

1 SHAUN SETAREH (SBN 204514)
2 shaun@setarehlaw.com
3 TUVIA KOROBKIN (SBN 268066)
4 tuviah@setarehlaw.com

5 **SETAREH LAW GROUP**
6 9454 Wilshire Boulevard, Suite 907
7 Beverly Hills, California 90212
8 Telephone: (310) 888-7771
9 Facsimile: (310) 888-0109

10 Attorneys for Plaintiff,
11 MICHAEL NOKCHAN

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 MICHAEL NOKCHAN, on behalf of
15 himself, all others similarly situated,

16 *Plaintiff,*

17 vs.

18 UBER TECHNOLOGIES, INC., a
19 Delaware Corporation; RASIER, LLC, a
20 Delaware limited liability company;
21 HIREASE, LLC, a Florida limited
22 liability company; and DOES 1 to 100,
23 Inclusive

24 *Defendants.*

Case No.:

CLASS ACTION

COMPLAINT FOR:

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

JURY TRIAL DEMANDED

1 Plaintiff, MICHAEL NOKCHAN (hereafter "Plaintiff"), on behalf of
2 himself and all others similarly situated, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class and representative action against defendant
5 UBER TECHNOLOGIES, INC., a Delaware corporation ("Uber"), RASIER,
6 LLC, a Delaware limited liability company; HIREASE, LLC, a Florida limited
7 liability company; and DOES 1-100, inclusively (collectively, "Defendants") for
8 alleged violations of the Fair Credit Reporting Act ("FCRA") and similar
9 California laws.

10
11 2. Plaintiff alleges that Defendants routinely acquire consumer,
12 investigative consumer and/or consumer credit reports (referred to collectively as
13 "credit and background reports") to conduct background checks on Plaintiff and
14 other prospective, current and former employees and use information from credit
15 and background reports in connection with their hiring process without complying
16 with the law. Plaintiff, individually and on behalf of all others similarly situated
17 current, former, and prospective employees, seeks compensatory and punitive
18 damages due to Defendants' systematic and willful violations of the FCRA, 15
19 U.S.C. §§ 1681 *et seq.*, the California Investigative Consumer Reporting Agencies
20 Act ("ICRAA") (Cal. Civ. Code § 1786, *et seq.*), and the California Consumer
21 Credit Reporting Agencies Act ("CCRAA") (Cal. Civ. Code § 1785, *et seq.*).

22 **PARTIES**

23 5. Plaintiff was employed by Defendant as an hourly, non-exempt
24 employee working in the State of California.

25 6. Defendant UBER TECHNOLOGIES, INC. ("Uber") is a corporation
26 organized and existing under the laws of Delaware and also a citizen of California
27 based on Plaintiff's information and belief.

28 7. Defendant RASIER, LLC, ("Rasier") is a limited liability company

1 organized and existing under the laws of Delaware and also a citizen of California
2 based on Plaintiff's information and belief.

3 8. Defendant HIREASE, LLC, ("Hirease") is a limited liability
4 company organized and existing under the laws of Florida and also a citizen of
5 California based on Plaintiff's information and belief.

6 9. Plaintiff is ignorant of the true names, capacities, relationships, and
7 extents of participation in the conduct alleged herein, of the defendants sued as
8 DOES 1-100, inclusive, but is informed and believes and thereon alleges that said
9 defendants are legally responsible for the wrongful conduct alleged herein and
10 therefore sues these defendants by such fictitious names. Plaintiff will amend the
11 Complaint to allege the true names and capacities of the DOE defendants when
12 ascertained.
13

14 10. Plaintiff is informed and believes and thereon alleges that, at all
15 relevant times herein, all Defendants were the agents, employees and/or servants,
16 masters or employers of the remaining defendants, and in doing the things
17 hereinafter alleged, were acting within the course and scope of such agency or
18 employment, and with the approval and ratification of each of the other
19 Defendants.

