2015/02/09/384875839/data-stolen-by-anthem-s-hackers-has-millionsworrying-about-identity-theft> (last visited Dec. 14, 2021).

¹⁸ Time Greene, *Anthem Hack: Personal Data Stolen Sells for 10x Price of Stolen Credit Card Numbers*, IT World, (Feb. 6, 2015), available at: <https://www.networkworld.com/article/2880366/anthem-hack-personal-data-stolen-sells-for-10x-price-of-stolen-credit-card-numbers.html> (last visited Dec. 14, 2021).

years.

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

[L]aw enforcement officials told us that in some cases, stolen data may be held for up to a year or more before being used to commit identity theft. Further, once stolen data have been sold or posted on the Web, fraudulent use of that information may continue for years. As a result, studies that attempt to measure the harm resulting from data breaches cannot necessarily rule out all future harm.¹⁹

71. At all relevant times, Defendant knew, or reasonably should have known, of the importance of safeguarding the PII of Plaintiff and Class Members, including Social Security numbers, and of the foreseeable consequences that would occur if Defendant’s data security system was breached, including, specifically, the significant costs that would be imposed on Plaintiff and Class Members as a result of a breach.

72. Plaintiff and Class Members now face years of constant surveillance of their financial and personal records, monitoring, and loss of rights. The Class is incurring and will continue to incur such damages in addition to any fraudulent use of their PII.

73. Defendant was, or should have been, fully aware of the unique type and the significant volume of data on Defendant’s servers, amounting to over 68,000 individuals’ detailed, PII and, thus, the significant number of individuals who would be harmed by the exposure of the unencrypted data.

¹⁹ *Report to Congressional Requesters*, GAO, at 29 (June 2007), available at: <https://www.gao.gov/assets/gao-07-737.pdf> (last visited Dec. 14, 2021).

74. In the breach notification letter, Defendant made an offer of 12 or 24 months of identity monitoring services. This is wholly inadequate to compensate Plaintiff and Class Members as it fails to provide for the fact victims of data breaches and other unauthorized disclosures commonly face multiple years of ongoing identity theft and financial fraud, and it entirely fails to provide sufficient compensation for the unauthorized release and disclosure of Plaintiff's and Class Members' PII.

75. The injuries to Plaintiff and Class Members were directly and proximately caused by Defendant's failure to implement or maintain adequate data security measures for the PII of Plaintiff and Class Members.

76. The ramifications of Defendant's failure to keep secure the PII of Plaintiff and Class Members are long lasting and severe. Once PII is stolen, particularly Social Security numbers, fraudulent use of that information and damage to victims may continue for years.

Injuries Suffered by Plaintiff and Class Members

77. The injuries suffered by Plaintiff and the proposed Class as a direct result of the Data Breach include, *inter alia*:

- a. Theft of their personal and financial information;
- b. Posting of stolen PII on the Dark Web;
- c. Use of stolen PII for spam/phishing calls, emails, and texts;
- d. Costs associated with the detection and prevention of identity theft or unauthorized use of their financial accounts;
- e. Costs associated with time spent and the loss of productivity from taking time to address and attempting to ameliorate, mitigate, and deal with the actual and future consequences of the data breach, including finding

fraudulent charges, cancelling and reissuing cards, purchasing or otherwise signing up for credit monitoring and identity theft protection services (including Plaintiff Maldonado signing up for TransUnion credit monitoring), imposition of withdrawal and purchase limits on compromised accounts, and the stress, nuisance and annoyance of dealing with all issues resulting from the data breach;

- f. The present, imminent and certainly impending injury flowing from potential fraud and identity theft posed by their personal information being placed in the hands of criminals and already misused via the sale of Plaintiff's and Class Members' information on the Internet black market;
- g. Damages to and diminution in value of their personal and financial information entrusted to CAL Auto for the sole purpose of obtaining leases from CAL Auto and with the mutual understanding that CAL Auto would safeguard Plaintiff's and Class Members' data against theft and not allow access to and misuse of their information by others;
- h. Continued risk to their personal information, which remains in the possession of CAL Auto and which is subject to further breaches so long as CAL Auto continues to fail to undertake appropriate and adequate measures to protect Plaintiff's and Class Members' data in its possession.

78. Examples of the harms to CAL Auto customers as a direct and foreseeable consequence of its conduct include the experiences of the representative Plaintiff, which are described below.

PLAINTIFF'S EXPERIENCE

80-79. Plaintiff Maldonado leased an automobile using Defendant's services.

81-80. Subsequent to the Data Breach, Plaintiff Maldonado found that his PII was posted for sale on the Dark Web.

82-81. Also subsequent to the September 2021 Data Breach, Plaintiff Maldonado received a vast increase in the amount of spam/phishing phone calls, emails, and texts. Plaintiff Maldonado reports receiving these spam/phishing phone calls, emails, and texts on a daily basis, and spends significant time answering calls and evaluating these calls, emails, and texts for legitimacy. Plaintiff Maldonado believes that this substantial increase in the amount of calls, emails, and texts are: A) directly related to and occurring as a result of the Data Breach, and B) believes that these calls, emails, and texts are designed to extract additional information from him to supplement the PII already stolen, all for the purpose of committing fraud and identity theft.

83-82. Plaintiff would not have used Defendant's auto leasing services—indeed, he would not have transacted with Defendant at all during the period of the Data Breach—had Defendant disclosed that it lacked adequate computer systems and data security practices to safeguard customers' personal and financial information from theft. Defendant also failed to provide Plaintiff with timely and accurate notice of the data breach.

84-83. Plaintiff suffered actual injury from having his PII compromised, stolen, and misused (as described above) as a result of the Data Breach.

85-84. Plaintiff suffered actual injury and damages in paying money to and purchasing leasing services from Defendant that he would not have paid or purchased had Defendant disclosed that it lacked computer systems and data security practices adequate to safeguard customers' PII and had Defendant provided timely and accurate notice of the Data Breach.

86-85. Plaintiff suffered actual injury in the form of damages to and diminution in the value of his personal and financial information—a form of intangible property that the Plaintiff entrusted to Defendant for the purpose of leasing an automobile from Defendant -- and which was compromised in, and as a result of, the Data Breach.

87-86. Plaintiff suffered actual injury and damages in the form of mitigation efforts directly related to responding to the actual misuse (i.e. posted for sale on the Dark Web) of his PII. Plaintiff Maldonado spent time signing up for credit monitoring via TransUnion. He spends time monitoring his financial and sensitive accounts. Plaintiff Maldonado estimates that since receiving notice of the Data Breach in or about late October 2021, he has spent between 2-3 hours monitoring his accounts (about 30-45 minutes every 2-3 weeks).

88-87. Plaintiff suffered present, imminent, and impending injury arising from the substantially increased risk of future fraud, identity theft and misuse posed by their personal and financial information being placed in the hands of criminals who have already misused such information stolen in the Data Breach via sale of Plaintiff's and Class Members' personal and financial information on the Internet black market.

89-88. Plaintiff has a continuing interest in ensuring that his PII, which remains in the possession of Defendant, is protected and safeguarded from future breaches.

FIRST COUNT

NEGLIGENCE (on behalf of Plaintiff and the Class)

90-89. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

91-90. CAL Auto solicited and gathered personal information, including Social Security numbers, of Plaintiff and the Class to offer services to prospective and current customers.

92.91. CAL Auto knew, or should have known, of the risks inherent in collecting the personal information of Plaintiff and the Class Members and the importance of adequate security. On information and belief, CAL Auto received warnings that hackers routinely attempted to access and acquire personal information without authorization. CAL Auto also knew or should have known about numerous and well-publicized data breaches.

93.92. CAL Auto owed duties of care to Plaintiff and the Class Members whose personal information was entrusted to it. CAL Auto's duties included the following:

- a. To exercise reasonable care in obtaining, retaining, securing, safeguarding, deleting and protecting personal information in its possession;
- b. To protect customers' personal information using reasonable and adequate security procedures and systems that are compliant with and consistent with industry-standard practices;
- c. To implement processes to quickly detect a data breach and to timely act on warnings about data breaches; and
- d. To promptly notify Plaintiff and Class Members of the data breach.

94.93. By collecting this data, and using it for commercial gain, Defendant had a duty of care to use reasonable means to secure and safeguard its computer property, to prevent disclosure of the PII, and to safeguard the PII from theft. Defendant's duty included a responsibility to implement processes by which it could detect a breach of its security systems in a reasonably expeditious period of time and to give prompt notice to those affected in the case of a data breach.

95.94. Because CAL Auto knew that a breach of its systems would damage thousands of its customers, including Plaintiff and Class Members, it had a duty to adequately protect their PII.

~~96.95.~~ CAL Auto owed a duty of care not to subject Plaintiff and the Class Members to an unreasonable risk of harm because they were foreseeable and probable victims of any inadequate security practices.

~~97.96.~~ CAL Auto had a duty to implement and maintain reasonable security procedures and practices to safeguard Plaintiff's and Class Members' PII.

~~98.97.~~ CAL Auto knew, or should have known, that its computer systems did not adequately safeguard the PII of Plaintiff and the Class Members.

~~99.98.~~ CAL Auto breached its duties of care by failing to provide fair, reasonable, or adequate computer systems and data security practices to safeguard the PII of Plaintiff and the Class Members.

~~100.99.~~ CAL Auto breached its duties of care by failing to provide prompt notice of the data breach to the persons whose PII was compromised.

