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 RICHARD W. WIEKING
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 NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDL

MAIGHAN O. PERRY DREYLING,
 RICHARD M. DREYLING, III, and
 TANYA M. BAEZ, on behalf of
 themselves and all others similarly
 situated,

Plaintiff,

v.

H&R BLOCK, INC., HRB TAX
 GROUP, INC., and HRB
 TECHNOLOGY, LLC,

Defendants.

Case No.: **CV 13 2011**

CLASS ACTION

COMPLAINT FOR:

- (1) Breach of Contract;
- (2) Negligence;
- (3) Violation of California Business and Professions Code §17500, *et seq.*;
- and
- (4) Violation of the California Business and Professions Code §17200, *et seq.*

DEMAND FOR JURY TRIAL

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1 Plaintiffs Richard M. Dreyling, III, Maighan O. Perry Dreyling, and Tanya M.
2 Baez (collectively, "Plaintiffs"), by their attorneys, bring this action on behalf of
3 themselves and all other similarly-situated persons in the United States against
4 Defendants H&R Block Inc., HRB Tax Group, Inc., and HRB Technology, LLC
5 (collectively, "Defendants" or "H&R Block"), and allege as follows:

6 **I. NATURE OF THE CASE**

7 1. Plaintiffs bring this class action on behalf of all individuals who had U.S.
8 federal income tax returns including Forms 8863 for the year 2012 prepared for them by
9 Defendants, which were filed before February 22, 2013, and where H&R Block
10 determined that the tax payers were entitled to refunds.

11 2. A Form 8863 is a document that can be completed by a taxpayer to claim
12 "education credits" based upon eligible student expenses paid during the taxable year.
13 The form allows a taxpayer to claim one of two education credits: the American
14 Opportunity Credit (which provides up to a \$2,500 credit per eligible student, part of
15 which may be refundable), or the Lifetime Learning Credit (which provides up to a
16 \$2,000 credit per return).

17 3. Previously, lines determining eligibility for tax credits in the Form 8863
18 could be left blank and still indicate to the Internal Revenue Service ("IRS") that the
19 taxpayer qualified for the student tax credit. Starting with the 2012 tax year, the IRS
20 began to require that certain information be entered in the eligibility lines to indicate
21 qualification. However, the Form 8863 in H&R Block's tax software continued to
22 permit the lines to be left blank, which has resulted in the delay of thousands of refunds.

23 4. Defendants have admitted that these tax returns were erroneously prepared,
24 resulting in the tax refunds for approximately 600,000 returns being delayed for at least
25 six weeks beyond the time when they would have been paid.
26

27 **II. JURISDICTION AND VENUE**

28 5. This Court has jurisdiction over this action pursuant to 28 U.S.C. §

1 1332(d) because this is a class action involving common questions of law or fact in
2 which the aggregate amount in controversy exceeds \$5,000,000, there are more
3 than one hundred members of the Class, and at least one member of the putative
4 Class is a citizen of a state different from that of one of the Defendants. This Court
5 has personal jurisdiction over the parties because Defendants maintain offices in this
6 state and conduct business here.

7 6. Pursuant to 28 U.S.C. § 1391(b)(2), venue is proper in the Northern District
8 of California because a substantial part of the acts giving rise to Plaintiffs' claims
9 occurred in this District.

10 **III. PARTIES**

11 7. Plaintiffs Richard M. Dreyling, III and Maighan O. Perry Dreyling are
12 husband and wife and are residents and citizens of the State of California.

13 8. Plaintiff Tanya M. Baez is a resident and citizen of the State of California.

14 9. Defendant H&R Block, Inc. is a Missouri corporation with its principal
15 place of business located at One H&R Block Way, Kansas City, Missouri 64105. H&R
16 Block, Inc. does substantial business in Illinois.

