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

11  
12 KRISTI RICHARDS, JOSH STERN, and  
13 JORGE INIESTRA on behalf of  
themselves and all others similarly  
situated;

14 Plaintiffs,

15 v.

16 THE WALT DISNEY COMPANY,  
17 WALT DISNEY PARKS AND  
18 RESORTS U.S., INC. AND DOES 1-10;

19 Defendants.  
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Case No:

**SACV11-00298** (JC (A6X))  
**CLASS ACTION**

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF**

1. Violation of California Civil Code Section 1798.85
2. Violation of California Business & Professions Code Section 17200, et seq.
3. Violation of California Constitution Art. I, § 1
4. Common Law Invasion of Privacy

**DEMAND FOR JURY TRIAL**

FILED  
11 FEB 22 AM 10:42  
CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES  
BY: \_\_\_\_\_

## **JURISDICTION AND VENUE**

1. This is a class action lawsuit filed pursuant to the California Civil Code. The Court has jurisdiction under 28 U.S.C. § 1332 (a)(1) (diversity) and 28 U.S.C. § 1332 (d)(2) (Class Action Fairness Act). There are more than 100 class members. Both the named plaintiffs and many, if not all, of the putative class members are citizens of California and one of the Defendants is not a citizen of California. Aggregate damages exceed \$5,000,000, exclusive of fees and costs. Venue lies in the Central District of California, the judicial district in which one Defendant resides and in which a substantial part of the events or omissions giving rise to the claims occurred, pursuant to 28 U.S.C. § 1391(a-c).

2. Plaintiffs bring this action against Defendants The Walt Disney Company and Walt Disney Parks and Resorts U.S., Inc., and Does 1-10 (collectively "Defendants") for: compensatory damages, restitution, penalties, declaratory and injunctive relief, punitive damages, costs, attorneys' fees and other appropriate and just relief resulting from Defendants' unlawful conduct and unfair business practices, and as grounds therefore allege:

## **PARTIES**

3. Plaintiff Kristi Richards is currently employed by Defendants and has been employed by Defendants since November 2003. At present, Ms. Richards works full-time at the Grand California Hotel as a room service cashier. She is a citizen and resident of Los Angeles County in the state of California.

4. Plaintiff Josh Stern is currently employed by Defendants and has been employed by Defendants since June 2002. Mr. Stern works as a part-time bell clerk at the Disneyland Hotel. His duties include answering phones at the bell desk, assisting guests with luggage and packages, overseeing wheelchair rentals, and shipping and receiving packages including overnight guest packages. He is a citizen and resident of the County of Orange in the state of California.

5. Plaintiff Jorge Iniestra is currently employed by Defendants and has been

1 employed by Defendants since November 1997. Mr. Iniestra works as a full-time bell  
2 captain at the Disneyland Hotel. His duties include answering phones at the bell desk,  
3 assisting guests with luggage and packages, overseeing wheelchair rentals, shipping and  
4 receiving packages including overnight guest packages, assisting the manager with  
5 supervision of the bell service staff, and addressing customer complaints. He is a citizen  
6 and resident of the County of Orange in the state of California.

7 6. Plaintiffs and all members of the Plaintiff Class, as defined below, are,  
8 were, or will be employed by the Defendants, within the state of California during the  
9 relevant statutory period.

10 7. Plaintiffs bring their claims on behalf of a class ("Plaintiff Class") which  
11 consists of all current, former, and future employees employed by The Walt Disney  
12 Company, Walt Disney Parks and Resorts U.S., Inc., and Does 1-10 ("Defendants") at  
13 any time in the state of California between February 22, 2007 and the present. These  
14 current, former, and future employees received a Disney identification card which  
15 contained their social security number within the barcode imprinted in the card.

16 8. Plaintiffs also bring this action on behalf of themselves, the general public,  
17 and all others similarly situated pursuant to Business and Professions Code § 17200, *et*  
18 *seq.*

19 9. Defendants The Walt Disney Company, Walt Disney Parks and Resorts  
20 U.S., Inc., and Does 1-10 (hereafter "Disney" or "Defendants") conduct business within  
21 the County of Orange, California. Defendant The Walt Disney Company is incorporated  
22 in Delaware and its principle place of business is in Los Angeles County, California.  
23 Defendant Walt Disney Parks and Resorts U.S., Inc. is incorporated in Delaware and its  
24 principle place of business is in Florida.