~~101.100.~~ CAL Auto acted with reckless disregard for the security of the PII of Plaintiff and the Class Members because CAL Auto knew or should have known that its computer systems and data security practices were not adequate to safeguard the PII that it collected, which it knew or should have known hackers were attempting to access.

~~102.101.~~ CAL Auto acted with reckless disregard for the rights of Plaintiff and the Class Members by failing to provide prompt and adequate individual notice of the data breach so that they could take measures to protect themselves from damages caused by the fraudulent use of the personal information compromised in the data breach.

~~103.102.~~ CAL Auto had a special relationship with Plaintiff and the Class Members. Plaintiff's and the Class Members' willingness to entrust CAL Auto with their personal information was predicated on the understanding that CAL Auto would take adequate security

precautions. Moreover, only CAL Auto had the ability to protect its systems (and the personal information that it stored on them) from attack.

104.103. CAL Auto's own conduct also created a foreseeable risk of harm to Plaintiff and Class Members and their personal information. CAL Auto's misconduct included failing to:

- a. Secure access to its servers;
- b. Comply with industry standard security practices;
- c. Encrypt PII stored on its servers;
- d. Employ adequate network segmentation;
- e. Implement adequate system and event monitoring;
- f. Install updates and patches in a timely manner; and
- g. Implement the systems, policies, and procedures necessary to prevent this type of data breach.

105.104. CAL Auto also had independent duties under state laws that required it to reasonably safeguard Plaintiff's and the Class Members' personal information and promptly notify them about the data breach.

106.105. CAL Auto breached the duties it owed to Plaintiff and Class Members in numerous ways, including:

- a. By creating a foreseeable risk of harm through the misconduct previously described;
- b. By failing to implement adequate security systems, protocols and practices sufficient to protect personal information both before and after learning of the data breach;

- c. By failing to comply with the minimum industry data security standards during the period of the data breach; and
- d. By failing to timely and accurately disclose to each class member that the PII of Plaintiff and the Class had been improperly acquired or accessed.

~~107.106.~~ But for CAL Auto's wrongful and negligent breach of the duties it owed Plaintiff and the Class Members, their personal and financial information either would not have been compromised or they would have been able to prevent some or all of their damages.

~~108.107.~~ As a direct and proximate result of CAL Auto's negligent conduct, Plaintiff and the Class Members have suffered damages and are at present risk of further harm.

~~109.108.~~ The injury and harm that Plaintiff and Class Members suffered (as alleged above) was reasonably foreseeable.

~~110.109.~~ The injury and harm that Plaintiff and Class Members suffered (as alleged above) was the direct and proximate result of CAL Auto's negligent conduct.

~~111.110.~~ Plaintiff and Class Members have suffered injury and are entitled to damages in an amount to be proven at trial.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

- a. An order certifying this action as a class action, defining the Class as requested herein, appointing the undersigned as Class counsel, and finding that Plaintiff is a proper representative of the Class requested herein;
- b. Judgment in favor of Plaintiff and the Class awarding them appropriate monetary relief, including actual damages, statutory damages, equitable relief, restitution, disgorgement, attorney's fees, statutory costs, and such other and further relief as is just and proper;

- c. An order providing injunctive and other equitable relief as necessary to protect the interests of the Class as requested herein;
- d. An order requiring CAL Auto to pay the costs involved in notifying the Class Members about the judgment and administering the claims process;
- e. An order certifying this action as a Class Action, designating Plaintiff Maldonado as Class representative and the undersigned counsel as Class Counsel;
- f. An incentive award for the lead Plaintiff;
- g. A judgment in favor of Plaintiff and the Class awarding them pre-judgment and post judgment interest, reasonable attorneys' fees, costs and expenses as allowable by law; and
- h. An award of such other and further relief as this Court may deem just and proper.

SECOND COUNT
BREACH OF IMPLIED CONTRACT
(on behalf of Plaintiff and the Class)

H2.111. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

H3.112. When Plaintiff and the members of the Class provided their PII to CAL Auto to receive services they entered into implied contracts by which CAL Auto agreed to protect their personal information and timely notify them in the event of a data breach.

H4.113. CAL Auto invited its customers, including Plaintiff and the Class, to inquire about receiving a loan or lease by providing sensitive PII to CAL Auto.

~~115.114.~~ An implicit part of the offer was that CAL Auto would safeguard the personal information using reasonable or industry-standard means and would timely notify Plaintiff and the Class in the event of a data breach.

~~116.115.~~ Upon information and belief, CAL Auto also affirmatively represented that it protected the Private Information of Plaintiff and the Class in several ways, as described above.

~~117.116.~~ Based on the implicit understanding and also on CAL Auto's representations, Plaintiff and the Class accepted the offers and provided CAL Auto with their PII.

~~118.117.~~ CAL Auto manifested its intent to enter into an implied contract that included a contractual obligation to reasonably protect Plaintiff's and Class Members' PII through oral and written assurances that the PII would be kept safe and confidential.

~~119.118.~~ In entering into such implied contracts, Plaintiff and Class Members reasonably believed and expected that Defendant's data security practices complied with relevant laws and regulations and were consistent with industry standards.

~~120.119.~~ Plaintiff and Class Members would not have provided their PII to CAL Auto had they known that CAL Auto would not safeguard their PII as promised or provide timely notice of a data breach.

~~121.120.~~ Plaintiff and Class Members fully performed their obligations under the implied contracts with CAL Auto.

~~122.121.~~ CAL Auto breached the implied contracts by failing to safeguard Plaintiff's and Class Members' personal information and failing to provide them with timely and accurate notice when their PII was compromised in the data breach.

123.122. The losses and damages Plaintiff and Class Members sustained (as described above) were the direct and proximate result of CAL Auto's breaches of its implied contracts with them.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

- a. An order certifying this action as a class action, defining the Class as requested herein, appointing the undersigned as Class counsel, and finding that Plaintiff is a proper representative of the Class requested herein;
- b. Judgment in favor of Plaintiff and the Class awarding them appropriate monetary relief, including actual damages, statutory damages, nominal damages, equitable relief, restitution, disgorgement, attorney's fees, statutory costs, and such other and further relief as is just and proper;
- c. An order providing injunctive and other equitable relief as necessary to protect the interests of the Class as requested herein;
- d. An order requiring CAL Auto to pay the costs involved in notifying the Class Members about the judgment and administering the claims process;
- e. An order certifying this action as a Class Action, designating Plaintiff Maldonado as Class representative and the undersigned counsel as Class Counsel;
- f. An incentive award for the lead Plaintiff;
- g. A judgment in favor of Plaintiff and the Class awarding them pre-judgment and post judgment interest, reasonable attorneys' fees, costs and expenses as allowable by law; and

- h. An award of such other and further relief as this Court may deem just and proper.

THIRD COUNT
UNJUST ENRICHMENT
(on behalf of Plaintiff and the Class)

~~124.123.~~ The foregoing paragraphs are incorporated herein as if set forth in their entirety.

~~125.124.~~ This count is plead in the alternative to the Second Count above.

~~126.125.~~ Plaintiff and members of the Class conferred a monetary benefit on CAL Auto. Specifically, Plaintiff Maldonado and Class Member provided CAL Auto with their PII to obtain a loan or lease from CAL Auto and made payments related to the loan or lease that they would not have made if they had known that CAL Auto did not provide adequate protection of their personal information.

~~127.126.~~ CAL Auto knew that Plaintiff and the Class conferred a benefit on CAL Auto. CAL Auto profited from the transactions and used Plaintiff's and Class Members' PII for its own business purposes.

~~128.127.~~ CAL Auto failed to secure the Plaintiff's and Class Members' PII, and therefore was unjustly enriched by the financial transactions made by Plaintiff and the Class in connection with their loans and leases that they would not have made had they known that CAL Auto did not keep their personal information secure.

~~129.128.~~ Plaintiff and the Class have no adequate remedy at law.

~~130.129.~~ Under the circumstances, it would be unjust for CAL Auto to be permitted to retain any of the benefits that Plaintiff and Class Members conferred on it.

~~131.130.~~ CAL Auto should be compelled to disgorge into a common fund or constructive trust for the benefit of Plaintiff and Class Members proceeds that it unjustly received from them. In the alternative, CAL Auto should be compelled to refund the amounts that Plaintiff and the Class overpaid.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

- a. An order certifying this action as a class action, defining the Class as requested herein, appointing the undersigned as Class counsel, and finding that Plaintiff is a proper representative of the Class requested herein;
- b. Judgment in favor of Plaintiff and the Class awarding them appropriate monetary relief, including actual damages, statutory damages, equitable relief, restitution, disgorgement, attorney's fees, statutory costs, and such other and further relief as is just and proper;
- c. An order providing injunctive and other equitable relief as necessary to protect the interests of the Class as requested herein;
- d. An order requiring CAL Auto to pay the costs involved in notifying the Class Members about the judgment and administering the claims process;
- e. An order certifying this action as a Class Action, designating Plaintiff Maldonado as Class representative and the undersigned counsel as Class Counsel;
- f. An incentive award for the lead Plaintiff;
- g. A judgment in favor of Plaintiff and the Class awarding them pre-judgment and post judgment interest, reasonable attorneys' fees, costs and expenses as allowable by law; and

- h. An award of such other and further relief as this Court may deem just and proper.