17 10. Defendant H&R Block, Inc. has a "Tax Services" segment, which it
18 describes in its annual report on Form 10-K for the year ending April 30, 2012, as
19 follows:

20
21 Our Tax Services segment is primarily engaged in providing tax return
22 preparation and related services and products in the U.S. and its territories,
23 Canada, and Australia. Major revenue sources include fees earned for tax
24 preparation and related services performed at company-owned retail tax
25 offices, royalties from franchisees, sales of tax preparation software, online
26 tax preparation fees, fees from refund anticipation checks (RACs), fees
27 from our H&R Block Prepaid Emerald MasterCard®, and interest and fees
28 from Emerald Advance lines of credit (EAs). HRB Bank also offers

1 traditional banking services including checking and savings accounts,
2 individual retirement accounts and certificates of deposit.

3
4 Assisted income tax return preparation and related services are provided by
5 tax professionals via a system of retail offices operated directly by us or by
6 franchisees.

7
8 11. The 2012 Form 10-K describes the volume of H&R Block's tax business as
9 follows:

10 We, together with our franchisees, prepared 25.6 million tax returns
11 worldwide during fiscal year 2012, compared to 24.5 million in 2011 and
12 23.2 million in 2010. We prepared 22.3 million tax returns in the U.S.
13 during fiscal year 2012, up from 21.4 million in 2011 and 20.1 million in
14 2010. Our U.S. tax returns prepared during the 2012 tax season, including
15 those prepared by our franchisees and those prepared and filed at no
16 charge, constituted approximately 16% of an Internal Revenue Service
17 (IRS) estimate of total individual income tax returns filed during the fiscal
18 year 2012 tax season.

19
20 12. Defendant HRB Tax Group, Inc. is a Missouri corporation with its
21 principal place of business located at One H&R Block Way, Kansas City, Missouri
22 64105. It does substantial business in Illinois. It does business under the assumed name
23 of "H&R Block," and furnishes the services performed by the "Tax Services" segment
24 of H&R Block, Inc.

25 13. Defendant HRB Technology, LLC is a limited liability company organized
26 under Missouri law with its principal place of business located at One H&R Block Way,
27 Kansas City, Missouri 64105. It does substantial business in Illinois.

1 14. Defendants, in their Client Service Agreement, represent that:
2 If we prepare your tax return(s), HRB Technology LLC ("HRBT"), an
3 affiliate of HRB Tax Group Inc., will provide you technology services
4 pursuant to this CSA in order to facilitate e-filing and other tax preparation-
5 related technology services (collectively "Facilitation Services") on your
6 behalf. HRBT owns all right, title and interest in the Facilitation Services,
7 including but not limited to, all methods, processes, content formats,
8 designs and URLs together with any and all inventions, patents, other
9 intellectual property rights and derivative works and improvements
10 pertaining thereto. . . Any Facilitation Services performed by HRBT shall
11 be deemed to take place in the State of Missouri and shall be governed by
12 the laws of the State of Missouri without regard to its or any other states'
13 conflict of laws principles.
14

15 **IV. COMMON FACTUAL ALLEGATIONS**

16 15. Defendants are in the business of tax preparation services.

17 16. Specifically, Defendants prepare tax returns using proprietary software
18 created and/or owned by HRB Technology LLC or HRB Tax Group, Inc.

19 17. Defendants require individuals who utilize their services to agree to
20 binding arbitration for claims that could arise concerning their tax preparation services
21 (the "Arbitration Agreement"); however, Defendants allow individuals to "opt out" of
22 the Arbitration Agreement.

23 18. H&R Block engages in widespread broadcast, print and internet
24 advertising. This advertising contains a consistent theme: "100% accuracy and
25 maximum refund guarantee. . . ." ¹ H&R Block's website states: "We guarantee accurate
26 calculations. . . ." ² H&R Block also represents that: "The H&R Block Guarantee is
27

28 ¹ See <http://www.hrblock.com/why-hr-block/index.html> (last visited April 30, 2013).