20 11. Plaintiff alleges that each and every one of the acts and omissions
21 alleged herein were performed by, and/or attributable to, all Defendants, each
22 acting as agents and/or employees, and/or under the direction and control of each
23 of the other defendants, and that said acts and failures to act were within the
24 course and scope of said agency, employment and/or direction and control.

25 **CLASS ALLEGATIONS**

26 12. This action has been brought and may be maintained as a class action
27 pursuant to FRCP §23 because there is a well-defined community of interest
28 among the persons who comprise the readily ascertainable classes defined below

1 and because Plaintiff is unaware of any difficulties likely to be encountered in
2 managing this case as a class action.

3 13. **Class Definitions:** The classes are defined as follows:

4 A. **FCRA Class:** All of Defendants' current, former and
5 prospective applicants for employment in the United States who applied for a job
6 with Defendants at any time during the period beginning five years prior to the
7 filing of this action and ending on the date that final judgment is entered in this
8 action.

9 B. **ICRAA Class:** All of Defendant's current, former, and
10 prospective applicants for employment in California, at any time during the period
11 beginning five years prior to the filing of this action and ending on the date that
12 final judgment is entered into this action.

13 C. **CCRAA Class:** All of Defendant's current, former, and
14 prospective applicants for employment in California, at any time during the period
15 beginning seven years prior to the filing of this action and ending on the date that
16 final judgment is entered in this action.

17 14. **Numerosity:** The class members are so numerous that the individual
18 joinder of each individual class member is impractical. While Plaintiff does not
19 currently know the exact number of class members, Plaintiff is informed and
20 believes that the actual number exceeds the minimum required for numerosity
21 under California law.

22 15. **Commonality and Predominance:** Common questions of law and
23 fact exist as to all class members and predominate over any questions which affect
24 only individual class members. These questions include, but are not limited to:

25 A. Wherein Defendants willfully failed to provide the class with
26 stand-alone written disclosures before obtaining a credit or background report in
27 compliance with the statutory mandates?
28

1 B. Whether Defendants willfully failed to identify the name,
2 address, telephone number, and/or website of the investigative consumer reporting
3 agency conducting the investigation?

4 C. Whether Defendants willfully failed to identify the source of
5 the credit report to be performed?

6 D. Wherein Defendants willfully failed to comply with the FCRA,
7 ICRAA and/or the CRAA?

8 16. **Typicality:** Plaintiff's claims are typical of the other class members'
9 claims. Plaintiff is informed and believes and thereon alleges that Defendants have
10 a policy, practice or a lack of a policy which resulted in Defendants failing to
11 comply with the FCRA, ICRAA, and CCRAA as alleged herein.
12

13 17. **Adequacy of Class Representative:** Plaintiff is an adequate class
14 representative in that he has no interests that are adverse to, or otherwise in
15 conflict with, the interests of absent class members. Plaintiff is dedicated to
16 vigorously prosecuting this action on behalf of class members. Plaintiff will fairly
17 and adequately represent and protect the interests of class members.

18 18. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class
19 counsel in that they have no known conflicts of interest with Plaintiff or absent
20 class members, are experienced in class action litigation and are dedicated to
21 vigorously prosecuting this action on behalf of Plaintiff and absent class members.
22

23 19. **Superiority:** A class action is vastly superior to other available
24 means for fair and efficient adjudication of class members' claims and would be
25 beneficial to the parties and the Court. Class action treatment will allow a number
26 of similarly situated persons to simultaneously and efficiently prosecute their
27 common claims in a single forum without the unnecessary duplication of effort
28 and expense that numerous individual actions would entail. In addition, the
monetary amounts due to many individual class members are likely to be

1 relatively small and would thus make it difficult, if not impossible, for individual
2 class members to both seek and obtain relief. Moreover, a class action will serve
3 an important public interest by permitting class members to effectively pursue the
4 recovery of monies owed to them. Further, a class action will prevent the potential
5 for inconsistent or contradictory judgments inherent in individual litigation.

6 20. The Court has personal jurisdiction over Defendants because
7 Defendant Uber and Defendant Rasier have their principal place of business in
8 this District.