25 10. Plaintiffs are ignorant of the true names and capacities of Defendants sued  
26 herein as DOES 1 through 10, and therefore sue these Defendants by such fictitious  
27 names and capacities. Plaintiffs will seek leave to amend this complaint to allege the  
28 true names and capacities of said fictitiously-named Defendants once they have been

1 ascertained. Plaintiffs are informed and believe, and on that basis allege, that at all  
2 relevant times, each of the fictitiously-named Defendants was an agent or employee of  
3 the named Defendants and/or was acting within the course and scope of said agencies or  
4 employment at the time of the events herein alleged, and/or was acting directly or  
5 indirectly in the interest of Defendants in relation to Plaintiffs and the Plaintiff Class.  
6 Plaintiffs are further informed and believe and on that basis allege that each of the  
7 fictitiously-named Defendants aided and assisted the named Defendants in committing  
8 the wrongful acts alleged herein, and that Plaintiffs' damages, as alleged herein, were  
9 proximately caused by such Defendants. To the extent that the conduct and omissions  
10 alleged herein were perpetrated by one or more Defendants, the remaining Defendants  
11 confirmed and ratified said conduct and omissions.

12 11. Plaintiffs are informed and believe and thereupon allege that at all times  
13 material herein, each Defendant named herein, including DOES 1 through 10, acted as  
14 the agent, joint venturer, representative, or alter ego of or for the other Defendants, and  
15 all aided and abetted the wrongful acts of the others.

#### 16 **STATEMENT OF FACTS**

17 12. Throughout the relevant statutory period, Plaintiffs and all members of the  
18 Plaintiff Class are and/or were employees of Defendants who received identification  
19 cards from the Defendants which contained the employees' confidential information  
20 including their social security number.

21 13. Kristi Richards is presently employed by Defendants as a room service  
22 cashier at the Grand California Hotel, and has been employed at Disney since November  
23 2003. Ms. Richards received her identification card at the start of her employment, and  
24 uses it on a routine basis while at work. Ms. Richards, like other members of the  
25 Plaintiff Class, uses her identification card several times per day to, among other things:  
26 clock in and out of her breaks; obtain keys for storage closets; place food orders; gain  
27 entry into restricted areas, including parking lots; obtain employee, parking, and  
28 corporate discounts; and purchase goods or services from Defendants and other vendors.

1 Ms. Richards, like other members of the Plaintiff Class, has been placed on notice that  
2 she must produce the identification card upon request by security.

3 14. Josh Stern is presently employed by Defendants as a bell clerk at the  
4 Disneyland Hotel, and has been employed at Disney since June 2002. Mr. Stern received  
5 his identification card at the start of his employment, and uses it on a routine basis while  
6 at work. Mr. Stern, like other members of the Plaintiff Class, uses his identification card  
7 several times per day to, among other things: clock in and out of his breaks; obtain keys  
8 for storage closets; place food orders; gain entry into restricted areas, including parking  
9 lots; obtain employee, parking, and corporate discounts from third party providers like  
10 Verizon; and purchase goods or services from Defendants and other vendors. Mr. Stern,  
11 like other members of the Plaintiff Class, has been placed on notice that he must produce  
12 the identification card upon request by security.

13 15. Jorge Iniestra is presently employed by Defendants as a bell captain at the  
14 Disneyland Hotel, and has been employed at Disney since November 1997. Mr. Iniestra  
15 received his identification card at the start of his employment, and uses it on a routine  
16 basis while at work. Mr. Iniestra, like other members of the Plaintiff Class, uses his  
17 identification card several times per day to, among other things: clock in and out of his  
18 breaks; obtain keys for storage closets; place food orders; gain entry into restricted areas,  
19 including parking lots; obtain employee, parking, and corporate discounts from third  
20 party providers like Verizon; and purchase goods or services from Defendants and other  
21 vendors. Mr. Iniestra, like other members of the Plaintiff Class, has been placed on  
22 notice that he must produce the identification card upon request by security.