FOURTH COUNT
VIOLATION OF THE NEW JERSEY CONSUMER FRAUD ACT
(NJ STAT. ANN. § 56:8-1 *ET SEQ.*)
(on behalf of Plaintiff and the New Jersey Subclass)

~~132.131.~~ 132.131. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

~~133.132.~~ 133.132. The New Jersey Consumer Fraud Act (New Jersey CFA) makes unlawful “[t]he act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression or omission of any material fact with the intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby.” N.J. STAT. ANN. § 56:8-2.

~~134.133.~~ 134.133. By the acts and conduct alleged herein, Defendant committed unfair or deceptive acts and practices by:

- a. failure to maintain adequate computer systems and data security practices to safeguard PII;
- b. failure to disclose that its computer systems and data security practices were inadequate to safeguard PII from theft;
- c. continued gathering and storage of PII and other personal information after Defendant knew or should have known of the security vulnerabilities of its computer systems that were exploited in the Data Breach;

- d. making and using false promises about the privacy and security of PII of Plaintiff and New Jersey Subclass Members, and;
- e. continued gathering and storage of PII after Defendant knew or should have known of the Data Breach and before Defendant allegedly remediated the data security incident.

~~135.134.~~ These unfair acts and practices violated duties imposed by laws, including but not limited to the Federal Trade Commission Act and the New Jersey CFA.

~~136.135.~~ The foregoing deceptive acts and practices were directed at New Jersey consumers/purchasers.

~~137.136.~~ Defendant, Plaintiff, and New Jersey Subclass Members are “persons” within the meaning of N.J. STAT. ANN. § 56:8-1(d).

~~138.137.~~ Defendant engaged in “sales” of “merchandise” within the meaning of N.J. STAT. ANN. § 56:8-1(c), (d).

~~139.138.~~ The foregoing deceptive acts and practices are misleading in a material way because they fundamentally misrepresent the character of the leasing services provided, specifically as to the safety and security of PII, to induce consumers to purchase the same.

~~140.139.~~ Defendant’s unconscionable commercial practices, false promises, misrepresentations, and omissions set forth in this Complaint are material in that they relate to matters which reasonable persons, including Plaintiff and members of the New Jersey Subclass, would attach importance to in making their purchasing decisions or conducting themselves regarding the purchase of automobile leases and leasing services from Defendant.

~~141.140.~~ Plaintiff and New Jersey Subclass Members are New Jersey consumers who made payments to Defendant for the furnishing of leasing services that were primarily for personal,

family, or household purposes. Defendant engaged in the conduct alleged in this Complaint, entering into transactions intended to result, and which did result, in the furnishing of leasing services to consumers, including Plaintiff and New Jersey Subclass Members.

~~142.141.~~ Defendant's acts, practices, and omissions were done in the course of Defendant's business of marketing, offering to sell, and furnishing leasing services to consumers in the State of New Jersey.

~~143.142.~~ As a direct and proximate result of CAL Auto's unlawful conduct, Plaintiff and the New Jersey Subclass Members have suffered an ascertainable loss, damages, and are at present risk of further harm.

~~144.143.~~ The injury and harm that Plaintiff and New Jersey Subclass Members suffered (as alleged above) was the direct and proximate result of CAL Auto's unlawful conduct.

~~145.144.~~ Plaintiff and New Jersey Subclass Members have suffered injury and are entitled to damages in an amount to be proven at trial.

~~146.145.~~ On behalf of himself and other members of the New Jersey Subclass, Plaintiff is entitled to recover legal and/or equitable relief, including an order enjoining Defendant's unlawful conduct, treble damages, costs, and reasonable attorneys' fees pursuant to N.J. STAT. ANN. § 56:8-19, and any other just and appropriate relief.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

- a. An order certifying this action as a class action, defining the Class as requested herein, appointing the undersigned as Class counsel, and finding that Plaintiff is a proper representative of the Class requested herein;

- b. Judgment in favor of Plaintiff and the New Jersey Subclass awarding them appropriate monetary relief, including actual damages, statutory damages, treble damages, equitable relief, restitution, disgorgement, attorney's fees, statutory costs, and such other and further relief as is just and proper;
- c. An order providing injunctive and other equitable relief as necessary to protect the interests of the Class as requested herein;
- d. An order requiring CAL Auto to pay the costs involved in notifying the Class Members about the judgment and administering the claims process;
- e. An order certifying this action as a Class Action, designating Plaintiff Maldonado as Class representative and the undersigned counsel as Class Counsel;
- f. An incentive award for the lead Plaintiff;
- g. A judgment in favor of Plaintiff and the Class awarding them pre-judgment and post judgment interest, reasonable attorneys' fees, costs and expenses as allowable by law; and
- h. An award of such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all triable issues.

DATED: February 4, 2022

SHUB LAW FIRM LLC

/s/ Jonathan Shub

NJ Bar Id. No. 317842020

Kevin Laukaitis

(Pro Hac Vice forthcoming)

SHUB LAW FIRM LLC

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Attorneys for Plaintiff and the Proposed Class

NOTICE OF DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that pursuant to the Rules of Court, Jonathan Shub, Esq. and Kevin Laukaitis, Esq. are hereby designated as trial counsel of the within matter.

DATED: February 4, 2022

SHUB LAW FIRM LLC

Attorneys for the Plaintiff and the Proposed Class

/s/ Jonathan Shub
NJ Bar Id. No. 317842020
Kevin Laukaitis
(*Pro Hac Vice* forthcoming)
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DEMAND TO PRESERVE EVIDENCE

All Defendants are hereby directed to preserve all physical and electronic information pertaining in any way to Plaintiff's and Those similarly situated' Personal Information, to Plaintiff's and Those similarly situated' cause of action and/or prayers for relief, and to any defenses to same, including, but not limited to, electronic data storage, closed circuit TV footage, digital images, computer images, cache memory, searchable data, emails, spread sheets, employment files, memos, text messages, any and all online social or work related websites, entries on social networking sites (including, but not limited to, Facebook, Twitter, TikTok, etc.), and any other information and/or data and/or things and/or documents which may be relevant to any claim or defense in this litigation.

DATED: February 4, 2022

SHUB LAW FIRM LLC

*Attorneys for the Plaintiff and the
Proposed Class*

/s/ Jonathan Shub
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CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify, pursuant to Rule 4:5-1 that the matter in controversy herein is the subject of no other pending legal proceeding or arbitration nor is any other legal proceeding contemplated

to the best of my information and belief. Further, I know of no other party who should be jointed to this action. If, however, any such non-party later becomes known to the Plaintiff, an amended certification shall be filed and served on all other parties and with this court in accordance with R. 4:5-1(b)(2).

DATED: February 4, 2022

SHUB LAW FIRM LLC

/s/ Jonathan Shub

NJ Bar Id. No. 317842020

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Civil Case Information Statement

Case Details: CAMDEN | Civil Part Docket# L-000308-22

Case Caption: MALDONADO FELIX VS CERTIFIED
AUTOMOTIVE LEASE C

Case Initiation Date: 02/04/2022

Attorney Name: JONATHAN SHUB

Firm Name: SHUB LAW FIRM LLC

Address: 134 KINGS HIGHWAY EAST

HADDONFIELD NJ 08033

Phone: 6104536551

Name of Party: PLAINTIFF : Maldonado, Felix

Name of Defendant's Primary Insurance Company

(if known): Unknown

Case Type: OTHER Data Breach

Document Type: Complaint with Jury Demand

Jury Demand: YES - 12 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: Felix Maldonado? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? YES **Title 59?** NO **Consumer Fraud?** YES

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

02/04/2022

Dated

/s/ JONATHAN SHUB

Signed

SUMMONS

Attorney(s) Jonathan Shub

Office Address 134 Kings Hwy E., FL. 2

Town, State, Zip Code Haddonfield, NJ 08033

Telephone Number 856-772-7200

Attorney(s) for Plaintiff and the Proposed Class

FELIX MALDONADO, on behalf of

himself and all others similarly situated

Plaintiff(s)

vs.

CERTIFIED AUTOMOTIVE LEASE

CORP. DBA CAL AUTOMOTIVE

Defendant(s)

**Superior Court of
New Jersey**

Camden County

Law Division

Docket No: CAM-L-308-22

**CIVIL ACTION
SUMMONS**

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.

Clerk of the Superior Court

DATED: 02/04/2022

Name of Defendant to Be Served: CERTIFIED AUTOMOTIVE LEASE CORP. DBA CAL AUTOMOTIVE

Address of Defendant to Be Served: 104 Route 73, Voorhees, New Jersey 08053

NJ Dkt. 3

CAMDEN COUNTY
SUPERIOR COURT
HALL OF JUSTICE
CAMDEN NJ 08103

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (856) 650-9100
COURT HOURS 8:30 AM - 4:30 PM

DATE: FEBRUARY 04, 2022
RE: MALDONADO FELIX VS CERTIFIED AUTOMOTIVE LEASE C
DOCKET: CAM L -000308 22

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 1.

