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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**STACI GILMAN,**  
*individually and as representative of the  
class,*

*Plaintiff,*

v.

**THE VONS COMPANIES, INC.,  
VONS SHERMAN OAKS, LLC,**

*Defendants.*

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT AND  
DEMAND FOR A JURY TRIAL**

- (1) Violation of 15 U.S.C. § 1681b(b)(2)(A)(i) (Fair Credit Reporting Act); and
- (2) Violation of California Civil Code § 1786 *et seq.* (Investigative Consumer Reporting Agencies Act)

1  
2 Plaintiff Staci Gilman, on behalf of herself and the proposed class set forth below  
3 (“Plaintiff”), by and through her attorneys, Gallenberg PC and Gibbs Law Group LLP,  
4 bring this class action complaint against The Vons Companies, Inc. (referred to in this  
5 Complaint as “Vons”), and Vons Sherman Oaks, LLC (referred to jointly in this  
6 Complaint as “Defendants”).  
7

8 **INTRODUCTION**  
9

10 1. This putative class action is brought pursuant to the Fair Credit Reporting  
11 Act (“FCRA”) and applicable California laws. Defendants routinely violated the FCRA’s  
12 core protections by procuring or causing to be procured consumer and/or investigative  
13 consumer reports, as those terms are defined by the FCRA (herein referred to collectively  
14 as “background report(s)” or “consumer report(s)”), on employees and job applicants  
15 without making a legally required stand-alone disclosure.  
16  
17

18 2. Using the services of a third party, Vons routinely obtains and relies on the  
19 information in the consumer report to evaluate prospective and current employees.  
20

21 3. Given the determinative role that consumer reports can play regarding an  
22 applicant’s employment prospects, employers are required to ensure that all applicants  
23 are aware of the employer’s intention to procure a background check.  
24

25 4. Specifically, the FCRA provides that an employer or prospective employer  
26 cannot “procure a consumer report, or cause a consumer report to be procured, for  
27 employment purposes with respect to any consumer, unless . . . a clear and conspicuous  
28

1 disclosure has been made in writing to the consumer at any time before the report is  
2 procured or caused to be procured, *in a document that consists solely of the disclosure,*  
3 that a consumer report may be obtained for employment purposes.” 15 U.S.C. §  
4 1681b(b)(2)(A)(i) (emphasis added).  
5

6 5. Courts have held that the FCRA contains a narrow exception allowing only  
7 for an authorization for the procurement of the consumer report. Inclusion of any  
8 additional information is a willful violation of the FCRA. *See Syed v. M-I, LLC*, 853 F.3d  
9 492, 500-01 (9th Cir. 2017).  
10  
11

### 12 **JURISDICTION AND VENUE**

13 6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331  
14 because this action involves a federal question.  
15

16 7. Under 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over  
17 Plaintiff’s state law claims because the state law claims are so related to the FCRA claims  
18 that they form part of the same case or controversy.  
19

20 8. Venue is proper in this District because Defendants transact business in this  
21 district; a substantial part of the events or omissions giving rise to the claims took place  
22 in this District, and a related case was filed in this District. *See Drew v. The Vons*  
23 *Companies, Inc., et al.*, Case No. 8:20-cv-00347 (C.D. Cal. Feb. 20, 2020).  
24

25 9. Additionally, venue is proper in this District because Defendant Vons  
26 Sherman Oaks, LLC, has its principal place of business in Fullerton, California, which is  
27 part of this District.  
28

**PARTIES**

***Plaintiff***

***Ms. Staci Gilman***

10. Plaintiff Staci Gilman (“Ms. Gilman”) is a resident of San Diego, California.

11. In or about August 2019, Ms. Gilman applied to work at Vons.

12. Shortly thereafter, Ms. Gilman began working as a Pharmacy Technician for Vons.

13. Ms. Gilman was not aware that, when she applied to work at Vons, she was signing an authorization for Vons to procure consumer reports. Ms. Gilman did not understand and/or was confused by Vons’s disclosure form.

14. Ms. Gilman worked for Vons in San Diego, California.

***Defendants***

15. Defendant The Vons Companies, Inc., is a leading food and drug retailer with approximately 200 locations in California.

16. Defendant Vons Sherman Oaks, LLC is an Oregon limited liability company and is a subsidiary of The Vons Companies, Inc. Vons Sherman Oaks, LLC has its principal place of business in Fullerton, California.

17. Vons oversees the hiring process of all of their locations and requests background checks on behalf of potential employees, including Ms. Gilman.

