

1 J. Steven Sparks/Bar No. 015561
2 **SANDERS & PARKS, P.C.**
3 3030 North Third Street, Suite 1300
4 Phoenix, AZ 85012-3099
5 Direct Phone: (602) 532-5769
6 Direct Fax: (602) 230-5051
7 Steve.Sparks@SandersParks.com

8 *Attorney for Defendants The ADT Corporation*
9 *and ADT, LLC, d/b/a ADT Security Services*

10 **UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 JANET CHEATHAM, individually, and on
13 behalf of all others similarly situated,

14 Plaintiff,

15 v.

16 THE ADT CORPORATION, a Delaware
17 Corporation, and ADT, LLC, d/b/a ADT
18 Security Services, a Florida limited liability
19 company,

20 Defendants.

Case No.:

**NOTICE OF REMOVAL OF
CIVIL ACTION**

21 Defendants The ADT Corporation and ADT LLC (collectively, "ADT"), through their
22 undersigned counsel, now remove this civil action to this Court pursuant to 28 U.S.C. § 1441(a),
23 and state:
24

25 1. On or about September 9, 2015, Plaintiff Janet Cheatham filed a lawsuit styled
26 Janet Cheatham vs. The ADT Corporation and ADT LLC in the Superior Court for the State of

1 Arizona, County of Maricopa, Case Number CV2015-008263. The ADT Corporation and ADT
2 LLC are the only two Defendants in this civil action. ADT is the nation's oldest and largest
3 supplier of electronic alarm systems to residences and small businesses. A complete copy of all
4 pleadings and other documents filed in the state court proceedings in this matter is attached as
5 Exhibit A, along with a verification of counsel undersigned attesting to the completeness and
6 accuracy of Exhibit A.
7

8
9 2. This action, pled individually and on behalf of a class of Arizona residents
10 similarly situated, seeks various forms of relief, including injunctions, compensatory and
11 punitive damages, restitution, costs and attorneys' fees arising from alleged misrepresentations
12 of the security of ADT's wireless alarm systems. The Complaint does not plead an amount in
13 controversy.
14

15 **TIMELINESS OF REMOVAL**

16

17 3. Removal is timely under 28 U.S.C. § 1446(b)(1). Defendant ADT LLC was
18 served on September 25, 2015. Defendant The ADT Corporation was served on September 29,
19 2015.
20

21 **BASIS FOR JURISDICTION**

22

23 4. This Court has original jurisdiction over this action based on diversity of
24 citizenship pursuant to 28 U.S.C. § 1332(d)(2).
25
26

1 5. The Complaint alleges that Plaintiff Janet Cheatham is a citizen and resident of
2 Maricopa County, Arizona. Ms. Cheatham brings her action individually and on behalf of a
3 class of similarly-situated “Arizona residents and entities.”
4

5 6. Defendant The ADT Corporation is a corporation, publicly traded on the New
6 York Stock Exchange, organized under the laws of the State of Delaware, with its principal
7 place of business at 1501 Yamato Road, Boca Raton, Florida 33431. The ADT Corporation is a
8 citizen of Delaware and Florida. *See* 28 U.S.C. § 1332(c)(1).
9

10 7. Defendant ADT LLC is a limited liability company organized under the laws of
11 the State of Delaware, with its its principal place of business at 1501 Yamato Road, Boca Raton,
12 Florida 33431. ADT LLC is wholly owned by The ADT Corporation. ADT LLC is also a
13 citizen of Delaware and Florida. *See, Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d
14 894, 899 (9th Cir. 2006) (“an LLC is a citizen of every state of which its owners/members are
15 citizens”).
16
17

18 8. Diversity of citizenship exists among the named parties for the purposes of 28
19 U.S.C. § 1332(d)(2)(A). Plaintiff and her putative class members are alleged to be Arizona
20 citizens and residents. Neither Defendant is a citizen of Arizona.
21

22 9. The Complaint does not allege an amount in controversy. However, the matter in
23 controversy far exceeds the sum or value of \$5,000,000, exclusive of interest and costs, for
24 purposes of 28 U.S.C. § 1332(d)(2). The Complaint demands, *inter alia*, the following elements
25 of relief: (1) An order “mandatorily enjoining ADT to secure its wireless systems” by
26

1 encrypting them; (2) “restitution” of all sums the class members have paid to ADT; (3)
2 compensatory damages; (4) punitive damages, and (5) attorneys’ fees, costs of suit, and interest.