DISCOVERY IS 150 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON ANTHONY M. PUGLIESE

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 301
AT: (856) 650-9100 EXT 43143.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: JONATHAN SHUB
SHUB LAW FIRM LLC
134 KINGS HIGHWAY EAST
HADDONFIELD NJ 08033

ECOURTS

SUPERIOR COURT OF NEW JERSEY - eCOURTS CIVIL LAW

The following deficiency notice is being sent from eCourts:

Plaintiff Name: FELIX MALDONADO
Defendant Name: CERTIFIED AUTOMOTIVE LEASE CORP.
Case Caption: MALDONADO FELIX VS CERTIFIED AUTOMOTIVE LEASE C
Case Number: CAM L 000308-22
Docket Text: **DEFICIENCY NOTICE:** re: SUMMONS LCV2022515556 -Please resubmit Summons together with the Affidavit of Service. Any questions daniel.castelan@njcourts.gov.
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<p>FELIX MALDONADO, on behalf of himself and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>CERTIFIED AUTOMOTIVE LEASE CORP. DBA CAL AUTOMOTIVE,</p> <p style="text-align: center;">Defendant,</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION CAMDEN COUNTY</p> <p>Docket No.: CAM-L-308-22</p> <p>CIVIL ACTION</p> <p>FIRST AMENDED CLASS ACTION COMPLAINT</p> <p><u>JURY DEMAND</u></p>
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CLASS ACTION COMPLAINT

Plaintiff, FELIX MALDONADO, individually and on behalf of the Class defined below of similarly situated persons, alleges the following against CERTIFIED AUTOMOTIVE LEASE CORP. d/b/a/ CAL AUTOMOTIVE (“CAL Auto” or “Defendant”) based upon personal knowledge with respect to himself and on information and belief derived from, among other things, investigation of counsel and review of public documents as to all other matters:

INTRODUCTION

1. Plaintiff brings this class action against Defendant for its failure to properly secure and safeguard Personal Identifiable Information (“PII”) that Defendant required from customers as a condition of receiving car lease or loan services, including without limitation, names, Social Security numbers, and driver’s license numbers.

2. Plaintiff also alleges that Defendant failed to provide timely, accurate, and adequate notice to Plaintiff and similarly situated individuals (“Class Members”) that their PII had been lost and precisely what type of information was unencrypted and is now in the possession of unknown third parties.

3. Defendant is a company in the United States that provides lease and loan services to car dealerships. Defendant’s prospective customers and current customers entrust them with an extensive amount of their PII to inquire about or obtain a car loan or car lease.

4. On September 18, 2021, Defendant exposed PII to “an unauthorized third party.”¹ The unauthorized third party “infiltrated [CAL Automotive’s] network.”²

5. Defendant waited almost six weeks to issue a notice to customers that their PII had been compromised. Defendant sent a letter dated October 26, 2021, to those whose PII may have been impacted.

6. By obtaining, collecting, using, and deriving a benefit from the PII of Plaintiff and Class Members, Defendant assumed legal and equitable duties to those individuals to protect and safeguard that information from unauthorized access and intrusion.

¹ <https://apps.web.maine.gov/online/aeviewer/ME/40/fe46a094-fb98-4b4c-b195-852ee8cfa3c3/99298116-6cbe-42c0-ae35-3c8b7fb3cbdc/document.html>

² *Id.*

7. Hackers can access and then offer for sale PII to criminals. The exposed PII of Plaintiff and Class Members can be sold on the dark web. Plaintiff and Class Members now face a present and lifetime risk of identity theft, which is heightened here by the loss of Social Security and driver's license information.

8. This PII was compromised due to Defendant's negligent and/or careless acts and omissions and the failure to protect the PII of Plaintiff and Class Members. In addition to Defendant's failure to prevent the Data Breach, after discovering the breach, Defendant waited too long to report it to the states' Attorneys General and affected individuals.

9. As a result of the delayed response in discovering and reporting the breach, Plaintiff and Class Members were in the dark for weeks that their PII had been compromised, and that they were, and continue to be, at significant risk of identity theft and various other forms of personal, social, and financial harm. The risk will remain for their respective lifetimes.

10. Plaintiff brings this action on behalf of all persons whose PII was compromised as a result of Defendant's failure to: (i) adequately protect the PII of Plaintiff and Class Members; (ii) warn Plaintiff and Class Members of Defendant's inadequate information security practices; and (iii) effectively secure hardware containing protected PII using reasonable and effective security procedures free of vulnerabilities and incidents. Defendant's conduct amounts to negligence and violates federal statutes.

11. Plaintiff and Class Members have suffered injury as a result of Defendant's conduct. These injuries include: (i) Plaintiff's stolen PII being posted on the Dark Web; (ii) Plaintiff experiencing a substantial increase in the amount of spam/phishing phone calls, emails, and texts after September 2021, with Plaintiff receiving calls, emails, and texts every day; (iii) lost or diminished value of PII; (iv) out-of-pocket expenses associated with the prevention, detection,

and recovery from identity theft, tax fraud, and/or unauthorized use of their PII; (v) lost opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach, including but not limited to lost time, and (vi) the continued and certainly increased present risk to their PII, which: (a) may be unencrypted and available for unauthorized third parties to access and abuse; and (b) may remain backed up in Defendant's possession and is subject to further unauthorized disclosures so long as Defendant fails to undertake appropriate and adequate measures to protect the PII.

12. Defendant disregarded the rights of Plaintiff and Class Members by intentionally, willfully, recklessly, or negligently failing to implement and maintain adequate and reasonable measures to ensure that the PII of Plaintiff and Class Members was safeguarded, failing to take available steps to prevent an unauthorized disclosure of data, and failing to follow applicable, required, and appropriate protocols, policies, and procedures regarding the encryption of data, even for internal use. As a result, the PII of Plaintiff and Class Members was compromised through disclosure to an unknown and unauthorized third party. Plaintiff and Class Members have a continuing interest in ensuring that their information is and remains safe, and they should be entitled to injunctive and other equitable relief.

PARTIES

13. Plaintiff Felix Maldonado is a resident of Newark, New Jersey and is (and was during the period of the data breach) a citizen of the State of New Jersey. Plaintiff Maldonado was a customer of Defendant, leasing a car from them, and providing his PII to Defendant as a requirement of the lease transaction.

14. Defendant Certified Automotive Lease Corp, d/b/a CAL Automotive is a corporation organized under the laws of the State of New Jersey, with a principle place of business at 104 Route 73, Voorhees New Jersey 08053.

JURISDICTION AND VENUE

15. This Court has personal jurisdiction over Defendant because it regularly conducts substantial business in New Jersey, has its principal place of business located in New Jersey and the amount in question in this litigation is greater than \$15,000.

16. Venue is proper in Camden County under R. 4:3-2(b) as Defendant conducts substantial business throughout Camden County and has its principal place of business in Camden County.

CLASS ACTION ALLEGATIONS

17. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

18. Pursuant to Rule 4:32 of the New Jersey Rules of Civil Procedure, Plaintiff brings this claim for relief to redress Defendant's violations the New Jersey Consumer Fraud Act (NJ Stat. Ann. § 56 :8-1 *et seq.*) and the common law of New Jersey on behalf of himself and those similarly situated ("the Class").

19. Plaintiff proposes the following Class definitions, subject to amendment as appropriate:

Nationwide Class ("the Class")

All residents of the United States whose personal information was compromised as a result of the Data Breach.

New Jersey Subclass (also including in "the Class," except as otherwise noted)

All residents of New Jersey whose personal information was compromised as a result of the Data Breach.

20. Excluded from the Class are Defendant and its parents or subsidiaries, any entities in which it has a controlling interest, as well as its officers, directors, affiliates, legal representatives, heirs, predecessors, successors, and assigns. Also excluded are any Judge to whom this case is assigned as well as his or her judicial staff and immediate family members.

21. The proposed class meets the criteria for certification under New Jersey Court Rule 4:32-1.

22. The Members of the Class are so numerous that joinder of all of them is impracticable. Defendant reported that there are at least 86,637 Class Members at this time. The members within the Class are scattered throughout the United States and so numerous that joinder of all members is impractical in satisfaction of New Jersey Court Rule 4:32-1(a)(1).

23. There are questions of law and fact common to the Class, which predominate over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

- a. Whether CAL Auto engaged in the conduct alleged herein;
- b. Whether CAL Auto's conduct violated the state consumer protection laws invoked below;
- c. Whether CAL Auto had a legal duty to adequately protect Plaintiff's and Class Members' personal information;
- d. Whether CAL Auto breached its legal duty by failing to adequately protect Plaintiff's and Class Members' personal information;
- e. Whether CAL Auto had a legal duty to provide timely and accurate notice of the data breach to Plaintiff and Class Members;

- f. Whether CAL Auto breached its duty to provide timely and accurate notice of the data breach to Plaintiff and Class Members;
- g. Whether Plaintiff and Class Members are entitled to recover actual damages and/or statutory damages; and
- h. Whether Plaintiff and Class Members are entitled to equitable relief, including injunctive relief, restitution, disgorgement, and/or the establishment of a constructive trust.

24. These questions of law and/or fact are common to the Class and predominate over any questions affecting only individual class members.

25. Plaintiff's claims are typical of the claims of their respective Class as required by New Jersey Court Rule 4:32-1(a)(3), in that all claims are based upon the same factual and legal theories. It is the same conduct by the Defendant that has injured each member of the Class the same way, by having their Private Information compromised in the Data Breach.

26. Plaintiff will fairly and adequately represent and protect the interests of the Members of the Class, as required by New Jersey Court Rule 4:32-1(a)(4). Plaintiff will fairly and adequately protect the interests of those similarly situated because Plaintiff's interests are coincident with, and not antagonistic to, those of the class.

27. Plaintiff has retained counsel with substantial experience in handling of data breach class actions. Plaintiff and his counsel are committed to the vigorous prosecution of this action on behalf of the classes and have the financial resources to do so. Neither Plaintiff nor counsel has any interest adverse to those of the Class.