² See <http://www.hrblock.com/why-hr-block/our-guarantees.html> (last visited April 30, 2013).

1 included with every tax return we prepare.”³ Finally, H&R Block At Home™ Software
2 Products come with a “**100% Satisfaction Money-back Guarantee.**”⁴

3 19. These guarantees were made by H&R Block with the intent that consumers
4 rely upon them.

5 20. Plaintiffs and Class members would be reasonable in relying upon such
6 guarantees made by Defendants.

7 21. All tax returns prepared by H&R Block or its franchisees are prepared and
8 transmitted to the IRS using standard methods and software. Franchisees were not at
9 liberty to depart from the standard methods or software with respect to the returns they
10 prepare.

11 22. Plaintiffs and Class members were customers of and had tax returns
12 prepared by H&R Block, which included Forms 8863.

13 23. A form 8863 is used to claim tax credits (such as the American Opportunity
14 Credit and the Lifetime Learning Credit) for qualified expenses paid to post-secondary
15 education institutions. Credits can be claimed if a taxpayer, spouse, or a dependent was
16 a student in 2012 or the first three months of 2013.

17 24. Returns involving Form 8863 are prepared for personal, family, or
18 household purposes.

19 25. Information on tax returns, including Form 8863, is used for the Free
20 Application for Federal Student Aid (“FAFSA”), which is the basic qualifying form
21 used for all federal student aid programs, and many state, regional and private student
22 aid programs.

23 26. When preparing Plaintiffs’ and Class members’ tax returns, HRB
24 Technology, LLC and HRB Tax Group, Inc. either improperly completed or improperly
25 transmitted (or both) IRS Forms 8863, used to claim educational tax credits, leaving
26

27
28 ³ See *id.*

⁴ See *id.* (emphasis in original).

1 mandatory fields blank.

2 27. On information and belief, H&R Block failed to answer form 8863
3 questions 23 through 26 with either a “yes” or “no” response—responses which are
4 required to claim an education credit.

5 28. In the past, the IRS accepted a blank field to mean “no” on the form;
6 however, due to the IRS’s recent changes to the Form 8863, forms submitted with blank
7 fields resulted in further review of the tax returns, causing in delays to tax refunds.

8 29. According to the IRS, about 10 percent of the 6.6 million (*i.e.*, 600,000) tax
9 returns using Form 8863 were affected by the error.

10 30. The error affected *all* returns involving Form 8863 that were filed by
11 Defendants and their franchisees before February 22, 2013.

12 31. Based on the fact that other tax preparation providers such as Turbo Tax
13 filled out the same form correctly, the overwhelming majority of the erroneous returns
14 were filed by H&R Block.

15 32. On or about March 13, 2013, some H&R Block customers received a mass
16 e-mail from Defendants stating that “the IRS has confirmed an issue related to certain
17 education tax credits claimed on Form 8863, which has affected and delayed your tax
18 return.” The March 13 e-mail disclosed to H&R Block customers that they could expect
19 their refunds to be delayed for another 4-6 weeks, stating: “It may take up to 4-6 weeks
20 [for the IRS] to process your return.”

21 33. On or about March 16, 2013, H&R Block CEO Bill Cobb issued the
22 following public statement, which was reported by *Forbes*:

23
24 Let me set the record straight about the Form 8863 issue that has affected
25 you, our valued clients: we made a mistake when the tax return was sent to
26 the IRS. And you deserve an apology, an explanation, and to know what
27 we’re doing about it.
28

1 Here's what happened: this year's tax season started later than any in
2 history (January 30th), followed by a further delay in form 8863 not being
3 accepted until February 14. Not good for everyone. When the IRS began
4 accepting the form, we immediately sent your returns, with the intention of
5 getting you your refund as quickly as possible. In our zeal to move so
6 quickly, we missed a step. Specifically there was a disconnect in the
7 transmission of form 8863 from our delivery system to the IRS E-file
8 system, and this caused the delay many of you are experiencing. We fixed
9 the transmission issue right away, but couldn't undo it for those that had
10 already been sent.
11