3
4 10. The demand for injunctive relief, by itself, demonstrably exceeds the value of
5 \$5,000,000.00, exclusive of interest and costs. ADT has over one-hundred-thousand (100,000)
6 Arizona customers. Of these, 30,259 have systems that operate exclusively with wireless
7 equipment. Many other ADT customers in Arizona have alarm systems that combine wired and
8 wireless components. These combined wired/wireless customers are excluded from this analysis
9 because some of these customers might have only wired components and, thus, would be
10 excluded from the putative class. (*See*, Declaration of Ryan Petty attached hereto as Exhibit B).

11
12
13 11. As evidenced by the Declaration of Ryan Petty (attached hereto as Exhibit B), the
14 cost of the basic package of new equipment capable of using encrypted signals is \$235. This
15 cost could be significantly higher for particular customers, depending on the number and types
16 of sensors they specified for their premises. ADT reasonably estimates the cost of a service visit
17 to remove old equipment and install new equipment for an Arizona class member (sending a
18 truck to the customer’s premises, plus three hours of labor) would be \$240. If, as is likely, a
19 customer’s alarm system has more sensors not included in the basic package, the equipment and
20 installation costs for that customer would exceed these figures. (*See*, Declaration of Ryan Petty
21 attached hereto as Exhibit B).

1 12. The equipment costs required to installed new equipment in the premises of the
2 30,259 Arizona customers with all-wireless alarm systems would therefore be no less than
3 \$7,110,865. The installation costs would add at least another \$7,262,160. In all, the injunction
4 would require ADT to spend at least \$14,373,025 to provide encrypted equipment to the 30,259
5 Arizona class members with all-wireless services. (*See*, Declaration of Ryan Petty attached
6 hereto as Exhibit B).
7

8 13. That amount does not cover all of ADT's costs of compliance with the requested
9 injunction. It does not cover the conversion costs for customers who have combined
10 wired/wireless systems. It also does not cover the replacement costs of sensors not included in
11 ADT's basic equipment package. Nor does this amount include the plaintiff's demands for
12 restitution of amounts paid to ADT by the class members, or for compensatory or punitive
13 damages, or for attorney fees. For the purposes of establishing this Court's removal jurisdiction,
14 ADT's costs of \$14,373,025 for partial compliance with the Plaintiff's demanded injunction,
15 without more, far exceeds the statutory amount in controversy requirement. (*See*, Declaration of
16 Ryan Petty attached hereto as Exhibit B).
17
18
19

20 14. Based on the above-information, the amount-in-controversy requirement is clearly
21 satisfied. *See, Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996) (holding
22 that where plaintiff's complaint does not specify amount of damages, removing defendant need
23 only show that it is "more likely than not" that amount in controversy exceeds jurisdictional
24 amount).
25
26

NO CONSENT FROM CODEFENDANTS REQUIRED

14. No other defendant is required to consent to removal. Both defendants hereby remove the action.

WHEREFORE, defendants now remove Case Number 2011-9654 from the Superior Court for the State of Arizona, County of Maricopa, to this Court.

RESPECTFULLY SUBMITTED this 23rd day of October, 2015.

SANDERS & PARKS, P.C.

By s/ J. Steven Sparks
J. Steven Sparks
3030 North Third Street, Suite 1300
Phoenix, AZ 85012-3099
*Attorney for Defendants The ADT Corporation
and ADT, LLC, d/b/a ADT Security Services*

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2015, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing thereby transmitting a Notice of Electronic Filing to all CM/ECF registrants.

Francis J. Balint, Jr.
William F. King
Bonnett, Fairbourn, Friedman & Balint, P.C.
2323 E. Camelback Rd., Ste. 300
Phoenix, AZ 85016
Attorney for Plaintiff

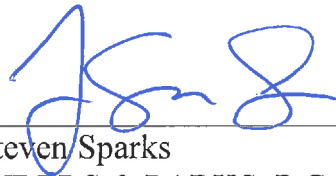
By: s/ Zina Seyferth

EXHIBIT A

VERIFICATION and DECLARATION

I, J. Steven Sparks, am counsel of record for The ADT Corporation and ADT, LLC, the removing parties in the action entitled *Cheatham v. The ADT Corporation, et al.*, Maricopa County Superior Court Case No. CV2015-005149. By and through this document, I hereby verify and attest to the fact that the accompanying documents attached to the Notice of Removal as Exhibit A are true and complete copies of all pleadings and other documents filed in the State Court Proceeding.

Dated this 23rd day of October, 2015.



J. Steven Sparks
SANDERS & PARKS, P.C.
3030 North Third Street, Suite 1300
Phoenix, AZ 85012
*Attorney for Stillwater Insurance Company,
f/k/a Fidelity National Insurance Company*

In the Superior Court of the State of Arizona
In and For the County of Maricopa
CV2015-008263

CIVIL COVER SHEET - NEW FILING ONLY
(Please Type or Print)

Plaintiff's Attorney William F. King

Attorney Bar Number 023941

Plaintiff's Name(s): (List all)
Janet Cheatham

Plaintiff's Address:
Bonnett, Fairbourn, Friedman & Balint, P.C.
2325 E. Camelback Road, Suite 300
Phoenix, Arizona 85016

(List additional plaintiffs on page two and/or attach a separate sheet).