23 16. The barcode of Plaintiffs' and the Plaintiff Classes' identification cards  
24 contain their social security numbers, which may be easily interpreted by a barcode  
25 scanner, such as those found or installed on many mobile telephones, including the  
26 Apple iPhone and those using the Droid operating system. A barcode is an optical  
27 machine-readable representation of data that shows data about the object to which it  
28 attaches, including, but not limited to, charges for purchases, destinations for letters, and

1 in the case at hand, Plaintiffs' and Plaintiff Classes' social security numbers.

2 17. Defendants negligently maintain possession of former employees'  
3 identification cards with their encoded social security numbers. These cards are stacked  
4 on managerial desks and can be easily stolen or misappropriated.

5 18. Defendants have been aware of the problem for more than three years.  
6 Approximately three years ago, security guards employed by Defendants discovered that  
7 the social security numbers were visible after a barcode scan of an employee's  
8 identification card. On another occasion, Plaintiff Josh Stern advised two managers at  
9 the Disneyland Hotel that his social security number was discernable through a barcode  
10 scanner. He then scanned his barcode and demonstrated to the managers that his social  
11 security number appeared. Defendants simply told Mr. Stern, "Don't lose your ID." No  
12 corrective action was taken.

13 19. As a result of Defendants' unlawful conduct, Plaintiffs and the Plaintiff  
14 Class have suffered emotional distress, invasion of privacy, and Plaintiffs continue to be  
15 concerned that their social security numbers may have already been misappropriated  
16 without their knowledge, and that harm may accrue to them in the future. This concern  
17 will persist even if the situation is corrected through injunctive relief.

18 20. On information and belief, at all times material herein, Defendants have  
19 failed to establish any system or taken any steps to ensure the privacy of the Plaintiffs  
20 and Plaintiff Class.

### 21 **CLASS ALLEGATIONS**

22 21. Proposed Class and Nature Of The Class Claims. The named Plaintiffs, as  
23 Class Representatives, bring this action on their own behalf and on behalf of a class  
24 comprised of all current, former, and future employees employed by The Walt Disney  
25 Company, Walt Disney Parks and Resorts U.S., Inc., and Does 1-10 at any time in the  
26 state of California between February 22, 2007 and the present and received a Disney  
27 identification card which contained their social security number within the barcode  
28 imprinted in the card.

1           22.   Numerosity. The size of the Plaintiff Class makes a class action both  
2 necessary and efficient. On information and belief, Plaintiffs estimate that the Plaintiff  
3 Class consists of more than 20,000 current and former employees, and an indefinite  
4 number of future employees. The identities, addresses and precise number of members  
5 of the Plaintiff Class are ascertainable from Defendants' records but are so numerous that  
6 joinder is impracticable. The Plaintiff Class includes future class members whose  
7 joinder is now inherently impossible.

8           23.   Typicality. The claims of the Class Representatives are typical of the claims  
9 of the class as a whole. The Class Representatives are employed by Defendants and  
10 must use their identification cards on a regular basis in the course of their employment at  
11 Disney. The unlawful policies and practices that have operated to deny the Class  
12 Representatives their right to privacy and caused them to worry that their social security  
13 numbers may be - or may already have been - misappropriated.

14           24.   Common Questions Of Law And Fact. This case poses common questions  
15 of law and fact affecting the rights of all Plaintiff Class members, including but not  
16 limited to: whether Defendants' conduct violated California Civil Code § 1798.85;  
17 whether Defendants' conduct violated California Business and Professions Code §  
18 17200, *et. seq.*; whether Defendants' conduct violated the California Constitution;  
19 whether Defendants' conduct violated the common law right to privacy; what relief is  
20 necessary to remedy Defendants' unfair and unlawful conduct as alleged herein; and  
21 other questions of law and fact.

22           25.   Adequacy Of Class Representation. The Class Representatives can  
23 adequately and fairly represent the interests of the Plaintiff Class as defined above,  
24 because their individual interests are consistent with, and not antagonistic to, the  
25 interests of the Class.