12 I want to make it clear that this was absolutely not the fault of your tax
13 professional; your return was prepared accurately. This was an issue with
14 the form transmission. This was our mistake — and I sincerely apologize. I
15 want you to know that we hear the frustration of those impacted by this
16 issue loud and clear, and we're working every avenue we can to get your
17 refund to you as fast as possible.
18

19 We have been and remain in daily communication with the IRS, who are
20 doing everything they can to speedily process all returns. We know that
21 clients are beginning to see progress, funding dates are being
22 communicated and refunds are definitely being funded. But we also
23 recognize that in an already delayed season, it's still not as fast as we want,
24 and we're not letting up until every client has his or her refund.
25

26 We are also committing to more frequent and regular updates with you as
27 we have news to share, and we know we can do a better job here too.
28

1
2 Finally, I know an apology won't put your tax refund in your hands right
3 away, and many of you still have questions. But right now, our singular
4 focus is to get you that refund, and we have all hands on deck to help make
5 this right.⁵

6 34. Despite this admission, Defendants have not offered compensation to
7 Plaintiffs or Class member.

8 35. Nothing Plaintiffs or any Class member did could have contributed to the
9 error, which was the sole result of the conduct of H&R Block Inc., and its subsidiaries.

10 36. As a result of Defendants' actions, Plaintiffs and members of the Class
11 suffered damages.

12
13 **V. FACTS CONCERNING THE PLAINTIFFS**

14 37. Plaintiffs Richard M. Dreyling, III and Maighan O. Perry Dreyling used
15 Defendants' online tax preparation tool and contracted with Defendants to prepare and
16 file an accurate tax return for 2012.

17 38. Mr. and Mrs. Dreyling "opted out" of Defendants' Arbitration Agreement.

18 39. Mr. and Mrs. Dreyling paid Defendants \$19.95 to use Defendants' online
19 tax preparation tool to prepare their 2012 tax return.

20 40. Mr. and Mrs. Dreyling's 2012 tax return was filed on February 18, 2013,
21 but as of May 1, 2013, Plaintiffs still had not received their refund.

22 41. Plaintiff Tanya M. Baez patronized the H&R Block office at 12201 Central
23 Avenue, Chino, California, and contracted with HRB Tax Group, Inc. and HRB
24 Technology, LLC to prepare and file an accurate tax return for 2012.

25 42. Ms. Baez "opted out" of Defendants' Arbitration Agreement.

26 43. Ms. Baez paid Defendants \$375.75, plus \$24.95 in "Bank Fees," to prepare
27

28 ⁵ <http://www.forbes.com/sites/kellyphillips/2013/03/16/hr-block-ceo-offers-apology-for-education-credit-fiasco/> (last visited on April 30, 2013).

1 her 2012 tax return.

2 44. Ms. Baez's tax return was filed on or about January 24, 2013, but as of
3 May 1, 2013, she still had not received her refund.

4 45. Plaintiffs' tax returns required a Form 8863.

5 46. Plaintiffs were entitled to prompt refunds based on the filing of a Form
6 8863.

7 47. Plaintiffs' tax returns were filed and transmitted to the IRS prior to
8 February 22, 2013.

9 48. As a result of the errors and omissions committed by Defendants, set forth
10 above, Plaintiffs' tax returns were improperly filed and transmitted.

11 49. Plaintiffs paid Defendants for improperly-performed tax preparation
12 services.

13 50. Each of the Plaintiffs complained to Defendants about the improperly
14 prepared and transmitted Forms 8863 filed with their 2012 tax returns, and the delays in
15 receiving their 2012 tax refunds that resulted from Defendants' errors and omissions.
16 Plaintiffs' complaints were made within a reasonable amount of time after the
17 Defendants' wrongful conduct occurred.