28. Plaintiff's claims are typical of the claims of those similarly situated because Plaintiff, like all those similarly situated, had his PIII compromised in the Data Breach.

29. Class certification is proper under New Jersey Rule 4:32-1(b)(1)(A)-(B), because a class action is superior to other available methods for the fair and efficient adjudication of the controversy. Class treatment of common questions of law and fact is superior to multiple individual actions or piecemeal litigation. Absent a class action, most Class Members would likely find that the cost of litigating their individual claims is prohibitively high and would therefore have no effective remedy. The prosecution of separate actions by individual Class Members would create a risk of inconsistent or varying adjudications with respect to individual Class Members, which would establish incompatible standards of conduct for Defendant. In contrast, the conduct of this action as a class action presents far fewer management difficulties, conserves judicial resources and the parties' resources, and protects the rights of each Class Member.

30. Class certification is proper under New Jersey Rule 4:32-1(b)(2), because CAL Auto has acted or has refused to act on grounds generally applicable to the Class, so that final injunctive relief or corresponding declaratory relief is appropriate as to the Class as a whole.

31. Class certification is proper under New Jersey Rule 4:32-1(b)(3), because Defendant has engaged in a common course of conduct toward Plaintiff and Class Members, in that all the Plaintiff's and Class Members' Private Information was stored on the same computer systems and unlawfully accessed in the same way. The common issues arising from Defendant's conduct affecting Class Members set out above predominate over any individualized issues. Adjudication of these common issues in a single action has important and desirable advantages of judicial economy.

32. A class action is superior to other available methods for the fair and efficient adjudication of the controversy under New Jersey Court Rule 4:32-1(b)(3).

33. Absent a class action, most members of the Class likely would find the cost of litigating their claims to be prohibitive, and will have no effective remedy at law.

34. The class treatment of common questions of law and fact is also superior to multiple individual actions or piecemeal litigation in that it conserves the resources of the courts and the litigants and promotes consistency and efficiency of adjudication.

35. Maintenance of this action as a class action is a fair and efficient method for adjudication of this controversy. It would be impracticable and undesirable for each member of each putative class who has suffered harm to bring a separate action. In addition, the maintenance of separate actions would place a substantial and unnecessary burden on the courts and could result in inconsistent adjudications, while a single class action can determine, with judicial economy, the rights of all putative class members.

36. Class certification is also appropriate because this Court can designate particular claims or issues for class-wide treatment and may designate one or more Subclasses pursuant to New Jersey Court Rule 4:32-2(d).

37. No unusual difficulties are likely to be encountered in the management of this action as a class action.

38. Finally, all members of the proposed Class are readily ascertainable. CAL Auto has access to addresses and other contact information for all members of the Class, which can be used to identify Class Members.

FACTUAL BACKGROUND

39. CAL Auto is a company that provides leases and leasing services to car dealerships and customers of car dealerships.

40. CAL Auto focuses on providing leases in New Jersey, New York, Massachusetts and Pennsylvania.

41. Plaintiff and Class Members who received leases and leasing services from Defendant were required to provide sensitive and confidential PII, including their names, Social Security numbers, and other PII, which is static, does not change, and can be used to commit countless different types of financial crimes.

42. Upon information and belief, during the process of consummating the lease and leasing services transactions, Defendant provided Plaintiff and Class Members with oral and written assurances that their PII would be kept confidential and securely maintained.

43. Plaintiff and Class Members, as customers of Defendant, relied on the sophistication of Defendant to keep their PII confidential and securely maintained, to use this information for business purposes only, and to make only authorized disclosures of this information. Plaintiff and Class Members demand security to safeguard their PII.

44. Defendant had a duty to adopt reasonable measures to protect the PII of Plaintiff and Class Members from involuntary disclosure to third parties.

The Data Breach

45. Beginning on or about October 26, 2021, Defendant sent 68,837 people including Plaintiff a letter, which informed the recipients that:

We are writing to notify you of an incident that may have exposed your personal information. . . On September 18, 2021 CAL Automotive detected and stopped a network security incident in which an unauthorized third party infiltrated our network. . . The data accessed included some or all of the following information: first and last name, personal or business mailing address, email address or phone

number. In some instances, the data also included information about a vehicle purchased, leased or inquired about, such as the Vehicle Identification Number. The data also included more sensitive information relating to eligibility for a purchase, loan, or lease. This included driver's license numbers, dates of birth, Social Security numbers, account or loan numbers, and tax identification numbers.³

46. The unencrypted PII of Plaintiff and Class Members has ended up for sale on the dark web, or may simply fall into the hands of companies that will use the detailed PII for targeted marketing without the approval of Plaintiff and Class Members. Unauthorized individuals can easily access the PII of Plaintiff and Class Members.

47. Defendant did not use reasonable security procedures and practices appropriate to the nature of the sensitive information they were maintaining for Plaintiff and Class Members, causing the exposure of PII for many customers, such as encrypting the information or deleting it when it is no longer needed.

48. As explained by the New Jersey Cybersecurity & Communicates Integration Cell of the New Jersey Office of Homeland Security ("NJCCIC"), "cybersecurity is a shared responsibility" between the public sector and the private sector.⁴

49. To prevent and detect data breaches, Defendant could and should have implemented, as recommended by NJCCIC, certain security measures. For example, the standards published by the National Institute of Standards and Technology (NIST) Special Publication 800-

³ <https://apps.web.maine.gov/online/aeviewer/ME/40/fe46a094-fb98-4b4c-b195-852ee8cfa3c3/99298116-6cbe-42c0-ae35-3c8b7fb3cbdc/document.html>

⁴ *Cybersecurity Strategic Plan*, New Jersey Cybersecurity & Communications Integration Cell, available at: <https://www.cyber.nj.gov/cybersecurity-strategic-plan/#new-jerseys-approach-to-cybersecurity> (last visited Dec. 14, 2021)

53 and the Framework for Improving Critical Infrastructure Cybersecurity.⁵ Further, the NJCCIC recommends that all organizations implement the Center for Internet Security's (CIS) Critical Security Controls.

50. To protect data, CIS recommends several safeguards, which include:

- a. Establishing and Maintaining a Data Management Process
- b. Establish and Maintain a Data Inventory
- c. Enforce Data Retention
- d. Securely Dispose of Data
- e. Encrypt Data on End-User Devices
- f. Encrypt Data on Removable Media
- g. Encrypt Sensitive Data in Transit
- h. Encrypt Sensitive Data at Rest
- i. Deploy a Data Loss Prevention Solution⁶

51. The occurrence of the Data Breach indicates that Defendant failed to adequately implement one or more of the above measures to prevent unauthorized access, resulting in the Data Breach and the exposure of the PII of 68,837 people, including Plaintiff and Class Members.⁷

Defendant Acquires, Collects, and Stores the PII of Plaintiff and Class Members.

52. Defendant has historically acquired, collected, and stored the PII of Plaintiff and Class Members.

⁵ *New Jersey Statewide Information Security Manual*, New Jersey Cybersecurity & Communications Integration Cell, available at: <https://www.cyber.nj.gov/learn/business-government-resources/#publications> (last visited Dec. 14, 2021)

⁶ *See Center for Internet Security Critical Security Controls*, Center for Internet Security, May 2021, available at: <https://www.cisecurity.org/> (last visited Dec. 14, 2021)

⁷ <https://apps.web.maine.gov/online/aeviewer/ME/40/fe46a094-fb98-4b4c-b195-852ee8cfa3c3.shtml>

53. As a condition of receiving leases and leasing services from Defendant, Defendant requires that its customers entrust them with highly confidential PII.

54. By obtaining, collecting, and storing the PII of Plaintiff and Class Members, Defendant assumed legal and equitable duties and knew or should have known that they were responsible for protecting the PII from disclosure.

55. Plaintiff and Class Members have taken reasonable steps to maintain the confidentiality of their PII and relied on Defendant to keep their PII confidential and maintained securely, to use this information for business purposes only, and to make only authorized disclosures of this information.

Securing PII and Preventing Breaches

56. Defendant could have prevented this Data Breach by properly securing and encrypting the files and file servers containing the PII of Plaintiff and Class Members. Alternatively, Defendant could have destroyed the data that it no longer needed.

57. Defendant's negligence in safeguarding the PII of Plaintiff and Class Members is exacerbated by the repeated warnings and alerts directed to protecting and securing sensitive data.

58. The New Jersey agency charged with engaging with the public and private sector on cybersecurity issues (NJCCIC) released an information report on June 6, 2021, which stated that to prevent data breaches "it is important for organizations to prepare for and respond efficiently and effectively to cyber incidents . . . and to implement cybersecurity best practices."⁸ This report recommends that organizations implement the NJ Statewide information Security Manual, which in turn recommends the implementation of the security protocols mentioned above

⁸ *Informational Report*, NJCCIC, Jun. 16, 2021, available at: <https://www.cyber.nj.gov/instructional-guides/data-breach-prevention-response-and-resources> (last visited Dec. 14, 2021).

(NIST 800-53 and CIS Controls).⁹

59. Further, the NJCCIC reported in their 2021-2025 Cybersecurity Strategic Plan that “since 2019, over 1,500 cybersecurity incidents were reported to the NJCCIC by impacted individuals and organizations.”¹⁰

60. Despite the prevalence of public announcements of data breach and data security compromises, Defendant failed to take appropriate steps to protect the PII of Plaintiff and Class Members from being compromised.