26           26.   Adequacy Of Counsel For The Class. Counsel for the Plaintiff Class  
27 possess the requisite resources and ability to prosecute this case as a class action and are  
28 experienced civil rights, labor, and employment attorneys who have successfully

1 litigated other cases involving similar issues.

2       27. Propriety of Class Action Mechanism. Class certification is appropriate  
3 because Defendants have implemented a scheme which is generally applicable to the  
4 Plaintiff Class, making it appropriate to issue final injunctive relief and corresponding  
5 declaratory relief with respect to the class as a whole. Class certification is also  
6 appropriate because the common questions of law and fact predominate over any  
7 questions affecting only individual members of the class. Further, the prosecution of  
8 separate actions against Defendants by individual class members would create a risk of  
9 inconsistent or varying adjudications which would establish incompatible standards of  
10 conduct for Defendants. For all these and other reasons, a class action is superior to  
11 other available methods for the fair and efficient adjudication of the controversy set forth  
12 in this complaint.

13                                   **FIRST CAUSE OF ACTION**

14                   **CLASS ACTION CLAIM FOR VIOLATION OF**  
15                   **CALIFORNIA CIVIL CODE § 1798.85**  
16                   **(AGAINST ALL DEFENDANTS)**

17       28. Plaintiffs re-allege and incorporate by reference the allegations contained in  
18 paragraphs 1 through 27 above.

19       29. The Class Representatives and all members of the Plaintiff Class are, were,  
20 or will be employed by Defendants in which identification badges are used routinely and  
21 required to be exposed in open view on a regular basis.

22       30. At all relevant times, Defendants failed to conform their practices to the  
23 requirements of California Civil Code § 1798.85.

24       31. Section 1798.85(a)(1) of the California Civil Code makes it unlawful to  
25 “[p]ublicly post or publicly display in any manner an individual’s social security  
26 number.” The same section goes on to specify that “‘publicly post’ or ‘publicly display’  
27 means to intentionally communicate or otherwise make available to the general public.”

28       32. Section 1798.85(a)(2) of the California Civil Code makes it unlawful to



1 “[p]rint an individual’s social security number on any card required for the individual to  
2 access products or services provided by the person or entity.”

3 33. Section 1798.85(f) provides: “[a] person or entity may not encode or embed  
4 a social security number in or on a card or document, including, but not limited to, using  
5 a barcode, chip, magnetic strip, or other technology, in place of removing the social  
6 security number, as required by this section.”

7 34. Defendants violated each of these sections, by encoding the Plaintiffs’ and  
8 Plaintiff Classes’ social security numbers in a barcode on their identification cards,  
9 which were publically visible on a regular basis. Specifically, the identification cards  
10 were needed to clock in and out of breaks; obtain keys for storage closets; place food  
11 orders; gain entry into restricted areas, including parking lots; obtain employee, parking,  
12 and corporate discounts; and purchase goods or services from Defendants and other  
13 vendors.

14 35. Defendants committed the acts alleged herein maliciously with the wrongful  
15 intention of reducing business expenses in spite of the clear risk created to Plaintiff Class  
16 from an improper motive amounting to malice, and in conscious disregard of their rights.  
17 Plaintiffs and the Plaintiff Class are thus entitled to recover punitive damages from  
18 Defendants in amounts to be proven at trial.

19 **SECOND CAUSE OF ACTION**

20 **UNFAIR BUSINESS PRACTICES**

21 **IN VIOLATION OF CALIFORNIA BUSINESS AND**

22 **PROFESSIONS CODE SECTIONS 17200, *ET SEQ.***

23 **(AGAINST ALL DEFENDANTS)**

24 36. Plaintiffs re-allege and incorporate by reference the allegations contained in  
25 paragraphs 1 through 35 above.

