8/24/2021 4:52 PM Steven D. Grierson CLERK OF THE COURT

1	George Haines, Esq.	Otems. Lum			
2	Nevada Bar No. 9411 Gerardo Avalos, Esq.				
3	Nevada Bar No. 15171				
	FREEDOM LAW FIRM, LLC	CASE NO: A-21-840040-C			
4	8985 South Eastern Ave., Suite 350	Department 4			
5	Las Vegas, NV 89123				
6	Phone: (702) 880-5554				
	FAX: (702) 385-5518				
7	Email: info@freedomlegalteam.com				
8	Eman. mio@necdomeganeam.com				
9	Michael Kind, Esq.				
	Nevada Bar No.: 13903				
10	KIND LAW				
11	8860 South Maryland Parkway, Suite	e 106			
12	Las Vegas, Nevada 89123				
13	(702) 337-2322				
	(702) 329-5881 (fax)				
14	mk@kindlaw.com				
15	Attorneys for Plaintiff Sara Sanguine	etti			
16	and on behalf of all others similarly	situated			
		LAL DICEDICE COURT			
17		IAL DISTRICT COURT DUNTY, NEVADA			
18	CLARK CO	JUNII, NEVADA			
19					
20	Sara Sanguinetti, individually and on behalf of all others	Case No.:			
	similarly situated,	Dept. No.:			
21	Similarly Situated,	Class Action			
22	Plaintiff,				
23	v.	Complaint for Damages based on:			
		(1) Negligence; (2) Invasion of			
24	Nevada Restaurant Services,	Privacy; (3) Breach of Implied			
25	Inc.,	Contract; and (4) Violation of NRS			
26	Defendent	598			
	Defendant.	Jury Trial Demanded			
27					
28		EXEMPT FROM ARBITRATION			

1 Introduction

Defendant Nevada Restaurant Services, Inc. ("Defendant") failed to safeguard the confidential personal identifying information of thousands of individuals (hereinafter referred to as the "Class" or "Class Members"). As a result of Defendant's failures, Plaintiff and the Class Members were victimized by cybercriminals who exploited Defendant's lax security and obtained Class Members' personal identifying information. Plaintiff brings this class action to redress the harm caused by Defendant's failures.

- 9 2. On or sometime prior to January 16, 2021, a group of cybercriminals gained access to certain files on Defendant's computer network and servers containing personal information belonging to the Class Members.
- The cybercriminals accessed insufficiently protected information belonging to
 Plaintiff and the Class Members. Upon information and belief, as a result of
 Defendant's failure to properly secure Plaintiff's and the Class Members'
 personal information, the criminals obtained extensive personal information
 including, among other things, names, home addresses, dates of birth, driver's
 licenses, and social security numbers belonging to the Class Members
 ("personal identifying information").
- 4. As a result of Defendant's actions, Plaintiff and the Class Members were harmed and forced to take remedial steps to protect themselves from future loss. Indeed, Plaintiff and all of the Class Members are currently at a very high risk of additional direct theft, and prophylactic protective measures like the purchase of credit monitoring, are reasonable and necessary to prevent and mitigate future loss.
- Defendant's wrongful actions and/or inaction constitute common law
 negligence, invasion of privacy by the public disclosure of private facts, and
 breach of implied contract.

COMPLAINT 2

28

- 1 6. Plaintiff, on behalf of themselves, and the Class seek (i) actual damages,
- 2 economic damages, emotional distress damages, statutory damages and/or
- 3 nominal damages, (ii) exemplary damages, (iii) injunctive relief, and (iv)
- 4 attorneys' fees, litigation expenses and costs.