Value of Personally Identifiable Information or Personal Information

61. The Federal Trade Commission (“FTC”) defines identity theft as “a fraud committed or attempted using the identifying information of another person without authority.”¹¹ The FTC describes “identifying information” as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific person,” including, among other things, “[n]ame, Social Security number, date of birth, official State or government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number.”¹²

62. The PII of individuals remains of high value to criminals, as evidenced by the prices they will pay through the dark web. Numerous sources cite dark web pricing for stolen identity credentials. For example, Personal Information can be sold at a price ranging from \$40 to \$200,

⁹ *Id.*

¹⁰ *Cybersecurity Strategic Plan*, New Jersey Cybersecurity & Communications Integration Cell, available at: <https://www.cyber.nj.gov/cybersecurity-strategic-plan/#new-jerseys-approach-to-cybersecurity> (last visited Dec. 14, 2021)

¹¹ 17 C.F.R. § 248.201 (2013).

¹² *Id.*

and bank details have a price range of \$50 to \$200.¹³ Experian reports that a stolen credit or debit card number can sell for \$5 to \$110 on the dark web.¹⁴ Criminals can also purchase access to entire company data breaches from \$900 to \$4,500.¹⁵

63. Social Security numbers, for example, are among the worst kind of PII to have stolen because they may be put to a variety of fraudulent uses and are difficult for an individual to change. The Social Security Administration stresses that the loss of an individual's Social Security number, as is the case here, can lead to identity theft and extensive financial fraud:

A dishonest person who has your Social Security number can use it to get other personal information about you. Identity thieves can use your number and your good credit to apply for more credit in your name. Then, they use the credit cards and don't pay the bills, it damages your credit. You may not find out that someone is using your number until you're turned down for credit, or you begin to get calls from unknown creditors demanding payment for items you never bought. Someone illegally using your Social Security number and assuming your identity can cause a lot of problems.¹⁶

64. What's more, it is no easy task to change or cancel a stolen Social Security number. An individual cannot obtain a new Social Security number without significant paperwork and

¹³ *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 visited Dec. 14, 2021).

¹⁴ *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 visited Dec. 14, 2021).

¹⁵ *In the Dark*, VPNOverview, 2019, available at: <https://vpnoverview.com/privacy/anonymous-browsing/in-the-dark/> (last visited Dec. 14, 2021).

¹⁶ Social Security Administration, *Identity Theft and Your Social Security Number*, available at: <https://www.ssa.gov/pubs/EN-05-10064.pdf> (last visited Dec. 14, 2021).

evidence of actual misuse. In other words, preventive action to defend against the possibility of misuse of a Social Security number is not permitted; an individual must show evidence of actual, ongoing fraud activity to obtain a new number.

65. Even then, a new Social Security number may not be effective. According to Julie Ferguson of the Identity Theft Resource Center, “[t]he credit bureaus and banks are able to link the new number very quickly to the old number, so all of that old bad information is quickly inherited into the new Social Security number.”¹⁷

66. Based on the foregoing, the information compromised in the Data Breach is significantly more valuable than the loss of, for example, credit card information in a retailer data breach because, there, victims can cancel or close credit and debit card accounts. The information compromised in this Data Breach is impossible to “close” and difficult, if not impossible, to change—Social Security number, driver’s license number, name, and date of birth.

67. This data demands a much higher price on the black market. Martin Walter, senior director at cybersecurity firm RedSeal, explained, “Compared to credit card information, personally identifiable information and Social Security numbers are worth more than 10x on the black market.”¹⁸

68. Among other forms of fraud, identity thieves may obtain driver’s licenses, government benefits, medical services, and housing or even give false information to police.

69. The fraudulent activity resulting from the Data Breach may not come to light for

¹⁷ Bryan Naylor, *Victims of Social Security Number Theft Find It’s Hard to Bounce Back*, NPR (Feb. 9, 2015), available at: <http://www.npr.org/2015/02/09/384875839/data-stolen-by-anthem-s-hackers-has-millionsworrying-about-identity-theft> (last visited Dec. 14, 2021).

¹⁸ Time Greene, *Anthem Hack: Personal Data Stolen Sells for 10x Price of Stolen Credit Card Numbers*, IT World, (Feb. 6, 2015), available at: <https://www.networkworld.com/article/2880366/anthem-hack-personal-data-stolen-sells-for-10x-price-of-stolen-credit-card-numbers.html> (last visited Dec. 14, 2021).

years.

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

[L]aw enforcement officials told us that in some cases, stolen data may be held for up to a year or more before being used to commit identity theft. Further, once stolen data have been sold or posted on the Web, fraudulent use of that information may continue for years. As a result, studies that attempt to measure the harm resulting from data breaches cannot necessarily rule out all future harm.¹⁹

71. At all relevant times, Defendant knew, or reasonably should have known, of the importance of safeguarding the PII of Plaintiff and Class Members, including Social Security numbers, and of the foreseeable consequences that would occur if Defendant’s data security system was breached, including, specifically, the significant costs that would be imposed on Plaintiff and Class Members as a result of a breach.

72. Plaintiff and Class Members now face years of constant surveillance of their financial and personal records, monitoring, and loss of rights. The Class is incurring and will continue to incur such damages in addition to any fraudulent use of their PII.

73. Defendant was, or should have been, fully aware of the unique type and the significant volume of data on Defendant’s servers, amounting to over 68,000 individuals’ detailed, PII and, thus, the significant number of individuals who would be harmed by the exposure of the unencrypted data.

¹⁹ *Report to Congressional Requesters*, GAO, at 29 (June 2007), available at: <https://www.gao.gov/assets/gao-07-737.pdf> (last visited Dec. 14, 2021).

74. In the breach notification letter, Defendant made an offer of 12 or 24 months of identity monitoring services. This is wholly inadequate to compensate Plaintiff and Class Members as it fails to provide for the fact victims of data breaches and other unauthorized disclosures commonly face multiple years of ongoing identity theft and financial fraud, and it entirely fails to provide sufficient compensation for the unauthorized release and disclosure of Plaintiff's and Class Members' PII.

75. The injuries to Plaintiff and Class Members were directly and proximately caused by Defendant's failure to implement or maintain adequate data security measures for the PII of Plaintiff and Class Members.

76. The ramifications of Defendant's failure to keep secure the PII of Plaintiff and Class Members are long lasting and severe. Once PII is stolen, particularly Social Security numbers, fraudulent use of that information and damage to victims may continue for years.

Injuries Suffered by Plaintiff and Class Members

77. The injuries suffered by Plaintiff and the proposed Class as a direct result of the Data Breach include, *inter alia*:

- a. Theft of their personal and financial information;
- b. Posting of stolen PII on the Dark Web;
- c. Use of stolen PII for spam/phishing calls, emails, and texts;
- d. Costs associated with the detection and prevention of identity theft or unauthorized use of their financial accounts;
- e. Costs associated with time spent and the loss of productivity from taking time to address and attempting to ameliorate, mitigate, and deal with the actual and future consequences of the data breach, including finding

fraudulent charges, cancelling and reissuing cards, purchasing or otherwise signing up for credit monitoring and identity theft protection services (including Plaintiff Maldonado signing up for TransUnion credit monitoring), imposition of withdrawal and purchase limits on compromised accounts, and the stress, nuisance and annoyance of dealing with all issues resulting from the data breach;

- f. The present, imminent and certainly impending injury flowing from potential fraud and identity theft posed by their personal information being placed in the hands of criminals and already misused via the sale of Plaintiff's and Class Members' information on the Internet black market;
- g. Damages to and diminution in value of their personal and financial information entrusted to CAL Auto for the sole purpose of obtaining leases from CAL Auto and with the mutual understanding that CAL Auto would safeguard Plaintiff's and Class Members' data against theft and not allow access to and misuse of their information by others;
- h. Continued risk to their personal information, which remains in the possession of CAL Auto and which is subject to further breaches so long as CAL Auto continues to fail to undertake appropriate and adequate measures to protect Plaintiff's and Class Members' data in its possession.

78. Examples of the harms to CAL Auto customers as a direct and foreseeable consequence of its conduct include the experiences of the representative Plaintiff, which are described below.

PLAINTIFF'S EXPERIENCE

79. Plaintiff Maldonado leased an automobile using Defendant's services.

80. Subsequent to the Data Breach, Plaintiff Maldonado found that his PII was posted for sale on the Dark Web.

81. Also subsequent to the September 2021 Data Breach, Plaintiff Maldonado received a vast increase in the amount of spam/phishing phone calls, emails, and texts. Plaintiff Maldonado reports receiving these spam/phishing phone calls, emails, and texts on a daily basis, and spends significant time answering calls and evaluating these calls, emails, and texts for legitimacy. Plaintiff Maldonado believes that this substantial increase in the amount of calls, emails, and texts are: A) directly related to and occurring as a result of the Data Breach, and B) believes that these calls, emails, and texts are designed to extract additional information from him to supplement the PII already stolen, all for the purpose of committing fraud and identity theft.

82. Plaintiff would not have used Defendant's auto leasing services—indeed, he would not have transacted with Defendant at all during the period of the Data Breach—had Defendant disclosed that it lacked adequate computer systems and data security practices to safeguard customers' personal and financial information from theft. Defendant also failed to provide Plaintiff with timely and accurate notice of the data breach.