26 37. This claim is brought by the Class Representatives on behalf of themselves,  
27 the Plaintiff Class, and the general public, pursuant to Business and Professions Code  
28 § 17200, *et seq.* Defendants’ conduct as alleged herein has been, and continues to be an

1 unfair, unlawful, and fraudulent business practice which has been and continues to be  
2 deleterious to Plaintiffs and to those similarly situated and to the general public.  
3 Business and Professions Code § 17200, *et seq.* prohibits unlawful, unfair, and  
4 fraudulent business practices. Plaintiffs seek to enforce important rights affecting the  
5 public interest within the meaning of California Code of Civil Procedure § 1021.5.

6 38. Plaintiffs are a “person” within the meaning of Business and Professions  
7 Code § 17204, with standing to bring this suit for injunctive relief, restitution, and other  
8 appropriate equitable relief on behalf of all similarly-situated employees and on behalf of  
9 the general public.

10 39. California Civil Code § 1798.85 sets forth the public policy of this state to  
11 enforce privacy of social security numbers vigorously, and to ensure that employers do  
12 not gain a competitive advantage by relaxing privacy standards to reduce expenses.

13 40. Through the conduct alleged herein, Defendants have acted contrary to  
14 these public policies, have violated specific provisions of the California Civil Code, and  
15 have engaged in other unlawful and unfair business practices in violation of Business  
16 and Professions Code § 17200, *et seq.*, depriving the Plaintiffs, members of the Plaintiff  
17 Class, and other interested persons of rights, benefits, and privileges guaranteed to all  
18 people in California.

19 41. At all times relevant to this action, Defendants have committed unfair and  
20 unlawful business practices within the meaning of Business & Professions Code  
21 § 17200, *et seq.* by engaging in conduct which includes, but is not limited to, encoding  
22 the social security numbers of Plaintiffs and Plaintiff Class on the back of their  
23 identification badges within barcodes, which put the numbers at risk of misappropriation.

24 42. As a direct and proximate result of these unfair business practices, Plaintiffs  
25 and Plaintiff Class have or will suffer emotional and financial costs and Defendants have  
26 minimized expenditures.

27 43. Plaintiffs are entitled to, and hereby seek such relief as may be necessary to  
28 compensate for identity theft as a consequence of Defendants’ unlawful and unfair

1 business practices. In 2009, over eleven million people in the United States had their  
2 identities stolen, with an average annual loss to identity fraud victims of \$4,841. *See*  
3 Robert Vamosi, Et. Al., Javelin Strategies, 2010 Identity Fraud Survey Report: Identity  
4 Fraud Continues to Rise – New Accounts Fraud Drives Increase; Consumer Costs at an  
5 All-Time Low at 8, (Feb. 2010) [https://www.javelinstrategy.com/uploads/files/](https://www.javelinstrategy.com/uploads/files/1004.R_2010IdentityFraudSurveySampleReport.pdf)  
6 1004.R\_2010IdentityFraudSurveySampleReport.pdf. Where the identity was stolen by a  
7 coworker, family member, or friend, who could supplement the stolen information with  
8 additional information obtained by proximity to the victim, the average loss was  
9 \$11,827. *Id* at 48. As Plaintiffs' and Class Members' social security numbers were  
10 encoded in their identification cards, there is a high likelihood that their identities may  
11 be stolen by coworkers, costing them on average \$11,827 each per year.

12 44. Plaintiffs are entitled to the costs of credit monitoring and fraud insurance.  
13 Identity fraud can be discovered early through credit monitoring. Credit monitoring  
14 further protects subsequent identity fraud by the same perpetrator and increases the  
15 chances of catching the perpetrator. Credit monitoring and fraud insurance will increase  
16 Plaintiffs' and Class Members' opportunity of early detection of their identity theft and  
17 will significantly reduce the resultant damages.

18 45. Pursuant to Business and Professions Code § 17203, injunctive relief is  
19 necessary to prevent Defendants from continuing to engage in unfair business practices  
20 as alleged herein. Defendants, and persons acting in concert with them, have done, are  
21 now doing, and will continue to do or cause to be done, the above-described unlawful  
22 acts unless restrained and enjoined by this Court. Unless the relief prayed for below is  
23 granted, a multiplicity of actions will result. Further, pecuniary compensation alone  
24 would not afford adequate and complete relief. The above-described acts will cause  
25 great and irreparable damage to Plaintiffs and the general public if injunctive relief is not  
26 granted.