**FACTS**

***Vons’s Failure To Make A Proper Disclosure In Violation Of The FCRA***

1  
2 18. Plaintiff Gilman completed Vons's standard documents relating to her  
3 anticipated employment. The job application included a disclosure/authorization to  
4 conduct a background check sandwiched in the middle of the job application.  
5

6 19. Vons's authorization, found within the job application, causes a background  
7 check to be procured by a third-party company.  
8

9 20. The page where the disclosure is found contains information regarding how  
10 an applicant may contact the consumer reporting agency and what kind of information an  
11 applicant may request, in violation of *Walker v. Fred Meyer, Inc.*, No. 18-35592, 2020  
12 WL 1316691 (9th Cir. March 20, 2020).  
13

14 21. This information cannot reasonably be deemed part of a disclosure. *See*  
15 *Walker*, 2020 WL 1316691, at \*7.  
16

17 22. In addition, the disclosure is not contained in a document consisting solely of  
18 the disclosure. Instead, the disclosure is unlawfully sandwiched in the middle of a multi-  
19 page job application packet which contains extraneous information about an applicant's  
20 job history, education, and skills, among other information.  
21

22 23. For example, the application packet containing the disclosure and  
23 authorization for the procurement of the consumer report includes a "Release and  
24 Acknowledgement" section which includes a release of liability waiver. The applicant is  
25 required to sign that page in order to submit the job application to Vons.  
26  
27  
28

1           24. The inclusion of the liability release provisions in the same document as the  
2 disclosure violates the FCRA.

3  
4           25. The application packet with Vons's disclosures also included information  
5 about state investigative consumer reports, in direct violation of *Gilberg v. Cal. Check*  
6 *Cashing Stores, LLC*, 913 F.3d 1169, 1175 (9th Cir. 2019).

7  
8           26. Notably, Vons's job application packet demands that the applicant agree to  
9 a release of liability in exchange for the applicant agreeing to be subjected to a background  
10 check and as a condition of submitting the job application packet containing the  
11 disclosure.

12  
13           27. Despite their failure to provide applicants, including Plaintiff Gilman, with  
14 the required stand-alone disclosure, Vons subsequently procured a consumer report, or  
15 caused a consumer report to be procured on Plaintiff and the putative Class Members.

16  
17           28. Plaintiff Gilman completed and executed Vons' hiring documents containing  
18 the unlawful background check disclosure/authorization.

19  
20           29. Plaintiff Gilman was not aware that she was signing an authorization for  
21 Vons to procure consumer reports. Plaintiff did not understand and/or was confused by  
22 Vons's disclosure forms.

23  
24           30. Plaintiff was deprived of her ability to meaningfully authorize Vons to  
25 procure consumer reports.

1           31. By procuring consumer reports containing Plaintiff’s private information  
2 without first complying with the FCRA’s disclosure requirements, Vons violated  
3 Plaintiff’s rights to information and privacy. *See Syed*, 853 F.3d at 499.

4  
5 ***Facts Relating to Vons’s Willful, Systematic and Repeated FCRA Disclosure***  
6 ***Violations***

7           32. Similar to how it treated Plaintiff Gilman, Vons, through the services of a  
8 third party, conducts background checks on other job applicants as part of its standard  
9 screening process.

10  
11           33. Vons relies on consumer reporting agencies to obtain this information and  
12 report it. These reports constitute “consumer reports” for purposes of the FCRA.

13  
14           34. The application documentation completed by applicants does not contain a  
15 clear and conspicuous written disclosure to the consumer, in a document that consists  
16 solely of the disclosure, that a consumer report may be obtained by Vons for employment  
17 purposes, but Vons routinely requests and procures reports from a third party about  
18 applicants and employees in spite of this fact.

19  
20           35. For example, the application includes a liability waiver in the same  
21 document as the disclosure form.

22  
23           36. The language of the FCRA with respect to the stand-alone disclosure  
24 requirement is clear. *See* 15 U.S.C. § 1681b(b)(2)(A)(i).

