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12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN JOSE DIVISION

Other

CV 10-03978 HRL

15 JENNIFER PURCELL, Individually
16 and On Behalf of All Others Similarly
17 Situated,

Case No.:

CLASS ACTION

18 Plaintiff,

COMPLAINT FOR VIOLATION
OF THE FAIR CREDIT
REPORTING ACT, 15 U.S.C. §1681
et seq.; UNJUST ENRICHMENT;
THE UNIFORM DECEPTIVE
TRADE PRACTICES ACT, 815
ILCS §510/1; AND
DECLARATORY RELIEF

19 v.

20 SPOKEO, INC.

21 Defendant.

JURY TRIAL DEMANDED

22
23
24 Plaintiff Jennifer Purcell ("Plaintiff"), individually and on behalf of all others
25 similarly situated, upon both personal knowledge and information and belief, and
26 following investigation by counsel, alleges the following against Defendant, Spokeo,
27 Inc. ("Spokeo"):

28 ///

BY FAX

1 **INTRODUCTION**

2 1. This case seeks relief for Plaintiff and a Class of similarly situated
3 consumers whose personal information has been gathered by Spokeo for the purpose
4 of marketing, publishing and/or selling such information to third-parties.

5 2. Unbeknownst to Plaintiff and other Class members, Spokeo markets,
6 publishes, and/or sells access to Plaintiff and other Class members' personal
7 information through its website, Spokeo.com. Yet, information listed on Spokeo's
8 website about Plaintiff and other Class members is false and incorrect.

9 3. Plaintiff seeks declaratory and injunctive relief, restitution and damages
10 for herself and other Class members who have had their personal information
11 marketed, published and/or sold to third-parties, in violation of the Fair Credit
12 Reporting Act, 15 U.S.C. §1684 *et seq.* ("FCRA"), the law of unjust enrichment, and
13 Illinois Uniform Deceptive Trade Practices Act, 815 ILCS §510/1 ("IDTPA").

14 **JURISDICTION, VENUE AND PARTIES**

15 4. Plaintiff Jennifer Purcell is an individual and a citizen of the State of
16 Illinois, where Plaintiff resides and maintains her personal and business life and
17 career.

18 5. Spokeo is a citizen of the State of California. The Court has original
19 jurisdiction per 28 U.S.C. § 1331 and 28 U.S.C. §1367.

20 6. Venue is proper before the Court under 28 U.S.C. § 1391(b)(1) and 28
21 U.S.C. § 1391(c) because Spokeo resides in this judicial District and is subject to
22 personal jurisdiction in this judicial District. Alternatively, venue is proper under 28
23 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions at issue
24 occurred in this judicial District and at relevant times Spokeo maintained its principal
25 place of business in this judicial District.

26 **INTRADISTRICT ASSIGNMENT**

27 7. Defendant Spokeo had it's principal executive offices and headquarters
28 in this district at 833 N. Shoreline Boulevard, Mountain View, California 94043, in

1 this district, when many of the events alleged in this action occurred. Intra-district
2 assignment in the San Jose Division of this Court is proper.

3 FACTUAL ALLEGATIONS

4 8. Spokeo collects personal information on United States residents and then
5 markets, publishes and/or sells the information that it gathers to third-parties.
6 Plaintiff and other Class members' personal information is currently viewable on
7 Spokeo's website, Spokeo.com, and contains information that is false and incorrect.

8 9. On its website, Spokeo has published at least one personal information
9 profile for Plaintiff and each member of the Class. Using Spokeo.com, consumers,
10 employers and virtually anyone can view Spokeo personal information or reports
11 about Plaintiff and the Class, for free, or by choosing for-pay options.

12 10. Spokeo purportedly collects this personal information about Plaintiff and
13 other Class members from dozens of sources but does not specify the exact source of
14 any information posted on Plaintiff or other Class members' profiles.

15 11. Spokeo posts personal information on its website under subject headings
16 including but not limited to: "Basic Profile," "Household," "Photos & Profiles,"
17 "Wealth," "Lifestyle & Interests," and "Neighborhood."