5 JURISDICTION AND VENUE

- 6 7. This Court has jurisdiction to hear this case.
- 7 8. Plaintiff is a resident of Clark County, Nevada. Defendant is a corporation
- 8 organized and existing by virtue of the laws of the State of Nevada and
- 9 registered with the Nevada Secretary of State. Defendant conducts business in
- the State of Nevada, County of Clark.
- 11 9. The transactions and occurrences that give rise to Plaintiff's claims against
- Defendant occurred in Clark County, Nevada.
- 13 10. Therefore, the Eighth Judicial District Court, Clark County, Nevada has
- personal jurisdiction over both Plaintiff and Defendant and subject matter
- jurisdiction pursuant to Article 6, Section 6 of the Nevada Constitution and
- 16 NRS 4.370.
- 17 PARTIES
- 18 11. Plaintiff Sara Sanguinetti ("Sanguinetti") is a natural person residing in Clark
- 19 County, Nevada.
- 20 12. Defendant is a food, beverage, and gaming services provider doing business in
- Nevada.
- 22 FACTUAL ALLEGATIONS
- 23 13. Identity theft, which costs Americans billions of dollars a year, occurs when an
- individual's personal identifying information is used without his or her
- permission to commit fraud or other crimes. Victims of identity theft typically
- lose hundreds of hours dealing with the crime, and they typically lose hundreds
- of dollars.
- 28 14. According to the Federal Trade Commission ("FTC"):

Identity theft is serious. While some identity theft victims can resolve their problems quickly, others spend hundreds of dollars and many days repairing damage to their good name and credit record. Some consumers victimized by identity theft may lose out on job opportunities, or be denied loans for education, housing or cars because of negative information on their credit reports. In rare cases, they may even be arrested for crimes they did not commit.

- 15. The United States Government Accountability Office ("GAO") has stated that identity thieves can use identifying data to open financial accounts and incur charges and credit in a person's name. As the GAO has stated, this type of identity theft is the most damaging because it may take some time for the victim to become aware of the theft and can cause significant harm to the victim's credit rating. Like the FTC, the GAO explained that victims of identity theft face "substantial costs and inconvenience repairing damage to their credit records," as well the damage to their "good name."
- 16. Identity theft crimes often encompass more than just immediate financial loss.

 Identity thieves often hold onto stolen personal and financial information for several years before using and/or selling the information to other identity thieves.
- 21 17. Accordingly, Federal and state legislatures have passed laws to ensure 22 companies protect the security of sensitive personally identifying confidential 23 information, such as that wrongfully disclosed by Defendant.
- 24 18. The FTC has issued a publication entitled "Protecting Personal Information: A
 25 Guide for Business" ("FTC Report"). The FTC Report provides guidelines for
 26 businesses on how to develop a "sound data security plan" to protect against
 27 crimes of identity theft. To protect the personal sensitive information in their

- files, the FTC Report instructs businesses to follow, among other things, the following guidelines:
- a. Know what personal information you have in your files and on your
 computers;
- 5 b. Keep only what you need for your business;
- 6 c. Protect the information that you keep;
- 7 d. Properly dispose of what you no longer need;
- 8 e. Control access to sensitive information by requiring that employees use
- 9 "strong" passwords; tech security experts believe the longer the password,
- the better; and
- 11 f. Implement information disposal practices reasonable and appropriate to
- prevent an unauthorized access to personally identifying information.
- 13 19. The FTC Report also instructs companies that outsource any business functions
- to proactively investigate the data security practices of the outsourced company
- and examine their standards.
- 16 20. Upon information and belief, Defendant has policies and procedures in place
- regarding the safeguarding of confidential information it is entrusted with and
- Defendant failed to comply with those policies. Defendant also negligently
- failed to comply with industry standards or even implement rudimentary
- security practices, resulting in the Plaintiff's and the Class' confidential
- 21 information being substantially less safe than had this information been
- 22 entrusted with other similar companies.
- 23 21. In or around July 2021, Plaintiff and thousands of Class Members received
- letters from Defendant notifying them that some of their personal identifying
- 25 information was compromised.
- 26 22. The criminals were able to access Plaintiff's personal information because
- 27 Defendant failed to take basic security precautions, ignoring guidelines from
- government agencies and basic security protocols. Defendant did not properly