9 21. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a)1,
10 because a substantial part of the events and omissions giving rise to this action
11 occurred in this District.

12
13 **FIRST CAUSE OF ACTION**

14 **FAILURE TO MAKE PROPER DISCLOSURE IN VIOLATION OF THE**
15 **FCRA**

16 **(15 U.S.C. §§ 1681b(b)(2)(A))**

17 **(By Plaintiff and the FCRA Class against all Defendants)**

18 22. Plaintiff incorporates all paragraphs of this Complaint as if fully
19 alleged herein.

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

22 24. Plaintiff and class members are “consumers” within the meaning
23 Section 1681a(c) of the FCRA, because they are “individuals.”

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

1 the purpose of serving as a factor in establishing the consumer's
2 eligibility" for employment purposes.

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

4 26. Section 1681a(e) of the FCRA defines "investigative consumer
5 report" as:

6 a consumer report or portion thereof in which information on a
7 consumer's character, general reputation, personal
8 characteristics, or mode of living is obtained through personal
9 interviews with neighbors, friends, or associates of the
10 consumer reported on or with whom he is acquainted or who
11 may have knowledge concerning any such items of information.

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

13 27. Section 1681b(b) of the FCRA provides, in relevant part:

14 Conditions for furnishing and using consumer reports for
15 employment purposes

16 (2) Disclosure to consumer

17 (A) In general

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

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

1 28. As described above, Plaintiff alleges, on information and belief, that
2 in evaluating him and other class members for employment, Defendants procured
3 or caused to be prepared credit and background reports (i.e., a consumer report
4 and/or investigative consumer report, as defined by 15 U.S.C. § 1681a(d)(1)(B)
5 and 15 U.S.C. § 1681a(e)).

6 29. When Plaintiff applied for employment with Defendants, Defendants
7 required him to fill out and sign a Document entitled “Disclosure/Authorization
8 and Release for the Procurement of a Consumer and/or Investigative Consumer
9 Report” (“Authorization”).
10

11 30. In pertinent part the one page Authorization states:

12 “Rasier, LLC (“Rasier”) may now, or at any time while you are an
13 independent transportation provider (“Transportation Provider”), with an
14 independent contractor relationship (“I/C/ Relationship”) with Rasier, verify
15 information within your proposal to enter an I/C/ Relationship, resume or
16 contract by obtaining a consumer report and/or investigative consumer
17 report from a consumer reporting agency. The verifications and/or checks
18 may include but are not limited to: driving records, workers compensation
19 records (in compliance with the ADA or other applicable law), credit
20 bureau files, employment references, personal references, any educational
21 and licensing institutions records, and any criminal records information
22 pertaining to you which may be in the files of any federal, state or local
23 criminal justice agency in any state. These reports may include information
24 as to your general reputation, character, personal characteristics, or mode of
25 living. You have the right ot request, in writing, the nature and scope of
26 any investigative consumer report conducted by Hirease, Inc. on behalf of
27 Raiser...”
28

29 31. Because the purported disclosures are embedded with extraneous
30 information, and are not clear and unambiguous disclosures in stand-alone
31 documents, they do not meet the requirements under the law.

32 32. Under the FCRA, it is unlawful to procure or caused to be procured,
33 a consumer report or investigative consumer report for employment purposes

1 unless the disclosure is made in a document that consists solely of the disclosure
2 and the consumer has authorized, in writing, the procurement of the report. 15
3 U.S.C. § 1681b(b)(2)(A)(i)-(ii). The inclusion of other extraneous information,
4 therefore, violates § 1681b(b)(2)(A) of the FCRA.

5 33. Although the disclosure and the authorization may be combined in a
6 single document, the Federal Trade Commission (“FTC”) has warned that the
7 form should not include any extraneous information or be part of another
8 document. For example, in response to an inquiry as to whether the disclosure
9 may be set forth within an application for employment or whether it must be
10 included in a separate document, the FTC stated:

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

17 34. In a report dated July 2011, the FTC reiterated that: “the notice
18 [under 15 U.S.C § 1681b(b)(2)(A)] may not include extraneous or contradictory
19 information, such as a request for a consumer’s waiver of his or her rights under
20 the FCRA.”