83. Plaintiff suffered actual injury from having his PII compromised, stolen, and misused (as described above) as a result of the Data Breach.

84. Plaintiff suffered actual injury and damages in paying money to and purchasing leasing services from Defendant that he would not have paid or purchased had Defendant disclosed that it lacked computer systems and data security practices adequate to safeguard customers' PII and had Defendant provided timely and accurate notice of the Data Breach.

85. Plaintiff suffered actual injury in the form of damages to and diminution in the value of his personal and financial information—a form of intangible property that the Plaintiff entrusted to Defendant for the purpose of leasing an automobile from Defendant -- and which was compromised in, and as a result of, the Data Breach.

86. Plaintiff suffered actual injury and damages in the form of mitigation efforts directly related to responding to the actual misuse (i.e. posted for sale on the Dark Web) of his PII. Plaintiff Maldonado spent time signing up for credit monitoring via TransUnion. He spends time monitoring his financial and sensitive accounts. Plaintiff Maldonado estimates that since receiving notice of the Data Breach in or about late October 2021, he has spent between 2-3 hours monitoring his accounts (about 30-45 minutes every 2-3 weeks).

87. Plaintiff suffered present, imminent, and impending injury arising from the substantially increased risk of future fraud, identity theft and misuse posed by their personal and financial information being placed in the hands of criminals who have already misused such information stolen in the Data Breach via sale of Plaintiff's and Class Members' personal and financial information on the Internet black market.

88. Plaintiff has a continuing interest in ensuring that his PII, which remains in the possession of Defendant, is protected and safeguarded from future breaches.

FIRST COUNT

NEGLIGENCE (on behalf of Plaintiff and the Class)

89. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

90. CAL Auto solicited and gathered personal information, including Social Security numbers, of Plaintiff and the Class to offer services to prospective and current customers.

91. CAL Auto knew, or should have known, of the risks inherent in collecting the personal information of Plaintiff and the Class Members and the importance of adequate security. On information and belief, CAL Auto received warnings that hackers routinely attempted to access and acquire personal information without authorization. CAL Auto also knew or should have known about numerous and well-publicized data breaches.

92. CAL Auto owed duties of care to Plaintiff and the Class Members whose personal information was entrusted to it. CAL Auto's duties included the following:

- a. To exercise reasonable care in obtaining, retaining, securing, safeguarding, deleting and protecting personal information in its possession;
- b. To protect customers' personal information using reasonable and adequate security procedures and systems that are compliant with and consistent with industry-standard practices;
- c. To implement processes to quickly detect a data breach and to timely act on warnings about data breaches; and
- d. To promptly notify Plaintiff and Class Members of the data breach.

93. By collecting this data, and using it for commercial gain, Defendant had a duty of care to use reasonable means to secure and safeguard its computer property, to prevent disclosure of the PII, and to safeguard the PII from theft. Defendant's duty included a responsibility to implement processes by which it could detect a breach of its security systems in a reasonably expeditious period of time and to give prompt notice to those affected in the case of a data breach.

94. Because CAL Auto knew that a breach of its systems would damage thousands of its customers, including Plaintiff and Class Members, it had a duty to adequately protect their PII.

95. CAL Auto owed a duty of care not to subject Plaintiff and the Class Members to an unreasonable risk of harm because they were foreseeable and probable victims of any inadequate security practices.

96. CAL Auto had a duty to implement and maintain reasonable security procedures and practices to safeguard Plaintiff's and Class Members' PII.

97. CAL Auto knew, or should have known, that its computer systems did not adequately safeguard the PII of Plaintiff and the Class Members.

98. CAL Auto breached its duties of care by failing to provide fair, reasonable, or adequate computer systems and data security practices to safeguard the PII of Plaintiff and the Class Members.

99. CAL Auto breached its duties of care by failing to provide prompt notice of the data breach to the persons whose PII was compromised.

100. CAL Auto acted with reckless disregard for the security of the PII of Plaintiff and the Class Members because CAL Auto knew or should have known that its computer systems and data security practices were not adequate to safeguard the PII that it collected, which it knew or should have known hackers were attempting to access.

101. CAL Auto acted with reckless disregard for the rights of Plaintiff and the Class Members by failing to provide prompt and adequate individual notice of the data breach so that they could take measures to protect themselves from damages caused by the fraudulent use of the personal information compromised in the data breach.

102. CAL Auto had a special relationship with Plaintiff and the Class Members. Plaintiff's and the Class Members' willingness to entrust CAL Auto with their personal information was predicated on the understanding that CAL Auto would take adequate security

precautions. Moreover, only CAL Auto had the ability to protect its systems (and the personal information that it stored on them) from attack.

103. CAL Auto's own conduct also created a foreseeable risk of harm to Plaintiff and Class Members and their personal information. CAL Auto's misconduct included failing to:

- a. Secure access to its servers;
- b. Comply with industry standard security practices;
- c. Encrypt PII stored on its servers;
- d. Employ adequate network segmentation;
- e. Implement adequate system and event monitoring;
- f. Install updates and patches in a timely manner; and
- g. Implement the systems, policies, and procedures necessary to prevent this type of data breach.

104. CAL Auto also had independent duties under state laws that required it to reasonably safeguard Plaintiff's and the Class Members' personal information and promptly notify them about the data breach.

105. CAL Auto breached the duties it owed to Plaintiff and Class Members in numerous ways, including:

- a. By creating a foreseeable risk of harm through the misconduct previously described;
- b. By failing to implement adequate security systems, protocols and practices sufficient to protect personal information both before and after learning of the data breach;

- c. By failing to comply with the minimum industry data security standards during the period of the data breach; and
- d. By failing to timely and accurately disclose to each class member that the PII of Plaintiff and the Class had been improperly acquired or accessed.

106. But for CAL Auto's wrongful and negligent breach of the duties it owed Plaintiff and the Class Members, their personal and financial information either would not have been compromised or they would have been able to prevent some or all of their damages.

107. As a direct and proximate result of CAL Auto's negligent conduct, Plaintiff and the Class Members have suffered damages and are at present risk of further harm.

108. The injury and harm that Plaintiff and Class Members suffered (as alleged above) was reasonably foreseeable.

109. The injury and harm that Plaintiff and Class Members suffered (as alleged above) was the direct and proximate result of CAL Auto's negligent conduct.

110. Plaintiff and Class Members have suffered injury and are entitled to damages in an amount to be proven at trial.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

- a. An order certifying this action as a class action, defining the Class as requested herein, appointing the undersigned as Class counsel, and finding that Plaintiff is a proper representative of the Class requested herein;
- b. Judgment in favor of Plaintiff and the Class awarding them appropriate monetary relief, including actual damages, statutory damages, equitable relief, restitution, disgorgement, attorney's fees, statutory costs, and such other and further relief as is just and proper;

- c. An order providing injunctive and other equitable relief as necessary to protect the interests of the Class as requested herein;
- d. An order requiring CAL Auto to pay the costs involved in notifying the Class Members about the judgment and administering the claims process;
- e. An order certifying this action as a Class Action, designating Plaintiff Maldonado as Class representative and the undersigned counsel as Class Counsel;
- f. An incentive award for the lead Plaintiff;
- g. A judgment in favor of Plaintiff and the Class awarding them pre-judgment and post judgment interest, reasonable attorneys' fees, costs and expenses as allowable by law; and
- h. An award of such other and further relief as this Court may deem just and proper.

SECOND COUNT
BREACH OF IMPLIED CONTRACT
(on behalf of Plaintiff and the Class)

111. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

112. When Plaintiff and the members of the Class provided their PII to CAL Auto to receive services they entered into implied contracts by which CAL Auto agreed to protect their personal information and timely notify them in the event of a data breach.

113. CAL Auto invited its customers, including Plaintiff and the Class, to inquire about receiving a loan or lease by providing sensitive PII to CAL Auto.

114. An implicit part of the offer was that CAL Auto would safeguard the personal information using reasonable or industry-standard means and would timely notify Plaintiff and the Class in the event of a data breach.

115. Upon information and belief, CAL Auto also affirmatively represented that it protected the Private Information of Plaintiff and the Class in several ways, as described above.

116. Based on the implicit understanding and also on CAL Auto's representations, Plaintiff and the Class accepted the offers and provided CAL Auto with their PII.

117. CAL Auto manifested its intent to enter into an implied contract that included a contractual obligation to reasonably protect Plaintiff's and Class Members' PII through oral and written assurances that the PII would be kept safe and confidential.

118. In entering into such implied contracts, Plaintiff and Class Members reasonably believed and expected that Defendant's data security practices complied with relevant laws and regulations and were consistent with industry standards.

119. Plaintiff and Class Members would not have provided their PII to CAL Auto had they known that CAL Auto would not safeguard their PII as promised or provide timely notice of a data breach.

120. Plaintiff and Class Members fully performed their obligations under the implied contracts with CAL Auto.

121. CAL Auto breached the implied contracts by failing to safeguard Plaintiff's and Class Members' personal information and failing to provide them with timely and accurate notice when their PII was compromised in the data breach.