- 1 encrypt Plaintiff's personal information. Had it done so, the disclosure would
- 2 not have occurred.
- 3 23. Defendant was woefully unprepared to address the security breach and did not
- 4 have sufficient policies and procedures in place to respond to Plaintiff's and the
- 5 Class Members'concerns.
- 6 24. As a result of Defendant's failure to properly secure Plaintiff's and the Class
- 7 Members' personal identifying information, Plaintiff's and the Class Members'
- 8 privacy has been invaded.
- 9 25. Moreover, all of this personal information can easily be used to steal directly
- from Plaintiff and the Class Members or to steal Class Members' identities.
- 11 26. Given all of the information obtained, the criminals would also be able to create
- numerous fake accounts, as part of their identity theft operation.
- 13 27. As a direct and proximate result of Defendant's wrongful disclosure, criminals
- now have Plaintiff's and the Class Members' personal identifying information.
- Additionally, the disclosure makes Plaintiff and Class Members much more
- likely to respond to requests from Defendant or law enforcement agencies for
- more personal information, such as bank account numbers, login information
- or even Social Security numbers. Because criminals know this and are capable
- of posing as Defendant or law enforcement agencies, consumers like Plaintiff
- and their fellow Class Members are more likely to unknowingly give away their
- sensitive personal information to other criminals.
- 22 28. Defendant's wrongful actions and inaction here directly and proximately
- caused the public disclosure of Plaintiff's and Class Members' personal
- identifying information without their knowledge, authorization and/or consent.
- As a further direct and proximate result of Defendant's wrongful actions and/or
- 26 inaction, Plaintiff and Class Members have suffered, and will continue to
- suffer, damages including, without limitation, expenses for credit monitoring

6

COMPLAINT

28

- 1 and identity theft insurance, out-of-pocket expenses, anxiety, emotional 2 distress, loss of privacy, and other economic and non-economic harm.
- 3 29. Plaintiff and Class Members are now required to monitor their accounts and to
- 4 respond to identity theft. Plaintiff and Class Members now face a very high risk
- of identity theft. 5
- 6 30. Despite disregarding its obligations to protect the sensitive information that
- Plaintiff and Class Members entrusted it with, Defendant has not offered 7
- 8 Plaintiff and Class Members any monetary compensation.
- 9 31. Defendant has offered identity protection, but only for one year, and only if the
- Plaintiff and Class Members have access to a computer, internet services, 10
- 11 established credit, and are enrolled in those identity protection services by
- 12 October 1, 2021. Plaintiff's and Class Member's personal information has been
- 13 disclosed to criminal entities who may wait the one year mark and begin to use
- 14 Plaintiff' and Class Members' personal information. Additionally, certain
- 15 Class Members may be prevented from enrolling in the identity protection
- services due to a lack of access to a computer with internet services or bad 16
- 17 credit.

18 **CLASS ACTION ALLEGATIONS**

- Pursuant to Rule 23 of the Nevada Rules of Civil Procedure, Plaintiff brings 19 32.
- this class action on behalf of herself and the following Class of similarly 20
- situated individuals: 21
- All persons whose personal information, including, but not limited to, 23
- names, home addresses, dates of birth, driver's licenses, or social security 24
- numbers was obtained by an unauthorized individual or individuals from 25
- Defendant.

27

26

22

28

- 1 33. The Class specifically excludes Defendant and its officers, directors, agents
- and/or officers, the Court and Court personnel.
- 3 34. The putative Class is comprised of over approximately 3,000 persons, making
- 4 joinder impracticable. The joinder of the Class members is impractical and the
- 5 disposition of their claims in the Class action will provide substantial benefits
- both to the parties and to the Court. The Class can be identified through
- 7 Defendant's records or Defendant's agents' records.
- 8 35. The rights of each Class Member were violated in an identical manner as a
- 9 result of Defendant's willful, reckless and/or negligent actions and/or inaction.
- 10 36. The questions of law and fact common to all Class Members, and which
- predominate over any questions affecting only individual Class Members, are
- 12 as follows:
- 13 a. Whether Defendant negligently failed to maintain and execute reasonable
- procedures designed to prevent unauthorized access to Plaintiff's and Class
- 15 Members' personal identifying information;
- 16 b. Whether Defendant was negligent in storing and failing to adequately
- safeguard Plaintiff's and Class Members' personal identifying information;
- 18 c. Whether Defendant owed a duty to Plaintiff and Class Members to exercise
- reasonable care in protecting and securing their personal identifying
- 20 information;
- d. Whether Defendant breached its duties to exercise reasonable care in failing
- to protect and secure Plaintiff's and Class Members' personal identifying
- 23 information;
- e. Whether by disclosing Plaintiff's and Class Members' personal identifying
- information without authorization, Defendant invaded Plaintiff' and Class
- Members' privacy;
- 27 f. Whether Defendant created an implied contract with Plaintiff and Class
- Members to keep their personal identifying information confidential; and