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28 ///

1 **THIRD CAUSE OF ACTION**

2 **California Constitution Art. I, § 1**

3 **(Against All Defendants)**

4 46. Plaintiffs re-allege and incorporate by reference all the allegations in  
5 paragraphs 1 through 45 above.

6 47. Plaintiffs maintained at all times relevant to this action, a specific, legally  
7 protected privacy interest. That interest is to be free from disclosure of private  
8 information, including actions that make a barcode containing one's social security  
9 number publicly visible.

10 48. Plaintiffs had a reasonable expectation of privacy while using their  
11 identification badges, which were required for employment by Defendants.

12 49. The Defendants' conduct, as alleged herein, constitutes an egregious breach  
13 of social norms underlying the privacy right and a serious invasion of Plaintiffs' privacy.

14 50. Defendants, by encoding Plaintiffs' social security numbers in a barcode on  
15 their identification badges, invaded said privacy right as protected by the Constitution of  
16 the State of California, Article I, Section 1.

17 51. As a result of the aforementioned acts, Plaintiffs were injured as set forth  
18 above and are entitled to compensatory damages against all Defendants.

19 52. Defendants acted willfully and maliciously, by failing to remove Plaintiffs'  
20 social security numbers from their identification badges even after Defendants were  
21 notified and reminded of the fact that the badges improperly contained employees' social  
22 security numbers; thus Plaintiffs are entitled to punitive damages.

23 **FOURTH CAUSE OF ACTION**

24 **Common Law Invasion of Privacy**

25 **(Against All Defendants)**

26 53. Plaintiffs re-allege and incorporate by reference all the allegations in  
27 paragraphs 1 through 52 above.

28 54. During the relevant time period, Plaintiffs had a reasonable expectation of

1 privacy while using their identification badges in the workplace. Plaintiffs' privacy  
2 interest is one recognized by the relative customs of the time and place, the occupation of  
3 the Plaintiffs and the habits of society.

4 55. Plaintiffs have a right to avoid disclosure of confidential personal  
5 information, including their social security numbers.

6 56. Defendants' actions were unreasonable and highly offensive to the  
7 Plaintiffs, and to the senses of ordinary persons. Defendants' conduct contravenes all  
8 boundaries of decency and standards of a civilized society.

9 57. Defendants, by placing Plaintiffs and Plaintiff Classes' social security  
10 numbers on identification cards in a format that may be easily read, are liable to  
11 Plaintiffs and Plaintiff Class under the laws of the State of California.

12 58. As a result of the aforementioned acts, Plaintiffs were injured as set forth  
13 above and are entitled to compensatory damages against all Defendants.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiffs respectfully pray that this Court award relief as follows:

- 16 1. An order certifying this case as a class action and appointing Plaintiffs and  
17 their counsel to represent the Class;
- 18 2. Injunctive relief;
- 19 3. Compensatory damages;
- 20 4. Punitive damages;
- 21 5. Reasonable attorneys' fees and costs under California Code of Civil  
22 Procedure § 1021.5;

23 ///

24 ///

25 ///

- 1           6.     Interest accrued on damages and penalties;  
2           7.     Such other and further relief as the Court deems just and proper.

3  
4 DATED: February 22, 2011

Respectfully submitted,

5 HADSELL, STORMER, KEENY,  
6 RICHARDSON & RENICK, LLP

7  
8 By   
9 Cornelia Dai  
Attorneys for Plaintiffs

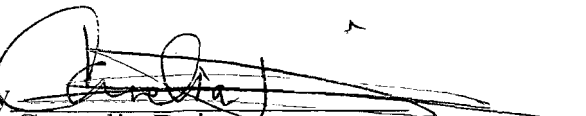
10  
11 **JURY TRIAL DEMAND**

12 Plaintiffs hereby demand a jury trial on all issues so triable.

13  
14 DATED: February 22, 2011

Respectfully submitted,

15 HADSELL, STORMER, KEENY,  
16 RICHARDSON & RENICK, LLP

17  
18 By   
19 Cornelia Dai  
Attorneys for Plaintiffs