IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

SALLY MCAULEY, AMBER COOPER, ALEX NEIGEL, APRIL PEREZ, LOGAN KNAPP, JAMES MIKITA, ROBBY LUTHY, PETER CLEMENT, MERCEDES FREUND, DALE JARRELL, BEN MCAULEY, KARLEE PANGIS, RAY SHEPHERD, JESSICA HOGAN, AMAL CENTERS, JESSICA BODAS, and DENNIS LIBERATORE, individually and on behalf of all others similarly situated, Plaintiffs, v. PIERCE COLLEGE DISTRICT, Defendant.	Case No. 23-2-11064-7 **FIRST AMENDED CONSOLIDATED CLASS ACTION COMPLAINT** Consolidated with: Case No. 23-2-11372-7

Plaintiffs Sally McAuley, Amber Cooper, Alex Neigel, April Perez, Logan Knapp, James Mikita, Robby Luthy, Peter Clement, Mercedes Freund, Dale Jarrell, Ben McAuley, Karlee Pangis, Ray Shepherd, Jessica Hogan, Amal Centers, Jessica Bodas, and Dennis Liberatore (collectively, "Plaintiffs"), individually and on behalf of all others similarly situated, by and through their counsel, bring this Class Action Complaint against Defendant Pierce College District ("Pierce" or "Defendant") and allege, upon personal knowledge as to their own actions and their counsel's investigation, and upon information and belief as to all other matters, as follows:

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

I. INTRODUCTION

1. Plaintiffs and Class Members were required to provide Defendant their confidential and sensitive Personal information to attend college in Washington in the Pierce College District. Defendant failed to maintain adequate security protocols in storing and/or transferring this information, and as a result, dangerous cybercriminals that go by the name of "Rhysida gang" stole it.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over this cause of action under RCW 2.08.010 and RCW 4.92.090.

3. This Court has personal jurisdiction over Defendant because it is a Washington State agency headquartered in Puyallup, Pierce Couty, Washington.

4. Venue is proper in this Court pursuant to RCW 4.12.020(3) and RCW 4.92.010(1) because a substantial part of the events or omissions giving rise to these claims occurred in Pierce County, Washington and at least one Plaintiff resides in Pierce County, Washington.

III. PARTIES

5. Plaintiff Sally McAuley is an individual and resident of Puyallup, Pierce County, Washington. Plaintiff McAuley was a student at the Pierce College District in or around 2022 and 2023.

6. Plaintiff Amber Cooper is an individual and resident of Washington. Plaintiff Cooper is a former student of Pierce College District.

7. Plaintiff Alex Neigel is an individual and resident of Washington. Plaintiff Neigel is a former student of Pierce College District.

8. Plaintiff April Perez is an individual and resident of Washington. Plaintiff Perez is a former student of Pierce College District.

9. Plaintiff Logan Knapp is an individual and resident of Washington. Plaintiff Knapp is a former student and current employee of Pierce College.

EMERY | REDDY, PLLC
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Seattle, WA 98101
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10. Plaintiff James Mikita is an individual and resident of Washington. Plaintiff Mikita is a former student and employee of Pierce College.

11. Plaintiff Robby Luthy is an individual and resident of Washington. Plaintiff Luthy is a former employee of Pierce College.

12. Plaintiff Peter Clement is an individual and resident of Washington. Plaintiff Clement is a former employee of Pierce College.

13. Plaintiff Mercedes Freund is an individual and resident of Washington. Plaintiff Freund is a current student of Pierce College.

14. Plaintiff Dale Jarrell is an individual and resident of Washington. Plaintiff Jarrell is a former student of Pierce College.

15. Plaintiff Ben McAuley is an individual and resident of Washington. Plaintiff Ben McAuley is a former employee of Pierce College.

16. Plaintiff Karlee Pangis is an individual and resident of Washington. Plaintiff Pangis is a former employee of Pierce College.

17. Plaintiff Ray Shepherd is an individual and resident of Washington. Plaintiff Shepherd is a former student of Pierce College.

18. Plaintiff Jessica Hogan is an individual and resident of Washington. Plaintiff Hogan is a current student of Pierce College.

19. Plaintiff Amal Centers is an individual and resident of Washington. Plaintiff Centers is a current student of Pierce College.

20. Plaintiff Jessica Bodas is an individual and resident of Washington. Plaintiff Bodas is a former employee of Pierce College.

21. Plaintiff Dennis Liberatore is an individual and resident of Washington. Plaintiff Liberatore is a former student of Pierce College.

22. Defendant Pierce College District is an agency of the State of Washington with its main office located at 1601 39th Ave. SE, Puyallup, Washington 98374-2210.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

IV. FACTUAL BACKGROUND

Pierce College District's Business

23. Defendant Pierce College District is a community college district that was founded in 1967.[1] Defendant Pierce College District is a "degree-granting institution" that was accredited "by the Northwest Commission on Colleges and Universities, an accrediting body recognized by the Council for Higher Education Accreditation and the U.S. Department of Education."[2]

24. As part of its business practices, Defendant Pierce College District requires students to provide sensitive Personal Information.

25. Defendant made promises and representations to Plaintiffs and Class Members that the Personal Information collected as part of Defendant's business operations would be kept safe, confidential, and that the privacy of that information would be maintained.