18 51. Plaintiffs have been subjected to unreasonable and unnecessary delays in
19 receiving their tax refunds. Such delays were caused solely by Defendants' conduct, as
20 alleged herein.

21
22 **VI. CLASS ALLEGATIONS**

23 52. Plaintiffs bring this class action pursuant to Federal Rule of Civil
24 Procedure 23(a) and (b)(3), on behalf of themselves and all others similarly situated,
25 with the Class defined as follows:

26 All individuals in the United States who have opted-out of H&R Block's
27 Arbitration Clause, who had tax year 2012 returns prepared for them by
28 H&R Block, Inc. or its subsidiaries and franchisees, which included Forms

1 8863, which were filed before February 22, 2013, and where H&R Block
2 determined that the taxpayer was entitled to a refund.

3 53. Plaintiffs also bring this class action for the following Sub-Class:

4 California Sub-Class: All individuals in the State of California who have
5 opted-out of H&R Block's Arbitration Clause, who had tax year 2012
6 returns prepared for them by H&R Block, Inc. or its subsidiaries and
7 franchisees, which included Forms 8863, which were filed before February
8 22, 2013, and where H&R Block determined that the taxpayer was entitled
9 to a refund.

10 54. The Class members are so numerous that joinder is impracticable. On
11 information and belief, there are approximately 600,000 members of the Class.

12 55. The Class and Sub-Class are ascertainable and identifiable from
13 Defendants' records.

14 56. There are questions of law and fact common to the Class members, which
15 predominate over any questions that affect only individual Class members. The
16 predominant common questions include:
17

- 18 a) Whether Defendants' failure to correctly complete and/or transmit
19 IRS Form 8863 constitutes a breach of contract;
- 20 b) Whether Defendants' failure to correctly complete and/or transmit
21 IRS Form 8863 constitutes negligence;
- 22 c) Whether Defendants' advertising of a guarantee of accuracy, coupled
23 with the systematic use of erroneous software to process tax returns,
24 is an unfair or deceptive trade practice in violation of various state
25 consumer protection statutes; and
26
27
28

1 d) Whether Defendants' conduct caused Plaintiffs and Class members
2 to sustain damages, and if so, what is the proper measure of those
3 damages.

4
5 57. Plaintiffs' claims are typical of the claims of the Class members. All are
6 based on the same factual and legal theories.

7 58. Plaintiffs will fairly and adequately represent the interests of the Class
8 members and have no interests antagonistic to those of the Class and Sub-Class.
9 Plaintiffs have retained counsel experienced in the prosecution of complex class actions,
10 including but not limited to consumer class actions.

11 59. This class action is appropriate for certification because questions of law
12 and fact common to the members of the Class and Sub-Class predominate over
13 questions affecting only individual members, and a class action is superior to other
14 available methods for the fair and efficient adjudication of this controversy, since
15 individual joinder of all members of the Class and Sub-Class is impracticable. Should
16 individual Class members be required to bring separate actions, this Court and/or courts
17 throughout the United States would be confronted with a multiplicity of lawsuits
18 burdening the court system while also creating the risk of inconsistent rulings and
19 contradictory judgments. In contrast to proceeding on an individual case-by-case basis,
20 in which inconsistent results will magnify the delay and expense to all parties and the
21 courts, this class action presents far fewer management difficulties while providing
22 unitary adjudication, economies of scale and comprehensive supervision by a single
23 court.

24
25 **VII. CLAIMS FOR RELIEF**

26 **FIRST CAUSE OF ACTION**

27 **BREACH OF CONTRACT**

28 (Plaintiffs, Individually, and on Behalf of the Class)

1 60. Plaintiffs repeat and re-allege all preceding allegations as if fully set forth
2 herein.