- g. Whether Plaintiff and Class Members sustained damages as a result of Defendant's failure to secure and protect their personal identifying information.
- Plaintiff and their counsel will fairly and adequately represent the interests of Class Members. Plaintiff has no interests antagonistic to, or in conflict with, Class Members' interests. Plaintiff's attorneys are highly experienced in the prosecution of consumer class action, complex litigation and privacy breach cases.
- 9 38. Plaintiff's claims are typical of Class Members' claims in that Plaintiff's claims 10 and Class Members' claims all arise from Defendant's wrongful disclosure of 11 their personal identifying information and from Defendant's failure to properly 12 secure and protect the same.
- 39. A class action is superior to all other available methods for fairly and efficiently adjudicating Plaintiff's and Class Members' claims. Plaintiff and Class Members have been irreparably harmed as a result of Defendant's wrongful actions and/or inaction. Litigating this case as a class action will reduce the possibility of repetitious litigation relating to Defendant's failure to secure and protect Plaintiff's and Class Members' personal identifying information.
- 19 40. Class certification, therefore, is appropriate pursuant to Rule 23 because the 20 above common questions of law or fact predominate over any questions 21 affecting individual Class Members, and a class action is superior to other 22 available methods for the fair and efficient adjudication of this controversy.
- 23 41. Class certification also is appropriate pursuant to Rule 23 of the Nevada Rules 24 of Civil Procedure because Defendant has acted or refused to act on grounds 25 generally applicable to the Class, so that final injunctive relief or corresponding 26 declaratory relief is appropriate as to the Class as a whole.
- 27 42. The expense and burden of litigation would substantially impair the ability of Class Members to pursue individual lawsuits in order to vindicate their rights.

Absent a class action, Defendant will retain the benefits of their wrongdoing 1 2 despite its serious violations of the law. 3 FIRST CAUSE OF ACTION 4 **NEGLIGENCE** 5 43. Plaintiff repeats, re-alleges, and incorporates by reference all above paragraphs. Defendant owed a duty to Plaintiff and Class Members to safeguard and protect 44. 6 7 their personal identifying information. 8 45. Defendant breached its duty by failing to exercise reasonable care in its safeguarding and protection of Plaintiff's and Class Members' personal 9 identifying information. 10 11 46. It was reasonably foreseeable that Defendant's failure to exercise reasonable 12 care in safeguarding and protecting Plaintiff's and Class Members' personal identifying information would result in an unauthorized third party gaining 13 14 access to such information for no lawful purpose, and that such third parties would use Plaintiff's and Class Members' personal identifying information for 15 malevolent and unlawful purposes, including the commission of direct theft and 16 identity theft. 17 Plaintiff and the Class Members were (and continue to be) damaged as a direct 18 47. 19 and proximate result of Defendant's failure to secure and protect their personal identifying information as a result of, inter alia, direct theft, identity theft, 20 expenses for credit monitoring and identity theft herein, insurance incurred in 21 mitigation, out-of-pocket expenses, anxiety, emotional distress, loss of privacy, 22 and other economic and non-economic harm, for which they suffered loss and 23 24 are entitled to compensation. Defendant committed negligence per se insofar as it failed to comply with NRS 25 48. 26 603A. 27 49. Defendant's wrongful actions and/or inaction (as described above) constituted (and continue to constitute) negligence at common law. 28