122. The losses and damages Plaintiff and Class Members sustained (as described above) were the direct and proximate result of CAL Auto's breaches of its implied contracts with them.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

- a. An order certifying this action as a class action, defining the Class as requested herein, appointing the undersigned as Class counsel, and finding that Plaintiff is a proper representative of the Class requested herein;
- b. Judgment in favor of Plaintiff and the Class awarding them appropriate monetary relief, including actual damages, statutory damages, nominal damages, equitable relief, restitution, disgorgement, attorney's fees, statutory costs, and such other and further relief as is just and proper;
- c. An order providing injunctive and other equitable relief as necessary to protect the interests of the Class as requested herein;
- d. An order requiring CAL Auto to pay the costs involved in notifying the Class Members about the judgment and administering the claims process;
- e. An order certifying this action as a Class Action, designating Plaintiff Maldonado as Class representative and the undersigned counsel as Class Counsel;
- f. An incentive award for the lead Plaintiff;
- g. A judgment in favor of Plaintiff and the Class awarding them pre-judgment and post judgment interest, reasonable attorneys' fees, costs and expenses as allowable by law; and

- h. An award of such other and further relief as this Court may deem just and proper.

THIRD COUNT
UNJUST ENRICHMENT
(on behalf of Plaintiff and the Class)

123. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

124. This count is plead in the alternative to the Second Count above.

125. Plaintiff and members of the Class conferred a monetary benefit on CAL Auto. Specifically, Plaintiff Maldonado and Class Member provided CAL Auto with their PII to obtain a loan or lease from CAL Auto and made payments related to the loan or lease that they would not have made if they had known that CAL Auto did not provide adequate protection of their personal information.

126. CAL Auto knew that Plaintiff and the Class conferred a benefit on CAL Auto. CAL Auto profited from the transactions and used Plaintiff's and Class Members' PII for its own business purposes.

127. CAL Auto failed to secure the Plaintiff's and Class Members' PII, and therefore was unjustly enriched by the financial transactions made by Plaintiff and the Class in connection with their loans and leases that they would not have made had they known that CAL Auto did not keep their personal information secure.

128. Plaintiff and the Class have no adequate remedy at law.

129. Under the circumstances, it would be unjust for CAL Auto to be permitted to retain any of the benefits that Plaintiff and Class Members conferred on it.

130. CAL Auto should be compelled to disgorge into a common fund or constructive trust for the benefit of Plaintiff and Class Members proceeds that it unjustly received from them.

In the alternative, CAL Auto should be compelled to refund the amounts that Plaintiff and the Class overpaid.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

- a. An order certifying this action as a class action, defining the Class as requested herein, appointing the undersigned as Class counsel, and finding that Plaintiff is a proper representative of the Class requested herein;
- b. Judgment in favor of Plaintiff and the Class awarding them appropriate monetary relief, including actual damages, statutory damages, equitable relief, restitution, disgorgement, attorney's fees, statutory costs, and such other and further relief as is just and proper;
- c. An order providing injunctive and other equitable relief as necessary to protect the interests of the Class as requested herein;
- d. An order requiring CAL Auto to pay the costs involved in notifying the Class Members about the judgment and administering the claims process;
- e. An order certifying this action as a Class Action, designating Plaintiff Maldonado as Class representative and the undersigned counsel as Class Counsel;
- f. An incentive award for the lead Plaintiff;
- g. A judgment in favor of Plaintiff and the Class awarding them pre-judgment and post judgment interest, reasonable attorneys' fees, costs and expenses as allowable by law; and
- h. An award of such other and further relief as this Court may deem just and proper.

FOURTH COUNT
VIOLATION OF THE NEW JERSEY CONSUMER FRAUD ACT
(NJ STAT. ANN. § 56:8-1 *ET SEQ.*)
(on behalf of Plaintiff and the New Jersey Subclass)

131. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

132. The New Jersey Consumer Fraud Act (New Jersey CFA) makes unlawful “[t]he act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression or omission of any material fact with the intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby.” N.J. STAT. ANN. § 56:8-2.

133. By the acts and conduct alleged herein, Defendant committed unfair or deceptive acts and practices by:

- a. failure to maintain adequate computer systems and data security practices to safeguard PII;
- b. failure to disclose that its computer systems and data security practices were inadequate to safeguard PII from theft;
- c. continued gathering and storage of PII and other personal information after Defendant knew or should have known of the security vulnerabilities of its computer systems that were exploited in the Data Breach;
- d. making and using false promises about the privacy and security of PII of Plaintiff and New Jersey Subclass Members, and;

e. continued gathering and storage of PII after Defendant knew or should have known of the Data Breach and before Defendant allegedly remediated the data security incident.

134. These unfair acts and practices violated duties imposed by laws, including but not limited to the Federal Trade Commission Act and the New Jersey CFA.

135. The foregoing deceptive acts and practices were directed at New Jersey consumers/purchasers.

136. Defendant, Plaintiff, and New Jersey Subclass Members are “persons” within the meaning of N.J. STAT. ANN. § 56:8-1(d).

137. Defendant engaged in “sales” of “merchandise” within the meaning of N.J. STAT. ANN. § 56:8-1(c), (d).

138. The foregoing deceptive acts and practices are misleading in a material way because they fundamentally misrepresent the character of the leasing services provided, specifically as to the safety and security of PII, to induce consumers to purchase the same.

139. Defendant’s unconscionable commercial practices, false promises, misrepresentations, and omissions set forth in this Complaint are material in that they relate to matters which reasonable persons, including Plaintiff and members of the New Jersey Subclass, would attach importance to in making their purchasing decisions or conducting themselves regarding the purchase of automobile leases and leasing services from Defendant.

140. Plaintiff and New Jersey Subclass Members are New Jersey consumers who made payments to Defendant for the furnishing of leasing services that were primarily for personal, family, or household purposes. Defendant engaged in the conduct alleged in this Complaint,

entering into transactions intended to result, and which did result, in the furnishing of leasing services to consumers, including Plaintiff and New Jersey Subclass Members.

141. Defendant's acts, practices, and omissions were done in the course of Defendant's business of marketing, offering to sell, and furnishing leasing services to consumers in the State of New Jersey.

142. As a direct and proximate result of CAL Auto's unlawful conduct, Plaintiff and the New Jersey Subclass Members have suffered an ascertainable loss, damages, and are at present risk of further harm.

143. The injury and harm that Plaintiff and New Jersey Subclass Members suffered (as alleged above) was the direct and proximate result of CAL Auto's unlawful conduct.

144. Plaintiff and New Jersey Subclass Members have suffered injury and are entitled to damages in an amount to be proven at trial.

145. On behalf of himself and other members of the New Jersey Subclass, Plaintiff is entitled to recover legal and/or equitable relief, including an order enjoining Defendant's unlawful conduct, treble damages, costs, and reasonable attorneys' fees pursuant to N.J. STAT. ANN. § 56:8-19, and any other just and appropriate relief.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

- a. An order certifying this action as a class action, defining the Class as requested herein, appointing the undersigned as Class counsel, and finding that Plaintiff is a proper representative of the Class requested herein;
- b. Judgment in favor of Plaintiff and the New Jersey Subclass awarding them appropriate monetary relief, including actual damages, statutory damages,

- treble damages, equitable relief, restitution, disgorgement, attorney's fees, statutory costs, and such other and further relief as is just and proper;
- c. An order providing injunctive and other equitable relief as necessary to protect the interests of the Class as requested herein;
 - d. An order requiring CAL Auto to pay the costs involved in notifying the Class Members about the judgment and administering the claims process;
 - e. An order certifying this action as a Class Action, designating Plaintiff Maldonado as Class representative and the undersigned counsel as Class Counsel;
 - f. An incentive award for the lead Plaintiff;
 - g. A judgment in favor of Plaintiff and the Class awarding them pre-judgment and post judgment interest, reasonable attorneys' fees, costs and expenses as allowable by law; and
 - h. An award of such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all triable issues.

DATED: February 7, 2022

SHUB LAW FIRM LLC

/s/ Jonathan Shub

NJ Bar Id. No. 317842020

Kevin Laukaitis

(Pro Hac Vice forthcoming)

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Attorneys for Plaintiff and the Proposed Class

NOTICE OF DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that pursuant to the Rules of Court, Jonathan Shub, Esq. and Kevin Laukaitis, Esq. are hereby designated as trial counsel of the within matter.

DATED: February 7, 2022

SHUB LAW FIRM LLC

Attorneys for the Plaintiff and the Proposed Class

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DEMAND TO PRESERVE EVIDENCE

All Defendants are hereby directed to preserve all physical and electronic information pertaining in any way to Plaintiffs and Those similarly situated' Personal Information, to Plaintiff's and Those similarly situated' cause of action and/or prayers for relief, and to any defenses to same, including, but not limited to, electronic data storage, closed circuit TV footage, digital images, computer images, cache memory, searchable data, emails, spread sheets, employment files, memos, text messages, any and all online social or work related websites, entries on social networking sites (including, but not limited to, Facebook, Twitter, TikTok, etc.), and any other information and/or data and/or things and/or documents which may be relevant to any claim or defense in this litigation.

DATED: February 7, 2022

SHUB LAW FIRM LLC

*Attorneys for the Plaintiff and the
Proposed Class*

/s/ Jonathan Shub

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CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify, pursuant to Rule 4:5-1 that the matter in controversy herein is the subject of no other pending legal proceeding or arbitration nor is any other legal proceeding contemplated to the best of my information and belief. Further, I know of no other party who should be jointed to this action. If, however, any such non-party later becomes known to the Plaintiff, an amended

certification shall be filed and served on all other parties and with this court in accordance with R.
4:5-1(b)(2).

DATED: February 7, 2022

SHUB LAW FIRM LLC

/s/ Jonathan Shub

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