18 12. At relevant times, Spokeo has also distributed, via its website, individual
19 profiles containing inaccurate information about Plaintiff and the Class, inclusive of
20 purported economic status, income, and property ownership or the value thereof.

21 13. While anyone who views Spokeo's website may access some of the
22 personal information for free, Spokeo invites viewers to access more in depth
23 profiles, for a price, which purport to include a person's photos and videos, credit and
24 wealth estimates, religious and political affiliations, date of birth, languages spoken,
25 and home purchase price and date.

26 14. Spokeo explains that "specific 'information about mortgage, income,
27 and investments'... are offered as part of the business premium product.
28 <http://www.spokeo.com/blog/category/spokeo-in-the-news/> (last visited July 16,

1 2010).

2 15. Plaintiff and other Class members profiles posted on Spokeo's website
3 are used in large part by third-parties for employment purposes. Spokeo President
4 and co-founder Harrison Tang himself admits that "his site streamlines the process of
5 finding information about prospective employees for potential employers and job
6 recruiters." "FTC To Probe Spokeo Data Broker Over Abuse of Privacy,"
7 [http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-](http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-abuse-priv)
8 [abuse-priv](http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-abuse-priv) (last visited July 29, 2010). In fact, Spokeo awarded a "special gift" to a
9 Spokeo member who used Spokeo's website "to look up people who are potential
10 employers/employees." *News Flash*,

11 <http://www.spokeo.com/blog/category/announcements> (last visited July 16, 2010).

12 16. Spokeo "has also marketed itself as a service for conducting background
13 checks to aid law enforcement agencies or HR recruiters."
14 [http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-](http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-abuse-priv)
15 [abuse-priv](http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-abuse-priv) (last visited July 29, 2010).

16 ***Consumers Have Been Harmed***

17 17. Pursuant to Spokeo's ongoing business practice, it did not inform
18 Plaintiff and other Class members when it marketed, published and/or sold Plaintiff
19 and other Class member's personal information.

20 18. Plaintiff and many other consumers have had false or misleading
21 information published or provided by Spokeo as profiles or reports purporting to
22 provide their above-described personal information.

23 19. Spokeo President and co-founder admits that it is possible to reduce the
24 number of inaccuracies on Spokeo.com. He claims "[t]here are ways for us to
25 improve information inaccuracies. If you aggregate more pulled sources, you can do
26 an algorithm to improve the inaccuracies." [http://newsblogs.chicagotribune.com/the-](http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-worried-about-spokeocom.html)
27 [problem-solver/2010/05/should-i-be-worried-about-spokeocom.html](http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-worried-about-spokeocom.html) (last visited July
28 29, 2010). Yet, Spokeo continues to market, publish and/or sell inaccurate

1 information about Plaintiff and other Class members through its website.

2 20. This inaccurate information about Plaintiff and other Class members
3 published on Spokeo.com is accessed widely and often – anywhere between
4 approximately 500 to well over 100,000 times per day. <http://www.dnscoop.com/>
5 (last visited July 29, 2010). In a 30-day snapshot this summer alone, Spokeo.com has
6 had approximately 5,402,000 visits. <http://www.trafficestimate.com/spokeo.com> (last
7 visited July 29, 2010). Approximately 736 other websites have links to Spokeo.com
8 which makes Plaintiff and other Class members' inaccurate profiles easily accessible
9 to scores of viewers. *Id.*

10 21. For a consumer to request removal of his or her profile from
11 Spokeo.com, Spokeo requires the consumer to furnish his or her email address and/or
12 additional information to Spokeo, and consumers have complained that the removal
13 process was unsuccessful, arduous, and required the transmittal of additional personal
14 information to Spokeo, or resulted in the revision, rather than the removal of one's
15 profile so as to *include* the personal information provided by the consumer to Spokeo
16 solely for purposes of *removing* the profile from Spokeo.com.
17 [http://yellowstaressentials.wordpress.com/2010/03/30/privacy-alert-spokeo-com-has-](http://yellowstaressentials.wordpress.com/2010/03/30/privacy-alert-spokeo-com-has-your-information/)
18 [your-information/](http://yellowstaressentials.wordpress.com/2010/03/30/privacy-alert-spokeo-com-has-your-information/) (last visited September 2, 2010);
19 <http://www.facebook.com/pages/NO-MORE-SPOKEO/113159098694287> (last
20 visited September 2, 2010). For example, after a consumer attempts to remove his or
21 her profile, “Spokeo now knows which ‘John Smith’ is attached to
22 john.smith@randomemail.com,” and Spokeo then attaches this additional information
23 to a revised profile. *Id.*