1		SECOND CAUSE OF ACTION
2		Invasion of Privacy by Public
3		DISCLOSURE OF PRIVATE FACTS AND INTRUSION UPON SECLUSION
4	50.	Plaintiff repeats, re-alleges, and incorporates by reference all above paragraphs.
5	51.	Plaintiff's and Class Members' personal identifying information is and always
6		has been private information.
7	52.	Dissemination of Plaintiff's and Class Members' personal identifying
8		information is not of a legitimate public concern; publication to third parties of
9		their personal identifying information would be, is and will continue to be,
10		offensive to Plaintiff, Class Members, and other reasonable people.
11	53.	Plaintiff and the Class Members were (and continue to be) damaged as a direct
12		and proximate result of Defendant's invasion of their privacy by publicly
13		disclosing their private facts including, inter alia, direct theft, identity theft,
14		expenses for credit monitoring and identity theft insurance, out-of-pocket
15		expenses, anxiety, emotional distress, loss of privacy, and other economic and
16		non-economic harm, for which they are entitled to compensation. At the very
17		least, Plaintiff and the Class Members are entitled to nominal damages.
18	54.	Defendant's wrongful actions and/or inaction (as described above) constituted
19		(and continue to constitute) an invasion of Plaintiff's and Class Members'
20		privacy by publicly disclosing their private facts (i.e., their personal identifying
21		information).
22		THIRD CAUSE OF ACTION
23		BREACH OF IMPLIED CONTRACT
24	55.	Plaintiff repeats, re-alleges, and incorporates by reference all above paragraphs.
25	56.	"Where the terms of a contract are literally complied with but one party to the
26		contract deliberately contravenes the intention and spirit of the contract, that
27		party can incur liability for breach of the implied covenant of good faith and
28		

- fair dealing." Hilton Hotels Corp. v. Butch Lewis Prods., Inc., 107 Nev. 226,
- 2 232 (1991).
- 3 57. Among other things, Plaintiff and Class Members were required to disclose
- 4 their personal identifying information to Defendant in order to receive the
- 5 benefit of Defendant's services. The covenant to adequately safeguard
- 6 Plaintiff's and Class Members' personal identifying information is an implied
- 7 term in this contract.
- 8 58. Notwithstanding its obligations imposed by this implied contract, Defendant
- 9 failed to safeguard and protect Plaintiff's and Class Members' personal
- identifying information. Defendant's breaches of its obligations under the
- 11 contract between the parties directly caused Plaintiff and Class Members to
- suffer injuries.

19

- 13 59. Considering the sensitive nature of the information stolen, including names,
- home addresses, birth dates, driver's licenses and social security numbers,
- Plaintiff and the Class Members should reasonably be expected to take
- prophylactic measures and undertake attendant costs to prevent and mitigate
- the harm likely to be suffered from Defendant's breach of the implied contract.

18 FOURTH CAUSE OF ACTION

VIOLATION OF NEVADA DECEPTIVE TRADE PRACTICES ACT

- 20 NEV. REV. STAT. § 598, ET SEQ.
- 21 60. Plaintiff repeats, re-alleges, and incorporates by reference all above paragraphs.
- 22 61. This cause of action is brought pursuant to the Nevada Deceptive Trade
- Practices Act, Nev. Rev. Stat. §§ 598 et seq., (the "Nevada Act").
- 24 62. Defendant is a food, beverage, and gaming services provider that sells goods
- and services to the general public. Defendant's activities are governed by the
- 26 State Consumer Protection Acts.
- 27 63. On information and belief, affected individuals include persons over the age of
- 28 60 and/or persons with disabilities.