26. Specifically, Defendant's *Web Privacy Notice* provides that:

> The Pierce College District, as developer and manager of Pierce College District Web site, has taken several steps to safeguard the integrity of its data and prevent unauthorized access to information maintained by Pierce College District. These measures are designed and intended to prevent corruption of data, block unknown or unauthorized access to our systems and information, and to provide reasonable protection of private information in our possession.[3]

27. Plaintiffs and Class Members, individuals whose Personal Information was in the possession of the Defendant, including current and former students, relied on the sophistication of Defendant to keep their sensitive and confidential Personal Information securely maintained, to use this information for business purposes only, and to make only authorized disclosures of

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[1] *See* https://www.pierce.ctc.edu/college-history (last visited November 7, 2023).
[2] *See* https://www.pierce.ctc.edu/accreditation (last visited November 7, 2023).
[3] *See* https://www.pierce.ctc.edu/web-privacy-notice (last visited November 7, 2023).

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

this information. Plaintiffs and Class Members demand security to safeguard their sensitive Personal Information.

28. On information and belief, in the ordinary course of business as a condition of service, Defendant required individuals to provide copious amounts of sensitive personal and private information as a condition of receiving services including but not limited to the Personal Information compromised in the Data Breach.

29. By obtaining, collecting, using, and deriving a benefit from Plaintiffs' and Class Members' sensitive Personal Information, Defendant assumed legal and equitable duties, and knew, or should have known, that it was responsible for protecting Plaintiffs' and Class Members' sensitive Personal Information from unauthorized disclosure.

30. Defendant had obligations created by contract, industry standards, common law, and representations made to Plaintiffs and Class Members, to keep their sensitive Personal Information confidential and to protect it from unauthorized access and disclosure.

31. Plaintiffs and the Class Members have taken reasonable steps to maintain the confidentiality of their sensitive Personal Information.

32. Plaintiffs and the Class Members relied on Defendant to keep their sensitive Personal Information confidential and securely maintained, to use this information for business purposes only, and to make only authorized disclosures of this information.

33. Plaintiffs and Class Members provided their sensitive Personal Information to Defendant with the reasonable expectation and mutual understanding that Defendant would comply with their obligations to keep such information confidential and secure from unauthorized access.

The Data Breach

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
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34. On or about July 24, 2023, Defendant "identified suspicious activity within its network."[4] After detecting the suspicious activity, Defendant conducted an investigation and found "evidence of unauthorized access to Pierce's network between July 23, 2023 and July 24, 2023, during which time certain files contained on Pierce's servers were acquired by unauthorized actors."[5]

35. This subsequent investigation also revealed that the sensitive Personal Information for approximately 155,811 Washington residents was stolen, including their "Name; Social Security Number; Driver's License or Washington ID Card Number; Financial & Banking Information; Full Date of Birth."[6]

36. To make matters even worse, the sensitive Personal Information stolen in the Data Breach was stolen by a notorious cybercriminal group called the "Rhysida gang" and was subsequently posted for sale on their Dark Web auction page. The file containing Plaintiffs' and Class Members's sensitive Personal Information contains 1 terabyte of unique files as well as a 1.3 terabyte SQL database.[7]

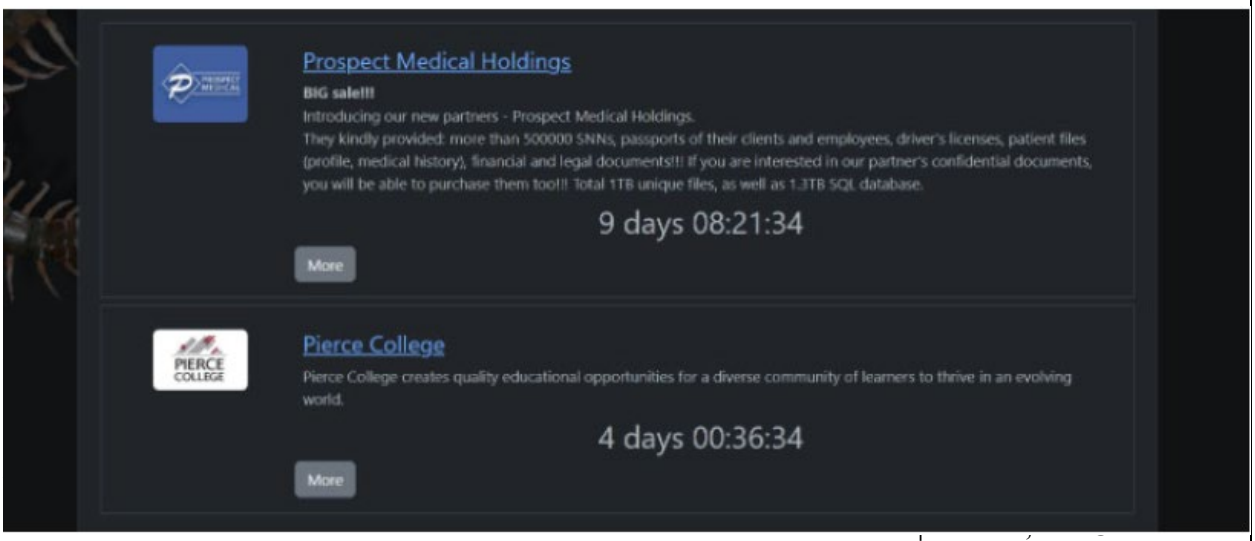

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Figure 1. The image above is a screenshot taken from Stefanie Schappert's Cybernews article[8] reporting on the Data Breach (screenshot from 11/8/2023).

37. Plaintiffs' and Class Members' sensitive Personal Information has been stolen, sold, and on information and belief, reviewed by cybercriminals.

The Effects of the Data Breach on Plaintiffs

1. Sally McAuley

38. Defendant sent Plaintiff Sally McAuley a notice stating that her Personal Information was exposed in the Data Breach on or around October 16, 2023.

39. Following the Data Breach, Plaintiff McAuley experienced a substantial uptick in the number and frequency of spam calls and emails attempting to obtain further Personal Information from her by posing as a mortgage company.

40. Moreover, Plaintiff McAuley and her husband have suffered fraud as a result of the Data Breach. Specifically, in or around September of 2023, and as a result of the Data Breach, Plaintiff McAuley and her husband both suffered fraud when an unauthorized individual attempted to use their credit and debit cards to submit a Venmo request in their name. This resulted in Plaintiff McAuley and her husband's debit and credit cards being cancelled by her bank.

41. Plaintiff McAuley made reasonable efforts to mitigate the impact of the Data Breach, including, but not limited to: researching the Data Breach; reviewing credit reports, credit monitoring, and financial account statements for any indications of actual or attempted identity theft or fraud; researching credit monitoring and identity theft protection services offered by Defendant; freezing her credit; dealing with unwanted spam emails and telephone calls, and spending time dealing with the unauthorized Venmo transaction and card cancellations.

[8] *Id*.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
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42. Plaintiff McAuley has spent at least 7 hours dealing with the Data Breach, valuable time she otherwise would have spent on other activities, including but not limited to work and/or recreation.

43. As a result of the Data Breach, Plaintiff McAuley has suffered emotional distress due to the release of her Personal Information, which she believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using her Personal Information for purposes of identity theft and fraud. Plaintiff McAuley is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

44. Plaintiff McAuley suffered actual injury from having her Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of her Personal Information, a form of property that Defendant obtained from Plaintiff McAuley; (b) violation of her privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

45. As a result of the Data Breach, Plaintiff McAuley anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff McAuley is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

2. Amber Cooper

46. Defendant sent Plaintiff Amber Cooper a notice stating that her Personal Information was exposed in the Data Breach on or around October 16, 2023.

47. As a result of the Data Breach, Plaintiff Cooper made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options she will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

48. Plaintiff Cooper has spent several hours dealing with the Data Breach—valuable time she otherwise would have spent on other activities, including but not limited to work and/or recreation.

49. As a result of the Data Breach, Plaintiff Cooper has suffered emotional distress due to the release of her Personal Information, which she believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using her Personal Information for purposes of identity theft and fraud. Plaintiff Cooper is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

50. Plaintiff Cooper suffered actual injury from having her Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of her Personal Information, a form of property that Defendant obtained from Plaintiff Cooper; (b) violation of her privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

51. As a result of the Data Breach, Plaintiff Cooper anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Cooper is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

3. Alex Neigel

52. Defendant sent Plaintiff Alex Neigel a notice stating that his Personal Information was exposed in the Data Breach on or around October 16, 2023.

53. As a result of the Data Breach, Plaintiff Neigel made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options he will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

54. Plaintiff Neigel has spent several hours dealing with the Data Breach—valuable time he otherwise would have spent on other activities, including but not limited to work and/or recreation.

55. As a result of the Data Breach, Plaintiff Neigel has suffered emotional distress due to the release of his Personal Information, which he believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Neigel is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

56. Plaintiff Neigel suffered actual injury from having his Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of his Personal Information, a form of property that Defendant obtained from Plaintiff Neigel; (b) violation of his privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

57. As a result of the Data Breach, Plaintiff Neigel anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Neigel is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

4. April Perez

58. Defendant sent Plaintiff April Perez a notice stating that her Personal Information was exposed in the Data Breach on or around October 16, 2023.

59. As a result of the Data Breach, Plaintiff Perez made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options she will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

60. Plaintiff Perez has spent several hours dealing with the Data Breach—valuable time she otherwise would have spent on other activities, including but not limited to work and/or recreation.

61. As a result of the Data Breach, Plaintiff Perez has suffered emotional distress due to the release of her Personal Information, which she believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using her Personal Information for purposes of identity theft and fraud. Plaintiff Perez is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

62. Plaintiff Perez suffered actual injury from having her Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of her Personal Information, a form of property that Defendant obtained from Plaintiff Perez; (b) violation of her privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

63. As a result of the Data Breach, Plaintiff Perez anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Perez is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come

5. Logan Knapp

64. Defendant sent Plaintiff Logan Knapp a notice stating that his Personal Information was exposed in the Data Breach on or around October 16, 2023.

65. As a result of the Data Breach, Plaintiff Knapp made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options he will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

66. Plaintiff Knapp has spent several hours dealing with the Data Breach—valuable time he otherwise would have spent on other activities, including but not limited to work and/or recreation.

67. As a result of the Data Breach, Plaintiff Knapp has suffered emotional distress due to the release of his Personal Information, which he believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Knapp is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

68. Plaintiff Knapp suffered actual injury from having his Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of his Personal Information, a form of property that Defendant obtained from Plaintiff Knapp; (b) violation of his privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

69. As a result of the Data Breach, Plaintiff Knapp anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Knapp is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

6. James Mikita

70. Defendant sent Plaintiff James Mikita a notice stating that his Personal Information was exposed in the Data Breach on or around October 16, 2023.

71. As a result of the Data Breach, Plaintiff Mikita made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options he will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

72. Plaintiff Mikita has spent several hours dealing with the Data Breach—valuable time he otherwise would have spent on other activities, including but not limited to work and/or recreation.

73. As a result of the Data Breach, Plaintiff Mikita has suffered emotional distress due to the release of his Personal Information, which he believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Mikita is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

74. Plaintiff Mikita suffered actual injury from having his Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of his Personal Information, a form of property that Defendant obtained from Plaintiff Mikita; (b) violation of his privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

75. As a result of the Data Breach, Plaintiff Mikita anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Mikita is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

7. Robby Luthy

76. Defendant sent Plaintiff Robby Luthy a notice stating that his Personal Information was exposed in the Data Breach on or around October 16, 2023.

77. As a result of the Data Breach, Plaintiff Luthy made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options he will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

78. Plaintiff Luthy has spent several hours dealing with the Data Breach—valuable time he otherwise would have spent on other activities, including but not limited to work and/or recreation.

79. As a result of the Data Breach, Plaintiff Luthy has suffered emotional distress due to the release of his Personal Information, which he believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Luthy is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

80. Plaintiff Luthy suffered actual injury from having his Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of his Personal Information, a form of property that Defendant obtained from Plaintiff Luthy; (b) violation of his privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

81. As a result of the Data Breach, Plaintiff Luthy anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Luthy is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

8. Peter Clement

82. Defendant sent Plaintiff Peter Clement a notice stating that his Personal Information was exposed in the Data Breach on or around October 16, 2023.

83. As a result of the Data Breach, Plaintiff Clement made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options he will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

84. Plaintiff Clement has spent several hours dealing with the Data Breach—valuable time he otherwise would have spent on other activities, including but not limited to work and/or recreation.

85. As a result of the Data Breach, Plaintiff Clement has suffered emotional distress due to the release of his Personal Information, which he believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Clement is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

86. Plaintiff Clement suffered actual injury from having his Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of his Personal Information, a form of property that Defendant obtained from Plaintiff Clement; (b) violation of his privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

87. As a result of the Data Breach, Plaintiff Clement anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Clement is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

9. Mercedes Freund

88. Defendant sent Plaintiff Mercedes Freund a notice stating that her Personal Information was exposed in the Data Breach on or around October 16, 2023.

89. As a result of the Data Breach, Plaintiff Freund made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options she will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

90. Plaintiff Freund has spent several hours dealing with the Data Breach—valuable time she otherwise would have spent on other activities, including but not limited to work and/or recreation.

91. As a result of the Data Breach, Plaintiff Freund has suffered emotional distress due to the release of her Personal Information, which she believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Freund is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

92. Plaintiff Freund suffered actual injury from having her Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of her Personal Information, a form of property that Defendant obtained from Plaintiff Freund; (b) violation of her privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

93. As a result of the Data Breach, Plaintiff Freund anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Freund is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

10. Dale Jarrell

94. Defendant sent Plaintiff Dale Jarrell a notice stating that his Personal Information was exposed in the Data Breach on or around October 16, 2023.

95. As a result of the Data Breach, Plaintiff Jarrell made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options he will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

96. Plaintiff Jarrell has spent several hours dealing with the Data Breach—valuable time he otherwise would have spent on other activities, including but not limited to work and/or recreation.

97. As a result of the Data Breach, Plaintiff Jarrell has suffered emotional distress due to the release of his Personal Information, which he believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Jarrell is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

98. Plaintiff Jarrell suffered actual injury from having his Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of his Personal Information, a form of property that Defendant obtained from Plaintiff Jarrell; (b) violation of his privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

99. As a result of the Data Breach, Plaintiff Jarrell anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Jarrell is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

11. Ben McAuley

100. Defendant sent Plaintiff Ben McAuley a notice stating that his Personal Information was exposed in the Data Breach on or around October 16, 2023.

101. As a result of the Data Breach, Plaintiff Ben McAuley made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options he will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

102. Plaintiff Ben McAuley has spent several hours dealing with the Data Breach—valuable time he otherwise would have spent on other activities, including but not limited to work and/or recreation.

103. As a result of the Data Breach, Plaintiff Ben McAuley has suffered emotional distress due to the release of his Personal Information, which he believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Ben McAuley is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

104. Plaintiff Ben McAuley suffered actual injury from having his Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of his Personal Information, a form of property that Defendant obtained from Plaintiff Ben McAuley; (b) violation of his privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

105. As a result of the Data Breach, Plaintiff Ben McAuley anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Ben McAuley is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

12. Karlee Pangis

106. Defendant sent Plaintiff Karlee Pangis a notice stating that her Personal Information was exposed in the Data Breach on or around October 16, 2023.

107. As a result of the Data Breach, Plaintiff Pangis made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options she will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

108. Plaintiff Pangis has spent several hours dealing with the Data Breach—valuable time she otherwise would have spent on other activities, including but not limited to work and/or recreation.

109. As a result of the Data Breach, Plaintiff Pangis has suffered emotional distress due to the release of her Personal Information, which she believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Pangis is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

110. Plaintiff Pangis suffered actual injury from having her Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of her Personal Information, a form of property that Defendant obtained from Plaintiff Pangis; (b) violation of her privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

111. As a result of the Data Breach, Plaintiff Pangis anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Pangis is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

13. Ray Shepherd

112. Defendant sent Plaintiff Ray Shepherd a notice stating that his Personal Information was exposed in the Data Breach on or around October 16, 2023.

113. As a result of the Data Breach, Plaintiff Shepherd made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options he will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

114. Plaintiff Shepherd has spent several hours dealing with the Data Breach—valuable time he otherwise would have spent on other activities, including but not limited to work and/or recreation.

115. As a result of the Data Breach, Plaintiff Shepherd has suffered emotional distress due to the release of his Personal Information, which he believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Shepherd is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

116. Plaintiff Shepherd suffered actual injury from having his Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of his Personal Information, a form of property that Defendant obtained from Plaintiff Shepherd; (b) violation of his privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

117. As a result of the Data Breach, Plaintiff Shepherd anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Shepherd is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

14. Jessica Hogan

118. Defendant sent Plaintiff Jessica Hogan a notice stating that her Personal Information was exposed in the Data Breach on or around October 16, 2023.

119. As a result of the Data Breach, Plaintiff Hogan made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options she will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

120. Plaintiff Hogan has spent several hours dealing with the Data Breach—valuable time she otherwise would have spent on other activities, including but not limited to work and/or recreation.

121. As a result of the Data Breach, Plaintiff Hogan has suffered emotional distress due to the release of her Personal Information, which she believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Hogan is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

122. Plaintiff Hogan suffered actual injury from having her Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of her Personal Information, a form of property that Defendant obtained from Plaintiff Hogan; (b) violation of her privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

123. As a result of the Data Breach, Plaintiff Hogan anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Hogan is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

15. Amal Centers

124. Defendant sent Plaintiff Amal Centers a notice stating that his Personal Information was exposed in the Data Breach on or around October 16, 2023.

125. As a result of the Data Breach, Plaintiff Centers made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options he will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

126. Plaintiff Centers has spent several hours dealing with the Data Breach—valuable time he otherwise would have spent on other activities, including but not limited to work and/or recreation.

127. As a result of the Data Breach, Plaintiff Centers has suffered emotional distress due to the release of his Personal Information, which he believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Centers is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

128. Plaintiff Centers suffered actual injury from having his Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of his Personal Information, a form of property that Defendant obtained from Plaintiff Centers; (b) violation of his privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

129. As a result of the Data Breach, Plaintiff Centers anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Centers is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

16. Jessica Bodas

130. Defendant sent Plaintiff Jessica Bodas a notice stating that her Personal Information was exposed in the Data Breach on or around October 16, 2023.

131. As a result of the Data Breach, Plaintiff Bodas made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options she will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

132. Plaintiff Bodas has spent several hours dealing with the Data Breach—valuable time she otherwise would have spent on other activities, including but not limited to work and/or recreation.

133. As a result of the Data Breach, Plaintiff Bodas has suffered emotional distress due to the release of her Personal Information, which she believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Bodas is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

134. Plaintiff Hog Bodas an suffered actual injury from having her Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of her Personal Information, a form of property that Defendant obtained from Plaintiff Bodas; (b) violation of her privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

135. As a result of the Data Breach, Plaintiff Bodas anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Bodas is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

17. Dennis Liberatore

136. Defendant sent Plaintiff Dennis Liberatore a notice stating that his Personal Information was exposed in the Data Breach on or around October 16, 2023.

137. As a result of the Data Breach, Plaintiff Liberatore made reasonable efforts to mitigate the impact of the Data Breach, including but not limited to researching the Data Breach, reviewing financial accounts for any indications of actual or attempted identity theft or fraud, and researching the credit monitoring offered by Defendant, as well as long-term credit monitoring options he will now need to use.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

138. Plaintiff Liberatore has spent several hours dealing with the Data Breach—valuable time he otherwise would have spent on other activities, including but not limited to work and/or recreation.

139. As a result of the Data Breach, Plaintiff Liberatore has suffered emotional distress due to the release of his Personal Information, which he believed would be protected from unauthorized access and disclosure, including anxiety about unauthorized parties viewing, selling, and/or using his Personal Information for purposes of identity theft and fraud. Plaintiff Liberatore is very concerned about identity theft and fraud, as well as the consequences of such identity theft and fraud resulting from the Data Breach.

140. Plaintiff Liberatore suffered actual injury from having his Personal Information compromised as a result of the Data Breach including, but not limited to: (a) damage to and diminution in the value of his Personal Information, a form of property that Defendant obtained from Plaintiff Liberatore; (b) violation of his privacy rights; and (c) present, imminent, and impending injury arising from the increased risk of identity theft and fraud.

141. As a result of the Data Breach, Plaintiff Liberatore anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach. As a result of the Data Breach, Plaintiff Liberatore is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

The Effects of the Data Breach on the Class

142. Plaintiffs' experiences in connection with the breach are typical of those of the Class Members.

143. Given the sensitive nature of the Personal Information stolen in the Data Breach, hackers have the ability to commit identify theft, financial fraud, and other identity-related fraud against Plaintiffs and Class Members now and into the indefinite future.

144. As a result of the Data Breach, Plaintiffs and Class Members will have to take a variety of steps to monitor for and safeguard against identity theft, and they are at a much greater

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

risk of suffering such identity theft. In addition, these victims of the Data Breach are at a heightened risk of potentially devastating financial identity theft. As the Bureau of Justice Statistics reports, identity theft causes its victims out-of-pocket monetary losses and costs the nation's economy billions of dollars every year.[9]

145. In fact, many victims of the Data Breach have already experienced harms as a result of the Data Breach, including, but not limited to, identity theft, financial fraud, tax fraud, unauthorized lines of credit opened in their names, medical and healthcare fraud, and unauthorized access to their bank accounts. Plaintiffs and Class Members have spent and will spend time, money, and effort dealing with the fallout of the Data Breach, including purchasing credit protection services, contacting their financial institutions, checking credit reports, and spending time and effort searching for unauthorized activity.

146. The Personal Information exposed in the Data Breach is highly coveted and valuable on underground or black markets. A cyber "black market" exists in which criminals openly post and sell stolen consumer information on underground internet websites known as the "dark web," exposing consumers to identity theft and fraud for years to come. Indeed, Plaintiffs' and Class Members' Private Information has already been offered for sale on a known Dark Web hacker forum and, on information and belief, purchased and viewed by cybercriminals.[10] Identity thieves can use the Personal Information to: (a) create fake credit cards that can be swiped and used to make purchases as if they were the real credit cards; (b) reproduce stolen debit cards and use them to withdraw cash from ATMs; (c) commit immigration fraud; (d) obtain a fraudulent driver's license or ID card in the victim's name; (e) obtain fraudulent government benefits; (f) file a fraudulent tax return using the victim's information; (g) commit medical and healthcare-related fraud; (h) access financial accounts and records; and (i) commit any number of other

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[9] *See* U.S. Dept. of Justice, Bureau of Justice Statistics, *Victims of Identity Theft, 2012* (Dec. 2013), http://www.bjs.gov/content/pub/pdf/vit12.pdf (last visited November 7, 2023).
[10] *See e.g.* **Figure 1**.

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

frauds, such as obtaining a job, procuring housing, or giving false information to police during an arrest.

147. Consumers are injured every time their data is stolen and placed on the Dark Web, even if they have been victims of previous data breaches. Not only is the likelihood of identity theft increased, but the dark web is not like Google or eBay. It is comprised of multiple discrete repositories of stolen information.[11] Each data breach puts victims at risk of having their information uploaded to different dark web databases and viewed and used by different criminal actors.

148. Exposure of this information to the wrong people can have serious consequences. Identity theft can have ripple effects, which can adversely affect the future financial trajectories of victims' lives. For example, the Identity Theft Resource Center reports that respondents to their surveys in 2018-2020 described that the identity theft they experienced affected their ability to get credit cards and obtain loans, such as student loans and mortgages.[12] For some victims, this could mean the difference between going to college or not, becoming a homeowner or not, or having to take out a high interest payday loan versus a lower-interest loan.

149. Annual monetary losses from identity theft are in the billions of dollars. According to a Presidential Report on identity theft produced in 2007:

> In addition to the losses that result when identity thieves fraudulently open accounts . . . individual victims often suffer indirect financial costs, including the costs incurred in both civil litigation initiated by creditors and in overcoming the many obstacles they face in obtaining or retaining credit. Victims of non-financial identity theft, for example, health-related or criminal record fraud, face other types of harm and frustration.
>
> In addition to out-of-pocket expenses that can reach thousands of dollars for the victims of new account identity theft, and the emotional toll identity theft can take, some victims have to spend

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[11] *Id*.

[12] Identity Theft Resource Center, *2021 Consumer Aftermath Report*, https://www.idtheftcenter.org/publication/identity-theft-the-aftermath-study/ (last visited November 7, 2023).

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

> what can be a considerable amount of time to repair the damage caused by the identity thieves. Victims of new account identity theft, for example, must correct fraudulent information in their credit reports and monitor their reports for future inaccuracies, close existing bank accounts and open new ones, and dispute charges with individual creditors.[13]

150. The unauthorized disclosure of Social Security numbers can be particularly damaging because Social Security numbers cannot easily be replaced. To obtain a new number, a person must prove, among other things, that he or she continues to be disadvantaged by the misuse. Thus, under current rules, no new number can be obtained until damage has been done. Furthermore, as the Social Security Administration warns:

> [A] new number probably won't solve all your problems. This is because other governmental agencies (such as the Internal Revenue Service and state motor vehicle agencies) and private businesses (such as banks and credit reporting companies) will have records under your old number. Along with other personal information, credit reporting companies use the number to identify to identify your credit record. So using a new number won't guarantee you a fresh start. This is especially true if your other personal information, such as your name and address, remains the same.
>
> If you receive a new Social Security number, you shouldn't use the old number anymore.
>
> For some victims of identity theft, a new number actually creates new problems. If the old credit information isn't associated with your new number, the absence of any credit history under your new number may make it more difficult for you to get credit.[14]

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[13] FTC, *Combatting Identity Theft A Strategic Plan* (April 2007), https://www.ftc.gov/sites/default/files/documents/reports/combating-identity-theft-strategic-plan/strategicplan.pdf (last visited November 7, 2023).

[14] *Identity Theft and Your Social Security Number* (July 2021), Social Security Administration, https://www.ssa.gov/pubs/EN-05-10064.pdf (last visited November 7, 2023).

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

56. According to the Attorney General of the United States, Social Security numbers "can be an identity thief's most valuable piece of consumer information."[15] Indeed, as explained recently:

> The ubiquity of the SSN as an identifier makes it a primary target for both hackers and identity thieves. . . . When data breaches expose SSNs, thieves can use these numbers—usually combined with other pieces of data—to impersonate individuals and apply for loans, housing, utilities, or government benefits. Additionally, this information may be sold on the black market to other hackers.[16]

57. As the result of the Data Breach, Plaintiffs and Class Members are likely to suffer economic loss and other actual harm for which they are entitled to damages, including, but not limited to, the following:

a. losing the inherent value of their Personal Information;

b. costs associated with the detection and prevention of identity theft and unauthorized use of their financial accounts;

c. costs associated with purchasing credit monitoring, credit freezes, and identity theft protection services;

d. lowered credit scores resulting from credit inquiries following fraudulent activities;

e. costs associated with time spent and the loss of productivity or the enjoyment of one's life from taking time to address and attempt to mitigate and address the actual and future consequences of the Data Breach, including discovering fraudulent charges, cancelling and reissuing cards, purchasing credit monitoring and identity theft protection services, imposing withdrawal and purchase limits on compromised accounts, and the stress, nuisance, and annoyance of dealing with the repercussions of the Data Breach; and

f. the continued imminent and certainly impending injury flowing from potential fraud and identity theft posed by their Personal Information being in the possession of one or many unauthorized third parties.

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[15] *Fact Sheet: The Work of the President's Identity Theft Task Force*, DOJ 06-636, 2006 WL 2679771 (Sep. 19, 2006).

[16] Daniel J. Marcus, *The Data Breach Dilemma: Proactive Solutions for Protecting Consumers' Personal Information*, 68 Duke L.J. 555, 564-65 (2018).

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

58. Even in instances where a consumer is reimbursed for a financial loss due to identity theft or fraud, that does not make that individual whole again, as there is typically significant time and effort associated with seeking reimbursement that is not refunded. The Department of Justice's Bureau of Justice Statistics found that identity theft victims "reported spending an average of about 7 hours clearing up the issues" relating to identity theft or fraud.[17]

59. There may also be a significant time lag between when personal information is stolen and when it is actually misused. According to the 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.[18]

V. CLASS ACTION ALLEGATIONS

60. Class Definition. Under Civil Rule 23(a) and (b)(3), Plaintiffs bring this case as a class action against Defendant on behalf of the Class preliminarily defined as follows:

> All individuals residing in Washington whose personal information was compromised in the Data Breach disclosed by the Pierce College District in September 2023.

61. Excluded from the Class are the following: Defendant and Defendant's parents, subsidiaries, affiliates, officers, and directors, and any judge to whom this case is assigned, as well as his or her staff and immediate family.

62. Plaintiffs reserve the right to amend the Class definition.

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[17] E. Harrell, U.S. Department of Justice, *Victims of Identity Theft, 2014* (revised Nov. 13, 2017), http://www.bjs.gov/content/pub/pdf/vit14.pdf (last visited November 7, 2023).

[18] U.S Government Accountability Office Report to Congressional Requesters, *Data Breaches are Frequent, but Evidence of Resulting Identity Theft is Limited; However, the Full Extent is Unknown* (June 2007), http://www.gao.gov/new.items/d07737.pdf (last visited November 7, 2023).

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

63. This action satisfies the numerosity, commonality, typicality, and adequacy requirements of CR 23.

64. Numerosity. The proposed Class consists of approximately 155,811 members—far too many to join in a single action.

65. Ascertainability. Class Members are readily identifiable from information in Defendant's possession, custody, or control.

66. Typicality. Plaintiffs' claims are typical of Class Members' claims, as each arise from the same Data Breach, the same alleged negligence of and/or statutory violations by Defendant, and the same unreasonable manner of notifying individuals regarding the Data Breach.

67. Adequacy. Plaintiffs will fairly and adequately protect the interests of the proposed Class. Plaintiffs' interests do not conflict with those of the Class. Plaintiffs have retained counsel experienced in complex class action litigation and data privacy to vigorously prosecute this action on behalf of the Class, including in the capacity as lead counsel.

68. Commonality. Plaintiffs and Class Members' claims raise predominantly common factual and legal questions that can be answered for all Class Members through a single class-wide proceeding. For example, to resolve any Class Member's claims, it will be necessary to answer the following questions: (a) Whether Defendant failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the Personal Information compromised in the Data Breach; (b) Whether Defendant's conduct was negligent; and (c) Whether Plaintiffs and the Class are entitled to damages and/or injunctive relief.

69. In addition to satisfying the prerequisites of CR 23(a), Plaintiffs satisfy the requirements for maintaining a class action under CR 23(b). Common questions of law and fact predominate over any questions affecting only individual Class Members, and a class action is superior to individual litigation or any other available methods for the fair and efficient adjudication of the controversy. The damages available to individual plaintiffs are insufficient to

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

make litigation addressing Defendant's privacy practices economically feasible in the absence of the class action procedure.

70. In the alternative, class certification is appropriate because Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the members of the Class as a whole.

VI. CAUSES OF ACTION

FIRST CAUSE OF ACTION
NEGLIGENCE
Claim of Relief for Plaintiffs and the Class and Against Defendant

71. Plaintiffs incorporate by reference all foregoing factual allegations.

72. Defendant collected and transferred Personal Information from Plaintiffs and the Class and had a corresponding duty to protect such information from unauthorized access.

73. Defendant failed to inform Plaintiffs and the Class that its systems were inadequate to safeguard sensitive Personal Information and that transferring Personal Information could lead to cybercriminals gaining access to sensitive Personal Information.

74. The sensitive nature of the Personal Information and economic value of it to hackers necessitated security practices and procedures sufficient to prevent unauthorized access to the Personal Information.

75. Defendant failed to implement and maintain adequate security practices and procedures to prevent the Data Breach.

76. Defendant likewise failed to test, update, and patch (including curing known vulnerabilities) its systems as necessary.

77. It was reasonably foreseeable to Defendant that its failure to implement and maintain reasonable security procedures and practices would leave the sensitive Personal Information in its systems vulnerable to breach and could thus expose the owners of that information to harm.

78. Furthermore, given the known risk of major data breaches, including the 2021 breach of the Washington State Auditor's Office, Plaintiffs and the Class are part of a well-

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

defined, foreseeable, finite, and discernible group that was at high risk of having their Personal Information stolen.

79. Defendant's duty of care arose as a result of its knowledge that individuals trusted Defendant to protect their confidential data that they provided to it. Only Defendant was in a position to ensure that its own protocols were sufficient to protect against the harm to Plaintiffs and the Class from a data breach of its own systems.

80. Defendant also had a duty to use reasonable care in protecting confidential data because it committed to comply with industry standards for the protection of Personal Information and committed to the public to protect the privacy of information the public provided Defendant.

81. Defendant knew, or should have known, of the vulnerabilities in its security practices and procedures, and the importance of adequate security to students and the owners of sensitive data.

82. Plaintiffs and the Class have suffered harm as a result of Defendant's negligence. These victims suffered diminished value of their sensitive Personal Information. Plaintiffs and the Class also lost control over the Personal Information exposed, which subjected each of them to a greatly enhanced risk of identity theft, medical identity theft, credit and bank fraud, Social Security fraud, tax fraud, and myriad other types of fraud and theft, in addition to the time and expenses spent mitigating those injuries and preventing further injury.

VII. PRAYER FOR RELIEF

Plaintiffs, individually and on behalf of the Class, request that the Court enter judgment against Defendant as follows:

A. An order certifying the proposed Class pursuant to Civil Rule 23 and appointing Plaintiffs and their counsel to represent the Class;

B. An order awarding Plaintiffs and Class Members monetary relief, including actual damages and penalties;

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

C. An order awarding injunctive relief requested by Plaintiffs, including, but not limited to, injunctive and other equitable relief as necessary to protect the interests of Plaintiffs and Class Members, including, but not limited to, an order:

i. Prohibiting Defendant from engaging in the wrongful and unlawful acts described herein;

ii. Requiring Defendant to protect, including through encryption, all data collected through the course of their businesses in accordance with all applicable regulations, industry standards, and state or local laws;

iii. Requiring Defendant to delete, destroy, and purge the Personal Information of Plaintiffs and Class Members unless Defendant can provide to the Court reasonable justification for the retention and use of such information when weighed against the privacy interests of Plaintiffs and Class Members;

iv. Requiring Defendant to implement and maintain a comprehensive Information Security Program designed to protect the confidentiality and integrity of the Personal Information of Plaintiffs and Class Members;

v. Prohibiting Defendant from maintaining the Personal Information of Plaintiffs and Class Members on a cloud-based database;

vi. Requiring Defendant to engage independent third-party security auditors/penetration testers as well as internal security personnel to conduct testing, including simulated attacks, penetration tests, and audits on Defendant's systems on a periodic basis, and ordering Defendant to promptly correct any problems or issues detected by such third-party security auditors;

vii. Requiring Defendant to engage independent third-party security auditors and internal personnel to run automated security monitoring;

viii. Requiring Defendant to audit, test, and train their security personnel regarding any new or modified procedures;

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

ix. Requiring Defendant to segment data by, among other things, creating firewalls and access controls so that if one area of Defendant's network is compromised, hackers cannot gain access to other portions of Defendant's systems;

x. Requiring Defendant to conduct regular database scanning and securing checks;

xi. Requiring Defendant to establish an information security training program that includes at least annual information security training for all employees, with additional training to be provided as appropriate based upon the employees' respective responsibilities with handling Personal Information, as well as protecting the Personal Information of Plaintiffs and Class Members;

xii. Requiring Defendant to routinely and continually conduct internal training and education, and, on an annual basis, to inform internal security personnel how to identify and contain a breach when it occurs and what to do in response to a breach;

xiii. Requiring Defendant to implement a system of tests to assess their respective employees' knowledge of the education programs discussed in the preceding subparagraphs, as well as randomly and periodically testing employees' compliance with Defendant's policies, programs, and systems for protecting Personal Information;

xiv. Requiring Defendant to implement, maintain, regularly review, and revise as necessary a threat management program designed to appropriately monitor Defendant's information networks for threats, both internal and external, and assess whether monitoring tools are appropriately configured, tested, and updated;

EMERY | REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
PHONE: (206) 442-9106 • FAX: (206) 441-9711

xv. Requiring Defendant to meaningfully educate all Class Members about the threats that they face as a result of the loss of their confidential Personal Information to third parties, as well as the steps affected individuals must take to protect themselves;

xvi. Requiring Defendant to implement logging and monitoring programs sufficient to track traffic to and from Defendant's servers; and

xvii. For a period of 10 years, appointing a qualified and independent third-party assessor to conduct a SOC 2 Type 2 attestation on an annual basis to evaluate Defendant's compliance with the terms of the Court's final judgment, to provide such report to the Court and to counsel for the Class, and to report any deficiencies with compliance of the Court's final judgment;

D. An award of damages, including actual, nominal, statutory, consequential, and punitive damages, as allowed by law;

E. An award of attorney's fees, costs, and expenses, as permitted by law;

F. An award of pre-judgment and post-judgment interest, as permitted by law;

G. Leave to amend this Complaint to conform to the evidence produced at trial; and

H. Such other and further relief as this Court may deem just and proper.

DATED this 9th day of May, 2024.

Respectfully Submitted,

/s/ Timothy W. Emery

TIMOTHY W. EMERY
WSBA No. 34078
PATRICK B. REDDY
WSBA No. 34092
EMERY REDDY, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
Phone: (206) 442-9106
Fax: (206) 441-9711
Email: *emeryt@emeryreddy.com*
Email: *reddyp@emeryreddy.com*

Kaleigh N. Boyd, WSBA No. 52684
TOUSLEY BRAIN STEPHENS PLLC
1200 Fifth Avenue, Suite 1700
Seattle, WA 98101
Telephone: 206-682-5600
kboyd@tousely.com

Mason A. Barney*
Tyler J. Bean*
SIRI & GLIMSTAD LLP
745 Fifth Avenue, Suite 500
New York, New York 10151
Tel: (212) 532-1091
E: mbarney@sirillp.com
E: tbean@sirillp.com

Daniel Srourian*
SROURIAN LAW FIRM, P.C.
3435 Wilshire Blvd., Ste. 1710
Los Angeles, CA 90010
Telephone: 213-474-3800
daniel@slfla.com

M. Anderson Berry (Pro Hac Vice)
CLAYEO C. ARNOLD
A PROFESSIONAL CORP.
865 Howe Avenue
Sacramento, CA 95825
Telephone: 916-239-4778
aberry@justice4you.com

Attorneys for Plaintiffs and the Putative Class

**Pro hac vice applications to be filed*