25  
26           37. The Federal Trade Commission (“FTC”) confirms that “[t]he inclusion of  
27 such a [liability] waiver in a disclosure form will violate [the FCRA], which requires that  
28

1 a disclosure consist ‘solely’ of the disclosure that a consumer report may be obtained for  
2 employment purposes.” See Exhibit A.  
3

4 38. Further, courts have routinely confirmed that the failure to include the stand-  
5 alone disclosure is a violation of the protection afforded to employees under the FCRA.  
6 See *Syed*, 853 F.3d at 496, 500 (holding the inclusion of a liability waiver on the same  
7 document as the FCRA disclosure violates the statute “in light of the clear statutory  
8 language that the disclosure document must consist ‘solely’ of the disclosure”); *Gilberg*,  
9 913 F.3d at 1175 (holding the inclusion of state specific disclosures on the same document  
10 as the FCRA disclosure violates the statute).  
11

12  
13 39. By systematically inserting a liability release, Vons willfully violated 15  
14 U.S.C. § 1681b(b)(2)(A).  
15

16 ***Vons’s Failure to Make A Proper Disclosure In Violation Of The ICRAA***

17 40. Vons is a “person” as defined by § 1786.2(a) of the Investigative Consumer  
18 Reporting Agencies Act ("ICRAA").  
19

20 41. Plaintiff is a consumer within the meaning § 1786.2(b) of the ICRAA,  
21 because she is an individual.  
22

23 42. Section 1786.2(c) of the ICRAA defines “investigative consumer report” as:  
24 “a consumer report in which information on a consumer's character, general reputation,  
25 personal characteristics, or mode of living is obtained through any means.”  
26

27 43. A background check, therefore, qualifies as an investigative consumer report  
28 under the ICRAA.



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

2 If, at any time, an investigative consumer report is sought for employment  
3 purposes . . . the person seeking the investigative consumer report may  
4 procure the report, or cause the report to be made, only if all of the following  
5 apply:

6 \* \* \* \*

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

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

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

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

15 (iv) Identifies the name, address, and telephone number of the  
16 investigative consumer reporting agency conducting the  
17 investigation.

18 (v) Notifies the consumer in writing of the nature and scope of the  
19 investigation requested, including the provisions of Section  
20 1786.22.

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

1 (C) The consumer has authorized in writing the procurement of  
2 the report.

3 45. In evaluating Plaintiff for employment, Vons procured or caused to be  
4 procured investigative consumer reports (*e.g.* background checks), as defined by Cal. Civ.  
5 Code § 1786.2(c).  
6

7 46. Because the purported disclosures are embedded with extraneous  
8 information, and are not clear and unambiguous disclosures in stand-alone documents,  
9 they do not meet the requirements under the law.  
10

11 **CLASS ACTION ALLEGATIONS**

12 47. Plaintiff brings this action pursuant to Federal Rule of Civil Procedure 23  
13 (“Rule 23”).  
14

15 48. The proposed class is defined as follows:

16 All of Defendants’ current, former, and prospective applicants for  
17 employment in the United States who were the subject of a consumer report  
18 that was procured or caused to be procured by Vons without proper  
19 disclosure, during the period beginning five years prior to the filing of this  
20 action and ending on the date that final judgment is entered in this action.

21 49. Plaintiff reserves the right to amend or modify the class definition with  
22 greater specificity by further division into subclasses and/or by limitation to particular  
23 issues.

24 50. The class action is maintainable under subsections (1), (2), (3) and (4) of  
25 Rule 23(a).  
26

27 51. Numerosity is met because the Class size is believed to be well over 40  
28

1 members. Vons regularly has consumer reports procured by a third party in order to  
2 evaluate employees and job applicants. Further, Vons uses the information in the  
3 consumer reports to evaluate employees and job applicants. The size and scale of Vons's  
4 operations ensure that the number of members in the class will be in the thousands. The  
5 names and addresses of the Class members are available from Defendants' records.  
6  
7

8 52. Common issues of law and fact exist as to all members of the Class. The  
9 Plaintiff and the Class members were all individuals who applied to work for Vons and a  
10 background check was procured by a third party at the request of Vons. The common  
11 issues of law and fact also include the following:  
12

- 13 • Whether Vons procured or caused to be procured background checks on  
14 employees and job applicants;
- 15 • Whether Vons violated the FCRA by causing consumer reports to be  
16 procured without providing lawful disclosure;
- 17 • Whether Vons violations of the FCRA were willful;
- 18 • The proper measure of statutory and punitive damages; and
- 19 • The proper measure of statutory and punitive damages; and  
20 • The proper form of declaratory relief.

