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4 IN THE CIRCUIT COURT FOR THE STATE OF OREGON
5 FOR MULTNOMAH COUNTY
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9 **CASSANDRA NELSON,**
10 individually and on behalf
11 of other customers,

12 Plaintiff,

13 vs.

14 **BURGERVILLE LLC,**

15 Defendant.
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Case No.

CLASS ACTION COMPLAINT

Negligent Data Breach

Not Subject to Mandatory Arbitration

Filing Fee Authority: ORS 21.135(1)

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19 **JURISDICTION AND THE PARTIES**

20 This Court has jurisdiction over this case because plaintiff's claim arises
21 under Oregon law. Plaintiff is a natural person and a citizen of Oregon. Defendant
22 (Burgerville) is a billion-dollar Delaware limited liability company and a citizen of
23 Oregon, with 47 restaurants in Oregon and Washington. Defendant conducted
24 regular and sustained business in Multnomah County, Oregon and has its registered
25 agent in Multnomah County, Oregon.
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28 Customers affected by Burgerville's data breach can sign up to join the class
action at www.UnderdogLawyer.com/Burgerville.

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3 **FACTUAL ALLEGATIONS**

4 This complaint's allegations are based on personal knowledge as to plaintiff's
5 own behavior and made upon information and belief as to the behavior of others.
6 Throughout 2017 and 2018, plaintiff used a debit card to purchase food and
7 beverages at various Burgerville locations in the Portland-metro area and later had
8 her card information compromised by Burgerville. Plaintiff files this complaint as a
9 class action on behalf of tens of thousands of Oregon Burgerville customers harmed
10 by Burgerville's failure to adequately protect their credit and debit card information.
11 Plaintiff requests Burgerville provide fair compensation in an amount that will
12 ensure every consumer affected by its data breach will not be out-of-pocket for the
13 costs and harm caused by identity theft and independent third-party credit repair
14 and monitoring services.
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20 Throughout the past year, Burgerville collected and stored credit and debit
21 card information from plaintiff at various point-of-sale systems at its Burgerville
22 restaurants. Burgerville owed a legal duty to plaintiff to use reasonable care to
23 protect her card information from unauthorized access by third parties. Burgerville
24 knew that its failure to protect plaintiff's card information from unauthorized access
25 would cause serious risks of credit harm and identify theft for years to come.
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3 On October 3, 2018, Burgerville announced for the first time that it had been
4 hacked by unauthorized third parties, subjecting plaintiff to credit harm and identify
5 theft and other economic losses. Burgerville knew it had been hacked for several
6 months, and failed to timely notify consumers of its data breach in the most
7 expeditious manner possible as Oregon law requires. In an attempt to increase
8 profits, Burgerville negligently failed to maintain adequate technological safeguards
9 to protect plaintiff's information from unauthorized access by hackers. Hackers
10 targeted plaintiff's information for the sole purpose of using the information to
11 commit fraud. Burgerville knew and should have known that failure to maintain
12 adequate technological safeguards would eventually result in a massive data breach.
13 Burgerville could have and should have substantially increased the amount of money
14 it spent to protect against cyber-attacks but chose not to. Plaintiff and other
15 consumers should not have to bear the expense caused by Burgerville's negligent
16 failure to safeguard their credit and debit card information from cyber-attackers.
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22 As a direct result of Burgerville's negligence as alleged in this complaint,
23 plaintiff suffered economic losses including the actual loss of card information to
24 hackers seeking to use the information for fraudulent illegal purposes. The economic
25 losses Burgerville caused consumers across the state of Oregon could have been
26 mitigated had Burgerville notified them that their information was compromised in
27 the most expeditious manner possible as Oregon law requires.
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3 **CAUSE OF ACTION**

4 **Negligence**

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6 As alleged in this complaint, Burgerville undertook care of credit and debit
7 card information belonging to plaintiff and the putative class members, then
8 breached its legal duty by failing to maintain adequate technological safeguards,
9 falling below the standard of care in the technological industry, directly and
10 proximately causing foreseeable risk of data loss and credit harm and identity theft
11 and other economic losses, in amounts to be decided by the jury. Burgerville's failure
12 to comply with laws requiring it to notify consumers of its data breach in the most
13 expeditious manner possible constituted negligence per se. Plaintiff and the class
14 are entitled to equitable relief in the form of an accounting of exactly how their credit
15 and debit card information was accessed without authorization by third parties, and
16 unless agreed upon by Burgerville, an order to preserve all documents and
17 information (and electronically stored information) pertaining to this case.
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3 **PRAYER FOR RELIEF**

- 4 **A.** Injunctive and equitable relief as described in the paragraph 6,
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6 **B.** An order certifying this matter as a class action,
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8 **C.** Reimbursement of costs, and
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10 **D.** Other relief the Court may deem necessary.

11 **REQUEST FOR JURY TRIAL**

12 Plaintiff respectfully request a trial by a jury of her peers.
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14 October 3, 2018

15 **RESPECTFULLY FILED,**

16 /s/ Michael Fuller
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