24 22. Many consumers, including Plaintiff and the Class, unknowingly had
25 their profiles listed on Spokeo.com and were not given the opportunity to
26 meaningfully consent to Spokeo's marketing, publication and/or sale of their personal
27 information, including inaccurate, misleading and false information.

28 23. Spokeo's website offers, both for free and for sale, and for the world to

1 view, a host of false, misleading and inaccurate information about Plaintiff,
 2 including, for example: Plaintiff's published Spokeo.com profile seemingly purports
 3 that she is fifty years old, has children, is married, is a Republican, is only college
 4 educated and is a Protestant; in addition to other inaccuracies, none of these
 5 statements are true.

6 24. Through the actions described above, Spokeo has damaged and is likely
 7 to damage consumers, including Plaintiff and other Class members, to an extent to be
 8 determined at trial and has caused them actual injury and loss of reputation.

9 25. Without their knowledge and without receiving notice from Spokeo
 10 when their personal information is accessed, Plaintiff and other Class members'
 11 personal information has been and continues to be freely subject to lurking potential
 12 employers, bosses, business colleagues, dating partners, friends and foes at large.

13 CLASS ACTION ALLEGATIONS

14 26. Plaintiff brings this action individually and as a class action pursuant to
 15 Federal Rule of Civil Procedure 23 on behalf of the following Class and Subclass of
 16 similarly situated individuals:

17 **CLASS:**

18 All persons whose personal information Spokeo marketed, published or sold on
 19 Spokeo.com.

20 **SUBCLASS:**

21 All persons in the State of Illinois whose personal information Spokeo
 22 marketed, published or sold on Spokeo.com.¹

23 Excluded from the Class are the Court, Plaintiff's Counsel, and Spokeo, its officers
 24 and directors, family and legal representatives, heirs, successors, or assigns and any
 25 entity in which Spokeo has or had a controlling interest.

26 27. Plaintiff reserves the right to amend or modify the Class definition in
 27

28 ¹ Unless otherwise noted, references to the "Class" are to the Class and Subclass defined above.

1 connection with her motion for class certification and/or the result of discovery.

2 28. The Class is so numerous that joinder of all members is impracticable.
3 While the exact number of the Class members is unknown to Plaintiff at this time,
4 such information can be easily ascertained through Spokeo's records.

5 29. Plaintiff will fairly and adequately represent and protect the interests of
6 the members of the Class and has retained counsel competent and experienced in
7 complex class actions. Plaintiff has no interest antagonistic to those of the class.

8 30. Common questions of law or fact exist as to all members of the Class
9 and predominate over questions affecting only individual Class members, including,
10 for example:

- 11 a. Whether Spokeo was required to abstain from sharing Plaintiff
12 and other Class member's personal information with interested
13 third-parties;
- 14 b. Whether Spokeo was required to notify Plaintiff and other Class
15 members that Spokeo was marketing, distributing, and/or selling
16 their personal information;
- 17 c. Whether Spokeo was required to assure that Plaintiff and other
18 Class member's information that Spokeo marketed, published
19 and/or sold was accurate;
- 20 d. Whether Spokeo's conduct violates the FCRA as set forth below;
- 21 e. Whether Spokeo was unjustly enriched as set forth below;
- 22 f. Whether Plaintiff and other Class members are entitled to
23 damages; and
- 24 g. Whether Plaintiff and other Class members are entitled to
25 restitution.