3 61. Plaintiffs bring this claim for breach of contract against all Defendants on
4 their own behalf and on behalf of all members of the Class residing in the U.S. The
5 relevant common law in each state of each Class member is materially uniform for
6 purposes of this claim.

7 62. Plaintiffs and the members of the Class entered into contracts with
8 Defendants for the preparation of tax returns.

9 63. Defendants breached their contracts for the preparation of tax returns by
10 making the errors and omissions described herein.

11 64. There is a duty of good faith and fair dealing implied in the Plaintiffs' and
12 the Class members' contracts with Defendants. Given Defendants' actions described
13 above, Defendants have breached their duty of good faith and fair dealing.

14 65. Consideration existed here as Plaintiffs and Class members paid money to
15 Defendants in exchange for Defendants' services under the tax preparation contracts.

16 66. Each of the Plaintiffs gave notice to Defendants of the facts giving rise to
17 the breach of contract alleged herein, within a reasonable amount of time after the
18 breach occurred and before commencing the instant lawsuit.

19 67. As a direct and proximate result of Defendants' breaches of the tax
20 preparation contracts and breaches of the duty of good faith and fair dealing, Plaintiffs
21 and the Class have suffered and will continue to suffer monetary damages including, but
22 not limited to, amounts paid to Defendants for tax preparation services performed
23 improperly and not in accordance with H&R Block's guarantees, delays in receiving the
24 income tax refunds to which they are entitled with consequent loss of the time value of
25 money, amounts paid to third parties for additional professional tax preparation services
26 in order to correct the errors in their tax returns prepared by Defendants, and
27 consequential damages such as late fees and penalties charged by third parties, which
28

1 Plaintiffs and the Class could have avoided had they timely received their tax refunds.

2 **SECOND CAUSE OF ACTION**

3 **NEGLIGENCE**

4 (Plaintiffs, Individually, and on Behalf of the Class)

5 68. Plaintiffs repeat and re-allege all preceding allegations as if fully set forth
6 herein.

7 69. Plaintiffs bring this claim for negligence against all Defendants on their
8 own behalf and on behalf of all Class members residing in the U.S. The relevant
9 common law in each state of each Class member is materially uniform for purposes of
10 this claim.

11 70. Defendants owed a duty to Plaintiffs and the Class to perform professional
12 tax preparation services in accordance with the prevailing standard of care in the tax
13 preparation and/or accounting industry.

14 71. Defendants breached this duty of care by failing to correctly prepare and/or
15 transmit tax returns for Plaintiffs and the Class which included IRS Form 8663.

16 72. As a direct and proximate result of Defendants' negligence, Plaintiffs and
17 the Class have suffered and will continue to suffer substantial monetary damages
18 including, but not limited to, amounts paid to Defendants for tax preparation services
19 performed in a substandard and negligent manner, delays in receiving the income tax
20 refunds to which they are entitled with consequent loss of the time value of money,
21 amounts paid to third parties for additional professional tax preparation services in order
22 to correct the errors in their tax returns prepared by Defendants, and consequential
23 damages such as late fees and penalties charged by third parties, which Plaintiffs and the
24 Class could have avoided had they timely received their tax refunds.

25 **THIRD CAUSE OF ACTION**

26 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE**

27 **SECTION 17500, *ET SEQ.***

1 (Plaintiffs Individually, and on Behalf of the California Sub-Class)

2 73. Plaintiffs repeat and re-allege all preceding allegations as if fully set forth
3 herein.

4 74. Plaintiffs bring this claim against all Defendants for violations of the
5 California Business and Professions Code Section 17500, *et seq.*, individually and on
6 behalf of all California Sub-Class members who obtained tax preparation services from
7 Defendants.

8 75. Throughout the Class Period, Defendants engaged in a public advertising
9 and marketing campaign representing that all H&R Block products came with a
10 guaranty of accuracy.

11 76. Defendants engaged in their advertising and marketing with intent to
12 directly or indirectly solicit customers to use Defendants' tax preparation services and
13 software.