21 53. These common questions of law and fact also predominate over any  
22 questions affecting only individual members.  
23

24 54. Plaintiff's claims are typical of the claims of other members of the Class  
25 because the FCRA violations suffered by Plaintiff Gilman are typical of that suffered by  
26 other Class members, and Vons treated Plaintiff Gilman consistent with other Class  
27 members in accordance with its standard policies and procedures.  
28

1 55. Plaintiff Gilman is able to fairly and adequately represent the interests of the  
2 Class and has no interest antagonistic to the Class.  
3

4 56. Class Counsel, Gallenberg PC and Gibbs Law Group LLP, are qualified,  
5 experienced class action litigators and are able to litigate the Plaintiff's and Class  
6 members' claims.  
7

8 57. Class Counsel is well experienced in both employment and class action  
9 cases.  
10

11 58. This class action is also maintainable under subsection (3) of Rule 23(b)  
12 because questions of law or fact common to Class members (*see supra* ¶ 52) predominate  
13 over any questions affecting only individual members, and a class action is superior to  
14 other available methods for fairly and efficiently adjudicating this controversy.  
15

16 59. Alternatively, the questions of law and fact common to the class may be  
17 certified for class action treatment separately from any questions affecting only individual  
18 members under Rule 23(c)(4) because resolution of those common questions will  
19 significantly advance the litigation.  
20

21 **FIRST CAUSE OF ACTION**  
22 ***Vons Violated the FCRA by Causing Consumer Reports to be Procured Without First***  
23 ***Making a Proper Disclosure***  
24 **15 U.S.C. § 1681b(b)(2)(A)(i)**  
25 **(On behalf of Plaintiff individually and the proposed Class Members)**

26 60. Plaintiff Gilman hereby re-alleges and incorporates the allegations set forth  
27 above.  
28

1           61. Defendants violated the FCRA by procuring or causing consumer reports to  
2 be procured on Plaintiff Gilman and other Class members without providing a clear and  
3 conspicuous disclosure in a document consisting solely of the disclosure. *See* 15 U.S.C.  
4 § 1681b(b)(2)(A)(i).

5  
6           62. Defendants' conduct in violation of § 1681b(b)(2)(A) of the FCRA was and  
7 is willful.  
8

9           63. Defendants' willful conduct is reflected by the above paragraphs as well as  
10 the following:  
11

- 12           a. Vons is a large corporation with access to legal advice;
- 13           b. Vons was founded before the FCRA was enacted in 1970 and they  
14 have therefore had more than 40 years to become compliant with the  
15 statute;
- 16           c. Defendants' conduct is inconsistent with the Federal Trade  
17 Commission's longstanding regulatory guidance, judicial  
18 interpretation, and the plain language of the statute. *See* Exhibit A;  
*see also Syed*, 853 F.3d at 500–01; *Gilberg*, 913 F.3d at 1175–76.
- 19           d. Despite the plain statutory text and there being a depth of guidance,  
20 Defendants adopted a policy of having consumer reports procured on  
21 their employees and job applicants without properly disclosing to  
them that the reports will be procured on them.

22           64. Plaintiff Gilman and Class members are entitled to statutory damages of not  
23 less than \$100 and not more than \$1,000 for each one of these violations, pursuant to 15  
24 U.S.C. § 1681n(a)(1)(A).  
25  
26  
27  
28



1           70. As alleged above with respect to the FCRA, Vons's violation of the ICRAA  
2 was and is willful. Vons is a large corporation with access to legal advice, and the  
3 application included a purported authorization to perform investigative consumer reports  
4 which evidences Vons's awareness of and willful failure to follow the governing laws.  
5

6           71. Alternatively, Vons's violation of the ICRAA was grossly negligent or  
7 negligent.  
8

9           72. Defendants' conduct in violation of § 1786.16(a)(2)(B) of the ICRAA was  
10 and is willful and/or grossly negligent.  
11

12           73. Defendants acted in deliberate or reckless disregard of their obligations and  
13 the rights of Plaintiff.  
14

15           74. As a result of Vons's illegal procurement of background reports by way of  
16 their inadequate disclosures, as set forth above, Plaintiff has been injured by having her  
17 privacy and statutory rights invaded in violation of the ICRAA, among other injuries.  
18

19           75. Plaintiff, on behalf of herself individually, seeks all available remedies  
20 pursuant to Cal. Civ. Code § 1786.50, including but not limited to statutory damages and  
21 attorneys' fees and costs.  
22

23           76. In the alternative to Plaintiff's allegation that these violations were willful or  
24 grossly negligent, Plaintiff alleges that the violations were negligent and seeks the  
25 appropriate remedy, if any, under Cal. Civ. Code § 1786.50(a), including but not limited  
26 to statutory damages and attorneys' fees and costs.  
27  
28





1 Dated: April 8, 2020

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