26 31. Plaintiff's claims are typical of the claims of other Class members. The
27 defenses, if any, that will be asserted against Plaintiff's claims are likely to be typical
28 of the defenses that will be asserted, if any, against other Class member's claims.

1 consumer reports to third-parties, and which uses any means or facility of interstate
2 commerce for the purpose of preparing or furnishing consumer reports.” 15 U.S.C. §
3 1681a(f). Spokeo assembles consumer reports for third-parties who pay a fee to
4 access said credit information and is therefore a “consumer reporting agency” as
5 defined by the FRCA.

6 38. Spokeo further is a “nationwide specialty consumer reporting agency” as
7 defined by the FCRA because it “compiles and maintains files on consumers on a
8 nationwide basis relating to... residential or tenant history” under the “household”
9 subject heading on each consumer report. 15 U.S.C. § 1681a(w)(2).

10 39. The FCRA defines “consumer” as “an individual.” 15 U.S.C. §
11 1681a(c). Plaintiff and other Class members are “consumers” as defined and
12 construed under the FRCA. 15 U.S.C. § 1681a(c).

13 40. Spokeo, as a consumer reporting agency does not properly “maintain
14 reasonable procedures designed to avoid violations of §1681(c) of this title and to
15 limit the furnishing of consumer reports” of Plaintiff and the Class “to the purposes
16 listed under [15 U.S.C. § 1681b],” as required by the FCRA. 15 U.S.C. § 1681e(a).

17 41. 15 U.S.C. § 1681b of the FCRA sets forth various permissible purposes
18 for the furnishing of consumer reports, which Spokeo does not comply with. For
19 example, Spokeo did not comply with permissible purposes set forth in § 1681b and
20 is therefore in violation of the FCRA. 15 U.S.C. § 1681e(a). Spokeo also failed to
21 furnish its consumer reports of Plaintiff and the Class “in accordance with the written
22 instructions of the consumer to whom it relates” since it failed to get consumer
23 permission before marketing, publishing and/or selling consumer reports online. 15
24 U.S.C. § 1681b(a)(2).

25 42. The FCRA also requires “any person that maintains or otherwise
26 possesses consumer information ... derived from consumer reports for a business
27 purpose to properly dispose of any such information or compilation.” 15 U.S.C. §
28 1681w(a)(1). In connection with this requirement, 16 C.F.R. §§ 682.1 to 682.5

1 require, in relevant part: "Any person who maintains or otherwise possesses
2 consumer information for a business purpose must properly dispose of such
3 information by taking reasonable measures to protect against unauthorized access to
4 or use of the information in connection with its disposal." "Dispose" is defined to
5 include "the transfer of any medium, including computer equipment, upon which
6 consumer information is stored." Spokeo failed to comply with the disposal rule by
7 not taking reasonable measures to protect against unauthorized access of Plaintiff and
8 other Class members' consumer information, and is therefore in violation of the
9 FCRA. 15 U.S.C § 1681w(a)(1). For example, a Fox news report points out that
10 Spokeo "must be a goldmine for private investigators, stalkers and other unsavory
11 people." Available at [http://www.q13fox.com/news/kcpq-03302010-](http://www.q13fox.com/news/kcpq-03302010-spokeo,0,2538243.story)
12 [spokeo,0,2538243.story](http://www.q13fox.com/news/kcpq-03302010-spokeo,0,2538243.story) (reported on March 3, 2010).

13 43. The FCRA further requires consumer reporting agencies to provide
14 notice to any person "to whom a consumer report is provided by the agency [of]...
15 such person's responsibilities under [the FCRA]." 15 U.S.C. § 1681e(d)(1)(B).
16 Spokeo allowed unfettered access to its consumer reports of Plaintiff and the Class
17 and did not provide adequate or required notice to any person who viewed and/or
18 purchased such reports in violation of the FCRA. 15 U.S.C. § 1681e(d)(1)(B).
19 Moreover, Spokeo's website does not require recipients of freely available consumer
20 reports of Plaintiff and the Class to view such a notice; and Spokeo encourages
21 consumer reports to be utilized for purposes prohibited by the FCRA (*e.g.*, ¶¶ 11-16
22 above).