14 77. Defendants failed to disclose that their tax preparation methods had failed
15 to take into account changes in the Form 8863; that previously lines determining
16 eligibility for tax credits in the Form 8863 could be left blank and still indicate to the
17 IRS that the taxpayer qualified for the student tax credit; that starting with the 2012 tax
18 year, the IRS began to require that certain information be entered in the eligibility lines
19 to indicate qualification; and that Defendants' tax software continued to permit the lines
20 to be left blank, which would result in the delay of thousands of refunds.

21 78. Defendants' advertisements and marketing representations are false,
22 misleading, and likely to deceive the public and/or deceived the public by falsely
23 representing that all H&R Block products came with a guaranty of accuracy, while
24 using defective software and other flawed tax preparation methods in order to complete,
25 file and transmit Plaintiffs' and California Sub-Class members' tax returns.

26 79. In making and disseminating the statements alleged herein, Defendants
27 knew or should have known that the statements were untrue or misleading, in violation
28

1 of California Business and Professions Code Section 17500, *et seq.*

2 80. Plaintiffs and California Sub-Class Members seek restitution, declaratory
3 and injunctive relief, and other relief allowable under Section 17500, *et seq.*

4 **FOURTH CAUSE OF ACTION**

5 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE**

6 **SECTION 17200, *ET SEQ.***

7 (Plaintiffs Individually, and on Behalf of the California Sub-Class)

8 81. Plaintiffs repeat and re-allege all preceding allegations as if fully set forth
9 herein.

10 82. Plaintiffs bring this claim against all Defendants for violations of the
11 California Business and Professions Code Section 17200, *et seq.*, individually and on
12 behalf of all California Sub-Class members who obtained tax preparation services from
13 Defendants.

14 83. The circumstances giving rise to Plaintiffs' allegations, including the
15 corporate policies regarding the sales, marketing, and implementation of the tax
16 preparation services and software by Defendants, occurred in the State of California.
17 Therefore, application of California law is appropriate.

18 84. By engaging in the acts and practices described above, Defendants
19 committed one or more acts of "unfair competition" within the meaning of Business &
20 Professions Code Section 17200. "Unfair competition" is defined to include any
21 "unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or
22 misleading advertising and any act prohibited by [Business & Professions Code § 17500
23 *et seq.*]."

24 85. Defendants committed "unlawful" and "unfair" business acts or practices
25 by, among other things, engaging in false advertising in violation of Business and
26 Professions Code Section 17500, breaching their contracts with Plaintiffs and Class
27 Members, and/or breaching the implied covenant of good faith and fair dealing by
28

1 advertising that all H&R Block products came with a guaranty of accuracy, while using
2 defective software and other flawed tax preparation methods in order to complete, file
3 and transmit Plaintiff's and California Sub-Class members' tax returns.

4 86. Defendants committed "fraudulent" business acts or practices by, among
5 other things, engaging in conduct Defendants knew or should have known were likely to
6 and did deceive the public, including Plaintiffs and other California Sub-Class
7 Members.

8 87. Plaintiffs and Class Members lost money and/or property and suffered
9 injury in fact, including, but not limited to, amounts paid to Defendants for tax
10 preparation services performed, which were misrepresented to be "accurate," when, in
11 fact, they were not, delays in receiving the income tax refunds to which they are entitled
12 with consequent loss of the time value of money, amounts paid to third parties for
13 additional professional tax preparation services in order to correct the errors in their tax
14 returns prepared by Defendants, and consequential damages such as late fees and
15 penalties charged by third parties, which Plaintiffs and the California Sub-Class
16 members could have avoided had they timely received their tax refunds.

17 88. Plaintiffs and California Sub-Class Members would not have used
18 Defendants' tax preparation services and software, had they been aware of the false,
19 misleading and incomplete nature of Defendants' representations about the quality and
20 accuracy of Defendants' tax preparation methods.