- 1 64. In all requisite matters alleged herein, Defendant acted in the course of their
- business or occupation within the meaning of NRS §§ 598.0903 to 598.0999.
- 3 65. In all requisite matters alleged herein, Defendant acted willfully in violation of
- 4 NRS 598.
- 5 66. Defendant violated NRS 598 by engaging in the unfair and deceptive practices
- as described herein which offend public policies and are immoral, unethical,
- 7 unscrupulous and substantially injurious to consumers.
- 8 67. Reasonable customers would be misled by Defendant's misrepresentations and
- 9 omissions concerning the security of their personally identifying information.
- Defendant's unfair and deceptive practices are thus likely to, and have, misled
- the Class Members acting reasonably in the circumstances, in violation of NRS
- 12 598.
- 13 68. Defendant specifically engaged in the following activity and/or deceptive
- practices, all of which violate NRS 598:
- a. Defendant failed to maintain and execute reasonable procedures
- designed to prevent unauthorized access to Plaintiff's and Class
- 17 Members' personal identifying information;
- b. Defendant acted unlawfully in storing and failing to adequately
- safeguard Plaintiff's and Class Members' personal identifying
- 20 information;
- 21 c. Defendant failed to exercise reasonable care in protecting and securing
- their personal identifying information;
- d. Failing to comply with NRS 603A;
- e. Defendant failed to properly and timely notify Plaintiff and the Class
- about the severity of the breach, including failure to provide an adequate
- description of the breach and the risks associated with the breach.
- 27 69. In all requisite matters alleged herein, Defendant acted knowingly within the
- meaning of NRS 598.

1 In all requisite matters alleged herein, Defendant acted willfully in violation of 70. 2 NRS 598. Plaintiff has been aggrieved by Defendant's unfair and deceptive practices 3 71. including because she has lost control of her personally identifying 4 information, and she has to expend out of pocket money and efforts to mitigate 5 the harm caused by Defendant. 6 7 Pursuant to NRS 598, Plaintiff and the Class Members seek a declaratory 72. 8 judgment and court order enjoining the above-described wrongful acts and practices of Defendant. Additionally, Plaintiff and the Class Members make 9 claims for damages, attorneys' fees and costs. 10 11 PRAYER FOR RELIEF WHEREFORE, Plaintiff respectfully requests that the Court enter judgment 12 13 against Defendant as follows: 14 • Certifying this action as a class action, with a Class as defined 15 above; 16 • Awarding compensatory damages to redress the harm caused 17 to Plaintiff and Class Members in the form of, inter alia, direct 18 theft, identity theft, expenses for credit monitoring and identity 19 theft insurance, out-of- pocket expenses, anxiety, emotional 20 distress, loss of privacy, and other economic and non-economic 21 harm. Plaintiff and Class Members also are entitled to recover 22 statutory damages and/or nominal damages. Plaintiff's and 23 Class Members' damages were foreseeable by Defendant and 24 exceed the minimum jurisdictional limits of this Court. 25 • Ordering injunctive relief including, without limitation, (i) 26 adequate credit monitoring, (ii) adequate identity theft 27 insurance, (iii) instituting security protocols in compliance

14 **COMPLAINT**

28

1		with the appropriate standards and (iv) requiring Defendant to
2		submit to periodic compliance audits by a third party regarding
3		the security of personal identifying information in its
4		possession, custody and control.
5		• Awarding Plaintiff and the Class Members interest, costs and
6		attorneys' fees; and
7		Awarding Plaintiff and the Class such other and further relief
8		as this Court deems just and proper.
9		TRIAL BY JURY
10	73.	Pursuant to the seventh amendment to the Constitution of the United States of
11	13.	America and the Constitution of the State of Nevada, Plaintiff is entitled to, and
12		demands, a trial by jury.
13		demands, a trial by Jury.
14		DATED this 24th day of August 2021.
15		DATED tills 24th day of August 2021.
16		Respectfully submitted,
17		Respectivity submitted,
18		FREEDOM LAW FIRM, LLC
19		/s/ George Haines
20		George Haines, Esq.
21		Gerardo Avalos, Esq. 8985 South Eastern Ave., Suite 350
22		Las Vegas, NV 89123
23		KIND LAW
24		/s/ Michael Kind
25		Michael Kind, Esq.
26		8860 South Maryland Parkway, Suite 106 Las Vegas, Nevada 89123
27		Attorneys for Plaintiff and on behalf
28		of all others similarly situated