23 44. Further, the FCRA requires consumer reporting agencies to "follow
24 reasonable procedures to assure maximum possible accuracy of the information
25 concerning the individual about whom the report relates." 15 U.S.C. § 1681e(b).
26 Plaintiff and other Class member consumer reports which Spokeo markets, publishes
27 and/or sells on its website contain false and inaccurate information concerning the
28 individual about whom the report relates to. Spokeo does not follow reasonable

1 procedures as required under § 1681e(b) or to prevent the dissemination of such
2 inaccurate consumer reports, despite the ability to reduce these inaccuracies as
3 described above (¶ 19).

4 45. Further, Spokeo, as a nationwide specialty reporting agency, was
5 required, at a minimum, to provide consumers with a toll-free telephone number to
6 make requests for consumer reports. 15 U.S.C. § 1681(j)(1)(C)(i). Spokeo has
7 failed to provide a toll-free telephone number on its website or elsewhere for Plaintiff
8 and other consumers to make requests for consumer reports.

9 46. Spokeo is aware of its obligations under the FCRA; Spokeo's website
10 makes cryptic, generalized or buried references to the FCRA. Yet Spokeo brazenly
11 promotes its website as a means to access information for purposes prohibited by the
12 FCRA, and has failed to meet its obligations under the FCRA, as more fully set forth
13 herein and above (*e.g.*, ¶¶ 8-25).

14 47. By its above described conduct, Spokeo has willfully, knowingly and
15 negligently failed to comply with the FCRA, the direct and proximate result of which
16 was economic and non-economic damages to Plaintiff and other Class members
17 including out-of-pocket loss, fear, anxiety and apprehension of fraud or loss of
18 money.

19 48. As a result of Spokeo's above described violations of the FCRA,
20 Plaintiff and other Class members were damaged and are entitled any actual, statutory
21 and punitive damages as allowed by the FCRA. As a result of Spokeo's above
22 described violations of the FCRA, Plaintiff and other Class members were damaged
23 and are entitled any actual, statutory and punitive damages, and attorney's fees and
24 costs. 15 U.S.C. §§ 1681n, 1681o.

25 **COUNT TWO**

26 **RESTITUTION FOR UNJUST ENRICHMENT**

27 49. Plaintiff repeats and realleges the preceding allegations as if fully set
28 forth herein, and alleges Count Two on behalf of herself and the Class.

1 services.” 815 ILCS § 510/2(2). Spokeo engaged in, and continues to engage in,
2 conduct that is deceptive by marketing, publishing and/or selling false or inaccurate
3 information about Plaintiff and other Subclass members that is likely to be taken as
4 true.

5 58. Spokeo also engaged in, and continues to engage in, conduct that is
6 deceptive which “similarly creates a likelihood of confusion or misunderstanding” by
7 collecting data about Plaintiff and the Subclass from various third-party sources, and
8 without authenticating those sources or revealing to Plaintiff and other Subclass
9 members, or to who use its website. IDTPA, 815 ILCS § 510/2(12).

10 59. Spokeo engaged in, and continues to engage in, conduct that is deceptive
11 regardless of whether or not there is “actual confusion or misunderstanding.” *Id.*

12 60. Spokeo engaged in, and continues to engage in, deceptive business
13 practices because it collects, markets, publishes and/or sells inaccurate information
14 about Plaintiff and other Subclass members with “knowledge of its deceptive
15 character.” IDTPA, 815 ILCS § 510/5(2). For example, Spokeo knows that
16 information it collects, markets, publishes and/or sells is inaccurate, and it knows
17 how to reduce inaccuracies by using an improved algorithm, yet it chooses to market,
18 publish and/or sell profiles with deceptively false information.
19 [http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-](http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-worried-about-spokeocom.html)
20 [worried-about-spokeocom.html](http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-worried-about-spokeocom.html) (last visited July 29, 2010).