21 35. By including other extraneous information, Defendants willfully
22 disregarded the FTC’s regulatory guidance and violated Section 1681b(b)(2)(A)
23 of the FCRA. Additionally, the inclusion of the extraneous provisions causes the
24 disclosure to fail to be “clear and conspicuous” and “clear[] and accurate[],” and
25 thus violates §§ 1681b(b)(2)(A) and 1681d(a).

26 36. Defendants’ conduct in violation of Section 1681b(b)(2)(A) of the
27 FCRA was and is willful. Defendants acted in deliberate or reckless disregard of
28 their obligations and the rights of applicants and employees, including Plaintiff

1 and class members. Defendants' willful conduct is reflected by, among other
2 things, the following facts:

3 (a) Defendants are a large corporation with access to legal advice;

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

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

11
12 37. Based upon the facts likely to have evidentiary support after a
13 reasonable opportunity for further investigation and discovery, Plaintiff alleges
14 that Defendants have a policy and practice of procuring investigative consumer
15 reports or causing investigative consumer reports to be procured for applicants
16 and employees without informing such applicants of their right to request a
17 summary of their rights under the FCRA at the same time as the disclosure
18 explaining that an investigative consumer report may be made. Pursuant to that
19 policy and practice, Defendants procured investigative consumer reports or caused
20 investigative consumer reports to be procured for Plaintiff and class members, as
21 described above, without informing class members of their rights to request a
22 written summary of their rights under the FCRA.

23 38. Accordingly, Defendants willfully violated and continue to violate
24 the FCRA including, but not limited to, §§ 1681b(b)(2)(A) and 1681d(a).
25 Defendants' willful conduct is reflected by, among other things, the facts set forth
26 above.

27 39. As a result of Defendants' illegal procurement of credit and
28 background reports by way of their inadequate disclosures, as set forth above,

1 Plaintiff and class members have been injured including, but not limited to, having
2 their privacy and statutory rights invaded in violation of the FCRA.

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

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

11 **SECOND CAUSE OF ACTION**

12 **FAILURE TO GIVE PROPER SUMMARY OF RIGHTS IN VIOLATION** 13 **OF FCRA**

14 **(15 U.S.C. § 1681d(a)(1) and 1681g(c))**

15 **(By Plaintiff and the FCRA Class against all Defendants)**

16 42. Plaintiff incorporates all paragraphs of this Complaint as if fully
17 alleged herein.

18 43. Section 1681d(a)(1) provides:
19 Disclosure of fact of preparation

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

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

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

1
2 (3) *includes a statement informing the consumer of his right to request*
3 *the additional disclosures* provided for under subsection (b) of this
4 section *and the written summary of the rights of the consumer*
5 *prepared pursuant to section 1681g(c)* of this title; (Emphasis Added.)

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

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

17 44. Defendant did not comply with Section 1681d(a)(1).

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

20 (A) Commission summary of rights required

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

23 (B) Content of summary

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

- 26 (1) the *right of a consumer to obtain a copy of a consumer*
27 *report* under subsection (a) of this section from each
28 consumer reporting agency;
- (2) the *frequency and circumstances under which a*
consumer is entitled to receive a consumer report
without charge under section 1681j of this title;
- (3) the right of a consumer to *dispute information* in the file
of the consumer under section 1681i of this title;
- (4) *the right of a consumer to obtain a credit score* from a
consumer reporting agency, and a description of how to
obtain a credit score;

- 1 (5) the *method by which a consumer can contact, and*
2 *obtain a consumer report from, a consumer reporting*
3 *agency without charge*, as provided in the regulations of
4 the Bureau prescribed under section 211(c) of the Fair
5 and Accurate Credit Transactions Act of 2003; and
6 (6) the method by which a consumer can contact, and obtain
7 a consumer report from, a consumer reporting agency
8 described in section 1681a(w) of this title, as provided in
9 the regulations of the Bureau prescribed under section
10 1681j(a)(1)(C) of this title; (Emphasis Added).

11 46. Defendant did not comply with 1681g(c).

12 **THIRD CAUSE OF ACTION**

13 **FAILURE TO MAKE PROPER DISCLOSURE IN VIOLATION OF ICRAA**

14 **(Cal. Civ. Code § 1786 et seq.)**

15 **(By Plaintiff and the ICRAA Class against all Defendants)**

16 47. Plaintiff incorporates all paragraphs of this Complaint as if fully
17 alleged herein.

18 48. Defendants are “persons” as defined by Section 1786.2(a) of the
19 Investigative Consumer Reporting Agencies Act (“ICRAA”).

20 49. Plaintiff and **ICRAA Class** members are “consumers” within the
21 meaning Section 1786.2(b) of the ICRAA, because they are “individuals.”

22 50. Section 1786.2(c) of the ICRAA defines “investigative consumer
23 report” as:

24 a consumer report in which information on a consumer's
25 character, general reputation, personal characteristics, or mode
26 of living is obtained through any means.

27 51. Thus a background checks qualifies as an investigative
28 consumer report under the ICRAA

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

If, at any time, an investigative consumer report is sought for
employment purposes...the person seeking the investigative consumer

1 report may procure the report, or cause the report to be made, only if all
2 of the following apply:

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

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

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

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

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

15 (v) Notifies the consumer in writing of the nature and scope of the
16 investigation requested, including a `` of the provisions of Section
17 1786.22.

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

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

53. As described above, Plaintiff alleges that in evaluating him and
other class members for employment, Defendants procured or caused to be
prepared investigative consumer report (e.g. background checks), as defined by
Cal. Civ. Code § 1786.2(c).

54. When Plaintiff applied for employment with Defendants, Defendants
required him to fill out and sign a Document entitled ""Disclosure/Authorization

1 and Release for the Procurement of a Consumer and/or Investigative Consumer
2 Report” (“Authorization”).

3 55. In pertinent part the one page Authorization states:

4 “Rasier, LLC (“Rasier”) may now, or at any time while you are an
5 independent transportation provider (“Transportation Provider”), with an
6 independent contractor relationship (“I/C/ Relationship”) with Rasier, verify
7 information within your proposal to enter an I/C/ Relationship, resume or
8 contract by obtaining a consumer report and/or investigative consumer
9 report from a consumer reporting agency. The verifications and/or checks
10 may include but are not limited to: driving records, workers compensation
11 records (in compliance with the ADA or other applicable law), credit
12 bureau files, employment references, personal references, any educational
13 and licensing institutions records, and any criminal records information
14 pertaining to you which may be in the files of any federal, state or local
15 criminal justice agency in any state. These reports may include information
16 as to your general reputation, character, personal characteristics, or mode of
17 living. You have the right ot request, in writing, the nature and scope of
18 any investigative consumer report conducted by Hirease, Inc. on behalf of
19 Raiser...”

20 Because the purported disclosures are embedded with extraneous
21 information, and are not clear and unambiguous disclosures in stand-alone
22 documents, they do not meet the requirements under the law.

23 56. Under the ICRAA, it is unlawful to procure or caused to be procured,
24 a consumer report or investigative consumer report for employment purposes
25 unless the disclosure is made in a document that consists solely of the disclosure
26 and the consumer has authorized, in writing, the procurement of the report. Cal.
27 Civ. Code § 1786.16(a)(2)(B)-(C). The inclusion of other extraneous information,
28 therefore, violates § 1786.16(a)(2)(B) of the ICRAA.

57. By including other extraneous information, Defendants willfully
violated § 1786.16(a)(2)(B) of the ICRAA. The inclusion of the extraneous
provisions causes the disclosure to fail to be “clear and conspicuous” and thus
violates § 1786.16(a)(2)(B).

1 58. Based upon facts that are likely to have evidentiary support after a
2 reasonable opportunity for investigation and discovery, Plaintiff alleges that
3 Defendants have a policy and practice of failing to provide adequate written
4 disclosures to applicants and employees, before procuring background checks or
5 causing background checks to be procured, as described above. Pursuant to that
6 policy and practice, Defendants procured background checks or caused
7 background checks to be procured for Plaintiff and class members without first
8 providing a written disclosure in compliance with § 1786.16(a)(2)(B) of the
9 ICRAA, as described above.
10

11 59. Defendants' conduct in violation of § 1786.16(a)(2)(B) of the
12 ICRAA was and is willful and/or grossly negligent. Defendants acted in deliberate
13 or reckless disregard of their obligations and the rights of applicants and
14 employees, including Plaintiff and class members. Defendants' willful conduct is
15 reflected by, among other things, the following facts:

16 (d) Defendants are large corporations with access to legal advice;

17 (e) Defendants required a purported authorization to perform
18 credit and background checks in the process of employing the class members
19 which, although defective, evidences Defendants' awareness of and willful failure
20 to follow the governing laws concerning such authorizations; and

21 (f) The plain language of the statute unambiguously indicates that
22 inclusion of extraneous information in a disclosure form violates the disclosure
23 and authorization requirements.

24 60. As a result of Defendants' illegal procurement of background reports
25 by way of their inadequate disclosures, as set forth above, Plaintiff and class
26 members have been injured including, but not limited to, having their privacy and
27 statutory rights invaded in violation of the ICRAA.
28

61. Plaintiff, on behalf of himself and all class members, seeks all

1 available remedies pursuant to Cal. Civ. Code § 1786.50, including statutory
2 damages and/or actual damages, punitive damages, and attorneys' fees and costs.

3 62. In the alternative to Plaintiff's allegation that these violations
4 were willful or grossly negligent, Plaintiff alleges that the violations were
5 negligent and seeks the appropriate remedy, if any, under Cal. Civ. Code §
6 1786.50(a), including actual damages and attorneys' fees and costs.

7 **FOURTH CAUSE OF ACTION**

8 **FAILURE TO MAKE PROPER DISCLOSURE IN VIOLATION OF** 9 **CCRAA**

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

11 **(By Plaintiff and the CCRAA Class against all Defendants)**

12 63. Plaintiff incorporates all paragraphs of this Complaint as if fully
13 alleged herein.

14 64. Defendants are "persons" as defined by Section 1785.3(j) of the
15 Consumer Credit Reporting Agencies Act ("CCRAA").

16 65. Plaintiff and **CCRAA Class** members are "consumers" within the
17 meaning Section 1785.3(b) of the CCRAA, because they are "natural individuals."

18 66. Section 1785.3(c) of the ICRAA defines "consumer credit report" as:
19
20 any written, oral, or other communication of any information by a
21 consumer credit reporting agency bearing on a consumer's credit
22 worthiness, credit standing, or credit capacity, which is used or is
23 expected to be used, or collected in whole or in part, for the purpose
24 of serving as a factor in establishing the consumer's eligibility for:
...(2) employment purposes...

25 67. Thus a credit report qualifies as a consumer credit report
26 under the CCRAA.

27 68. Section 1785.20.5(a) of the CCRAA provides, in relevant part:
28

1 Prior to requesting a consumer credit report for employment
2 purposes, the user of the report shall provide written notice to the
3 person involved. The notice shall inform the person that a report will
4 be used, and ***shall identify the specific basis under subdivision (a) of***
5 ***Section 1024.5 of the Labor Code for use of the report. The notice***
6 ***shall also inform the person of the source of the report...***
(Emphasis added.)

7 69. As described above, Plaintiff alleges that in evaluating him and
8 other class members for employment, Defendants procured or caused to be
9 prepared consumer credit reports (e.g. credit reports), as defined by Cal. Civ.
10 Code § 1785.3(c).