21 89. Plaintiffs and California Sub-Class Members seek restitution, declaratory
22 and injunctive relief, and other relief allowable under Section 17200, *et seq.*

23 **VIII. PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiffs, individually and on behalf of all others similarly
25 situated, respectfully request that the Court enter an Order:

- 26 a. Certifying the proposed Class and California Sub-Class under Fed.
27 R. Civ. P. 23 (a) and (b)(3), and appointing Plaintiffs and Plaintiffs'
28

counsel to represent the Class;

- b. Finding that Defendants are liable under all legal claims asserted herein;
- c. Declaring that Defendants have breached their contracts for the preparation of tax returns;
- d. Declaring that Defendants' conduct, as alleged herein, violates the California Business and Professions Code;
- e. Awarding damages to Plaintiffs and the Class under the common law and statutory theories alleged herein, including compensatory damages, consequential damages, treble damages, punitive damages, and any other damages provided under relevant laws;
- f. Awarding litigation costs and attorneys' fees;
- g. Awarding pre- and post-judgment interest; and
- h. Awarding any other legal or equitable relief as justice requires.

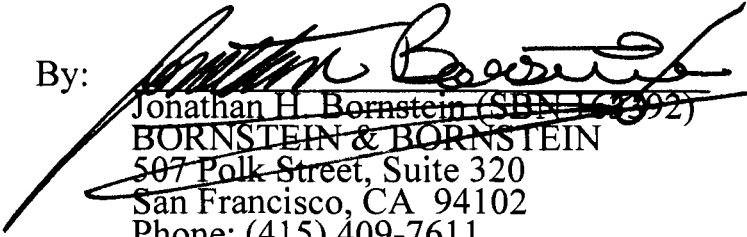
1 **IX. JURY TRIAL DEMAND**

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

3
4
5 Respectfully Submitted,

6
7
8 Dated: May 1, 2013

9 By:

10 
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CIVIL COVER SHEET

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Maighan O. Perry Dreyling, Richard M. Dreyling, III and Tanya M. Baez,
on behalf of themselves and all other similarly situated

(b) County of Residence of First Listed Plaintiff Alameda County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jonathan H. Bornstein, Bornstein & Bornstein, 507 Polk St., Ste. 410,
S.F., CA 94102; (415) 409-7611; and Eric Lechtzin, Berger & Montague,
P.C., 1622 Locust St., Philadelphia, PA 19103; (215) 875-3000

DEFENDANTS

H&R Block, Inc., HRB Tax Group, Inc. and HRB Technology, LLC.

County of Residence of First Listed Defendant Jackson County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input checked="" type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Sec. 1332(d) and 28 U.S.C. Sec. 1391(b)(2)

Brief description of cause:

Breach of Contract - failure to properly prepare and file tax returns.

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

05/01/2013

SIGNATURE OF ATTORNEY OF RECORD

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA

COPY UNITED STATES DISTRICT COURT
for the

Northern District of California

MAIGHAN O. PERRY DREYLING, RICHARD M.
DREYLING, III, and TANYA M. BAEZ, on behalf

Plaintiff

v.

H&R BLOCK, INC., HRB TAX GROUP, INC., and
HRB TECHNOLOGY, LLC

Defendant

EDL

CV 13 2011
Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

H&R Block, Inc., One H&R Block Way, Kansas City, MI 64105;
HRB Tax Group, Inc., One H&R Block Way, Kansas City, MI 64105;
HRB Technology, LLC, One H&R Block Way, Kansas City, MI 64105

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jonathan Herschel Bornstein, Esq., Bornstein & Bornstein, 507 Polk Street, Suite 410, San Francisco, CA 94102-3396;
Eric Lechtzin, Esq., Berger & Montague, P.C., 1622 Locust Street, Philadelphia, PA 19103

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Simone Voltz

Date: 5-1-13

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____
_____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: