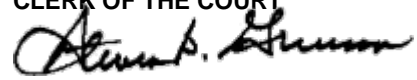


Exhibit A

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CASE NO: A-21-840040-C
Department 4

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17 **EIGHTH JUDICIAL DISTRICT COURT**
18 **CLARK COUNTY, NEVADA**

<p>19 Sara Sanguinetti, individually 20 and on behalf of all others 21 similarly situated, 22 Plaintiff, 23 v. 24 Nevada Restaurant Services, 25 Inc., 26 Defendant.</p>	<p>Case No.: _____ Dept. No.: _____</p> <p>Class Action</p> <p>Complaint for Damages based on: (1) Negligence; (2) Invasion of Privacy; (3) Breach of Implied Contract; and (4) Violation of NRS 598</p> <p>Jury Trial Demanded</p> <p>EXEMPT FROM ARBITRATION</p>
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INTRODUCTION

1. 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.
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.
3. 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.
5. 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.

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
10 the State of Nevada, County of Clark.

11 9. The transactions and occurrences that give rise to Plaintiff's claims against
12 Defendant occurred in Clark County, Nevada.

13 10. Therefore, the Eighth Judicial District Court, Clark County, Nevada has
14 personal jurisdiction over both Plaintiff and Defendant and subject matter
15 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
21 Nevada.

22 **FACTUAL ALLEGATIONS**

23 13. Identity theft, which costs Americans billions of dollars a year, occurs when an
24 individual's personal identifying information is used without his or her
25 permission to commit fraud or other crimes. Victims of identity theft typically
26 lose hundreds of hours dealing with the crime, and they typically lose hundreds
27 of dollars.

28 14. According to the Federal Trade Commission ("FTC"):

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

9 15. The United States Government Accountability Office (“GAO”) has stated that
10 identity thieves can use identifying data to open financial accounts and incur
11 charges and credit in a person’s name. As the GAO has stated, this type of
12 identity theft is the most damaging because it may take some time for the victim
13 to become aware of the theft and can cause significant harm to the victim’s
14 credit rating. Like the FTC, the GAO explained that victims of identity theft
15 face “substantial costs and inconvenience repairing damage to their credit
16 records,” as well the damage to their “good name.”

17 16. Identity theft crimes often encompass more than just immediate financial loss.
18 Identity thieves often hold onto stolen personal and financial information for
19 several years before using and/or selling the information to other identity
20 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
28

1 files, the FTC Report instructs businesses to follow, among other things, the
2 following guidelines:

- 3 a. Know what personal information you have in your files and on your
4 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,
10 the better; and
- 11 f. Implement information disposal practices reasonable and appropriate to
12 prevent an unauthorized access to personally identifying information.

13 19. The FTC Report also instructs companies that outsource any business functions
14 to proactively investigate the data security practices of the outsourced company
15 and examine their standards.

16 20. Upon information and belief, Defendant has policies and procedures in place
17 regarding the safeguarding of confidential information it is entrusted with and
18 Defendant failed to comply with those policies. Defendant also negligently
19 failed to comply with industry standards or even implement rudimentary
20 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
24 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
28 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
10 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
12 numerous fake accounts, as part of their identity theft operation.

13 27. As a direct and proximate result of Defendant's wrongful disclosure, criminals
14 now have Plaintiff's and the Class Members' personal identifying information.
15 Additionally, the disclosure makes Plaintiff and Class Members much more
16 likely to respond to requests from Defendant or law enforcement agencies for
17 more personal information, such as bank account numbers, login information
18 or even Social Security numbers. Because criminals know this and are capable
19 of posing as Defendant or law enforcement agencies, consumers like Plaintiff
20 and their fellow Class Members are more likely to unknowingly give away their
21 sensitive personal information to other criminals.

22 28. Defendant's wrongful actions and inaction here directly and proximately
23 caused the public disclosure of Plaintiff's and Class Members' personal
24 identifying information without their knowledge, authorization and/or consent.
25 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
27 suffer, damages including, without limitation, expenses for credit monitoring
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
5 of identity theft.

6 30. Despite disregarding its obligations to protect the sensitive information that
7 Plaintiff and Class Members entrusted it with, Defendant has not offered
8 Plaintiff and Class Members any monetary compensation.

9 31. Defendant has offered identity protection, but only for one year, and only if the
10 Plaintiff and Class Members have access to a computer, internet services,
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
16 services due to a lack of access to a computer with internet services or bad
17 credit.

18 **CLASS ACTION ALLEGATIONS**

19 32. Pursuant to Rule 23 of the Nevada Rules of Civil Procedure, Plaintiff brings
20 this class action on behalf of herself and the following Class of similarly
21 situated individuals:

22
23 All persons whose personal information, including, but not limited to,
24 names, home addresses, dates of birth, driver's licenses, or social security
25 numbers was obtained by an unauthorized individual or individuals from
26 Defendant.
27
28

1 33. The Class specifically excludes Defendant and its officers, directors, agents
2 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
6 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
11 predominate over any questions affecting only individual Class Members, are
12 as follows:

- 13 a. Whether Defendant negligently failed to maintain and execute reasonable
14 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
17 safeguard Plaintiff's and Class Members' personal identifying information;
- 18 c. Whether Defendant owed a duty to Plaintiff and Class Members to exercise
19 reasonable care in protecting and securing their personal identifying
20 information;
- 21 d. Whether Defendant breached its duties to exercise reasonable care in failing
22 to protect and secure Plaintiff's and Class Members' personal identifying
23 information;
- 24 e. Whether by disclosing Plaintiff's and Class Members' personal identifying
25 information without authorization, Defendant invaded Plaintiff' and Class
26 Members' privacy;
- 27 f. Whether Defendant created an implied contract with Plaintiff and Class
28 Members to keep their personal identifying information confidential; and

1 g. Whether Plaintiff and Class Members sustained damages as a result of
2 Defendant's failure to secure and protect their personal identifying
3 information.

4 37. Plaintiff and their counsel will fairly and adequately represent the interests of
5 Class Members. Plaintiff has no interests antagonistic to, or in conflict with,
6 Class Members' interests. Plaintiff's attorneys are highly experienced in the
7 prosecution of consumer class action, complex litigation and privacy breach
8 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.

13 39. A class action is superior to all other available methods for fairly and efficiently
14 adjudicating Plaintiff's and Class Members' claims. Plaintiff and Class
15 Members have been irreparably harmed as a result of Defendant's wrongful
16 actions and/or inaction. Litigating this case as a class action will reduce the
17 possibility of repetitious litigation relating to Defendant's failure to secure and
18 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
28 Class Members to pursue individual lawsuits in order to vindicate their rights.

1 Absent a class action, Defendant will retain the benefits of their wrongdoing
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.

6 44. Defendant owed a duty to Plaintiff and Class Members to safeguard and protect
7 their personal identifying information.

8 45. Defendant breached its duty by failing to exercise reasonable care in its
9 safeguarding and protection of Plaintiff's and Class Members' personal
10 identifying information.

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
13 identifying information would result in an unauthorized third party gaining
14 access to such information for no lawful purpose, and that such third parties
15 would use Plaintiff's and Class Members' personal identifying information for
16 malevolent and unlawful purposes, including the commission of direct theft and
17 identity theft.

18 47. Plaintiff and the Class Members were (and continue to be) damaged as a direct
19 and proximate result of Defendant's failure to secure and protect their personal
20 identifying information as a result of, *inter alia*, direct theft, identity theft,
21 expenses for credit monitoring and identity theft herein, insurance incurred in
22 mitigation, out-of-pocket expenses, anxiety, emotional distress, loss of privacy,
23 and other economic and non-economic harm, for which they suffered loss and
24 are entitled to compensation.

25 48. Defendant committed negligence per se insofar as it failed to comply with NRS
26 603A.

27 49. Defendant's wrongful actions and/or inaction (as described above) constituted
28 (and continue to constitute) negligence at common law.

1 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
10 identifying information. Defendant’s breaches of its obligations under the
11 contract between the parties directly caused Plaintiff and Class Members to
12 suffer injuries.

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

18 **FOURTH CAUSE OF ACTION**

19 **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
23 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
25 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
2 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
6 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.
10 Defendant's unfair and deceptive practices are thus likely to, and have, misled
11 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
14 practices, all of which violate NRS 598:

15 a. Defendant failed to maintain and execute reasonable procedures
16 designed to prevent unauthorized access to Plaintiff's and Class
17 Members' personal identifying information;

18 b. Defendant acted unlawfully in storing and failing to adequately
19 safeguard Plaintiff's and Class Members' personal identifying
20 information;

21 c. Defendant failed to exercise reasonable care in protecting and securing
22 their personal identifying information;

23 d. Failing to comply with NRS 603A;

24 e. Defendant failed to properly and timely notify Plaintiff and the Class
25 about the severity of the breach, including failure to provide an adequate
26 description of the breach and the risks associated with the breach.

27 69. In all requisite matters alleged herein, Defendant acted knowingly within the
28 meaning of NRS 598.

1 70. In all requisite matters alleged herein, Defendant acted willfully in violation of
2 NRS 598.

3 71. Plaintiff has been aggrieved by Defendant's unfair and deceptive practices
4 including because she has lost control of her personally identifying
5 information, and she has to expend out of pocket money and efforts to mitigate
6 the harm caused by Defendant.

7 72. Pursuant to NRS 598, Plaintiff and the Class Members seek a declaratory
8 judgment and court order enjoining the above-described wrongful acts and
9 practices of Defendant. Additionally, Plaintiff and the Class Members make
10 claims for damages, attorneys' fees and costs.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff respectfully requests that the Court enter judgment
13 against Defendant as follows:

- 14
- 15 • Certifying this action as a class action, with a Class as defined
16 above;
 - 17 • Awarding compensatory damages to redress the harm caused
18 to Plaintiff and Class Members in the form of, *inter alia*, direct
19 theft, identity theft, expenses for credit monitoring and identity
20 theft insurance, out-of- pocket expenses, anxiety, emotional
21 distress, loss of privacy, and other economic and non-economic
22 harm. Plaintiff and Class Members also are entitled to recover
23 statutory damages and/or nominal damages. Plaintiff's and
24 Class Members' damages were foreseeable by Defendant and
25 exceed the minimum jurisdictional limits of this Court.
 - 26 • Ordering injunctive relief including, without limitation, (i)
27 adequate credit monitoring, (ii) adequate identity theft
28 insurance, (iii) instituting security protocols in compliance

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 America and the Constitution of the State of Nevada, Plaintiff is entitled to, and
12 demands, a trial by jury.
13

14 DATED this 24th day of August 2021.
15

16 Respectfully submitted,
17

18 **FREEDOM LAW FIRM, LLC**

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