11 70. When Plaintiff applied for employment with Defendants, Defendants
12 required him to fill out and sign a Document entitled “Disclosure/Authorization
13 and Release for the Procurement of a Consumer and/or Investigative Consumer
14 Report” (“Authorization”).

15 71. In pertinent part the one page Authorization states:

16 “Rasier, LLC (“Rasier”) may now, or at any time while you are an
17 independent transportation provider (“Transportation Provider”), with an
18 independent contractor relationship (“I/C/ Relationship”) with Rasier, verify
19 information within your proposal to enter an I/C/ Relationship, resume or
20 contract by obtaining a consumer report and/or investigative consumer
21 report from a consumer reporting agency. The verifications and/or checks
22 may include but are not limited to: driving records, workers compensation
23 records (in compliance with the ADA or other applicable law), credit
24 bureau files, employment references, personal references, any educational
25 and licensing institutions records, and any criminal records information
26 pertaining to you which may be in the files of any federal, state or local
27 criminal justice agency in any state. These reports may include information
28 as to your general reputation, character, personal characteristics, or mode of
living. You have the right to request, in writing, the nature and scope of
any investigative consumer report conducted by Hirease, Inc. on behalf of
Raiser...”

72. The Authorization does not identify the specific basis under

1 subdivision (a) of Section 1024.5 of the Labor Code for use of the credit report.
2 Nor does the Authorization identify the source of any credit report. Both of these
3 omissions Authorization clearly violate § 1785.20.5(a) of the CCRAA, as
4 delineated above.

5 73. Based upon facts that are likely to have evidentiary support after a
6 reasonable opportunity for investigation and discovery, Plaintiff alleges that
7 Defendants have a policy and practice of failing to provide adequate written
8 disclosures to applicants and employees, before procuring credit reports or
9 causing credit reports to be procured, as described above. Pursuant to that policy
10 and practice, Defendants procured credit reports or caused credit reports to be
11 procured for Plaintiff and class members without first providing a written notice in
12 compliance with § 1785.20.5(a) of the CCRAA, as described above.
13

14 74. Defendants' conduct in violation of § 1785.20.5(a) of the CCRAA
15 was and is willful and/or grossly negligent. Defendants acted in deliberate or
16 reckless disregard of their obligations and the rights of applicants and employees,
17 including Plaintiff and class members. Defendants' willful conduct is reflected by,
18 among other things, the following facts:

19 (g) Defendants are large corporations with access to legal advice;

20 (h) Defendants required a purported authorization to perform
21 credit checks in the process of employing the class members which, although
22 defective, evidences Defendants' awareness of and willful failure to follow the
23 governing laws concerning such authorizations; and
24

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

1 75. As a result of Defendants' illegal procurement of credit reports by
2 way of their inadequate notice, as set forth above, Plaintiff and class members
3 have been injured including, but not limited to, having their privacy and statutory
4 rights invaded in violation of the CCRAA.

5 76. Plaintiff, on behalf of himself and all class members, seeks all
6 available remedies pursuant to Cal. Civ. Code § 1785.31, including statutory
7 damages and/or actual damages, punitive damages, injunctive relief, and
8 attorneys' fees and costs.

9 77. In the alternative to Plaintiff's allegation that these violations
10 were willful, Plaintiff alleges that the violations were negligent and seeks the
11 appropriate remedy, if any, under Cal. Civ. Code § 1785.31(a)(1), including but
12 not limited to actual damages and attorneys' fees and costs.

13
14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff, on behalf of himself and all others similarly
16 situated, prays for relief and judgment against Defendants as follows:

- 17 A. An order that the action be certified as a class action;
18 B. An order that Plaintiff be appointed class representative;
19 C. An order that counsel for Plaintiff be appointed class counsel;
20 D. Statutory penalties;
21 E. Civil penalties;
22 F. Punitive damages;
23 G. Costs of suit;
24 H. Interest;
25 I. Reasonable attorneys' fees; and
26 J. Such other relief as the Court deems just and proper.

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Class Action Complaint