21 61. Spokeo represents that the profiles about Plaintiff and the Subclass,
22 which Spokeo publishes and sells, is merely a compilation of information from
23 publicly available sources. In reality, the personal information it publishes about
24 them is substantially false, inaccurate, and misleading, and appears to be guesswork.

25 62. Without being enjoined from continuing its conduct, Spokeo will
26 continue to engage in deceptive business practices regardless of “proof of monetary
27 damage, loss of profits or intent to deceive.” 815 ILCS § 510/3. However, the
28 inaccurate profile that Spokeo publishes and distributes about Plaintiff and other

1 members of the Subclass is likely to damage, mislead, deceive and misinform third-
2 parties, to their detriment, including without limitation to the detriment of Plaintiff's
3 professional career.

4 63. Plaintiff and the Subclass are entitled to an injunction preventing Spokeo
5 from continuing to market, publish, and/or sell their personal information in the
6 manner set forth above – *i.e.*, laden with false and inaccurate information, without
7 knowledge or consent of Plaintiff and the Subclass, in violation of the FCRA, and
8 without adequate notices or procedures to correct and remove inaccuracies – as well
9 as a declaration of the parties' rights, and notice to Plaintiff and the Class regarding
10 same.

11 **COUNT FOUR**
12 **DECLARATORY JUDGEMENT AND**
13 **CORRESPONDING INJUNCTIVE RELIEF**

14 **28 U.S.C. §§ 2201, 2202**

15 64. Plaintiff repeats and realleges the preceding allegations as if fully set
16 forth herein, and alleges Count Four on behalf of herself and the Class.

17 65. Spokeo's practice of collecting, marketing, publishing and/or selling
18 data including credit information concerning Plaintiff and other Class members
19 constitutes a "consumer report" within the meaning of the FCRA as described above.
20 15 U.S.C. § 1681a(d)(1).

21 66. Spokeo's practice of collecting, marketing, publishing and/or selling
22 consumer reports for third-parties who pay a fee to access said credit information
23 deems Spokeo a "consumer reporting agency" as defined by the FCRA as described
24 above. 15 U.S.C. § 1681a(f).

25 67. Spokeo further is a "nationwide specialty consumer reporting agency" as
26 defined by the FCRA because it "compiles and maintains files on consumers on a
27 nationwide basis relating to... residential or tenant history" under the "household"
28 subject heading of its website. 15 U.S.C. § 1681a(w)(2).

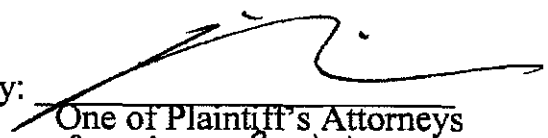
- 1 b. Declare the rights of the parties, and enjoin Spokeo’s above-described
- 2 illicit conduct, as set forth above (*see also* ¶¶ 63, 72);
- 3 c. Award Plaintiff and other Class members statutory, actual and punitive
- 4 damages, interest thereon, and all other relief to which Plaintiff and the
- 5 Class are entitled, as permitted by applicable law;
- 6 d. Award equitable monetary relief, including restitution, to Plaintiff and
- 7 the Class, and require Spokeo to disgorge, for the benefit of Plaintiff and
- 8 the Class, monies, revenues and profits Spokeo received from its
- 9 marketing, publication and sale of their profiles and personal
- 10 information as set forth above;
- 11 e. Establish a constructive trust, until further order of the Court, consisting
- 12 of monies Spokeo improperly collected or received from its above-
- 13 described illicit conduct;
- 14 f. Find that this case may be properly maintained as a class action, and
- 15 appoint Plaintiff as Class representative and Plaintiff’s counsel as Class
- 16 counsel;
- 17 g. Award reasonable attorney’s fees and costs as allowed under the FCRA,
- 18 the IDTPA and applicable law; and
- 19 h. Award such other further relief as the Court deems just and appropriate.

JURY DEMAND

Plaintiff demands a trial by jury of all causes of action and matters so triable.

Respectfully submitted,

JENNIFER PURCELL, individually and on behalf of all others similarly situated

By: 
 One of Plaintiff’s Attorneys
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