Defendant's Name(s): (List All) ADT, LLC d/b/a ADT Security Services
The ADT Corporation

(List additional defendants on page two and/or attach a separate sheet)

EMERGENCY ORDER SOUGHT: ☐ Temporary Restraining Order ☐ Provisional Remedy ☐ OSC
☐ Election Challenge ☐ Employer Sanction ☐ Other _____

(Specify)

☒ **RULE 8(i) COMPLEX LITIGATION APPLIES.** Rule 8(i) of the Rules of Civil Procedure defines a "Complex Case" as civil actions that require continuous judicial management. A typical case involves a large number of witnesses, a substantial amount of documentary evidence, and a large number of separately represented parties.

(Mark appropriate box on page two as to complexity, **in addition** to the Nature of Action case category.)

☐ **THIS CASE IS ELIGIBLE FOR THE COMMERCIAL COURT UNDER RULE 8.1.** Rule 8.1 defines a commercial case and establishes eligibility criteria for the commercial court. Generally, a commercial case primarily involves issues arising from a business contract or business transaction. However, consumer transactions are not eligible. A consumer transaction is one that is primarily for personal, family or household purposes. **Please review Rule 8.1 for a complete list of the criteria.** See <http://www.superiorcourt.maricopa.gov/commercial-court/>. You must check this box if this is an eligible commercial case. **In addition, mark the appropriate box below in the "Nature of Action" case category.** The words "commercial court assignment requested" must appear in the caption of the original complaint.

NATURE OF ACTION

(Place an "X" next to the **one** case category that most accurately describes your primary case.)

100 TORT MOTOR VEHICLE:

- ☐ 101 Non-Death/Personal Injury
☐ 102 Property Damage
☐ 103 Wrongful Death

110 TORT NON-MOTOR VEHICLE:

- ☐ 111 Negligence
☐ 112 Product Liability – Asbestos
☐ 112 Product Liability – Tobacco
☐ 112 Product Liability – Toxic/Other
☐ 113 Intentional Tort

- ☐ 114 Property Damage
☐ 115 Legal Malpractice
☐ 115 Malpractice – Other professional
☐ 117 Premises Liability
☐ 118 Slander/Libel/Defamation
☐ 116 Other (Specify) _____

120 MEDICAL MALPRACTICE:

- ☐ 121 Physician M.D. ☐ 123 Hospital
☐ 122 Physician D.O. ☐ 124 Other

Is Interpreter Needed? ☐ Yes ☒ No
If yes, what language:

To the best of my knowledge, all information is true and correct.

William F. King
Attorney/Pro Per Signature
(If no attorney, YOUR signature)

MICHAEL K. JEANES, CLERK
BY D. Coplin
FILED
15 SEP -9 PM 4:23

Case No. _____

130 CONTRACTS:

- ☐ 131 Account (Open or Stated)
☐ 132 Promissory Note
☐ 133 Foreclosure
☐ 138 Buyer-Plaintiff
☐ 139 Fraud
☐ 134 Other Contract (i.e. Breach of Contract)
☐ 135 Excess Proceeds-Sale
☐ Construction Defects (Residential/Commercial)
 ☐ 136 Six to Nineteen Structures
 ☐ 137 Twenty or More Structures

150-199 OTHER CIVIL CASE TYPES:

- ☐ 156 Eminent Domain/Condemnation
☐ 151 Eviction Actions (Forcible and Special Detainers)
☐ 152 Change of Name
☐ 153 Transcript of Judgment
☐ 154 Foreign Judgment
☐ 158 Quiet Title
☐ 160 Forfeiture
☐ 175 Election Challenge
☐ 179 NCC-Employer Sanction Action
 (A.R.S. §23-212)
☐ 180 Injunction against Workplace Harassment
☐ 181 Injunction against Harassment
☐ 182 Civil Penalty
☐ 186 Water Rights (Not General Stream Adjudication)
☐ 187 Real Property
☐ Special Action against Lower Courts
 (See lower court appeal cover sheet in Maricopa)

- ☐ 194 Immigration Enforcement Challenge
 (§§1-501, 1-502, 11-1051)

150-199 UNCLASSIFIED CIVIL:

- ☐ Administrative Review
 (See lower court appeal cover sheet in Maricopa)
☐ 150 Tax Appeal
 (All other tax matters must be filed in the AZ Tax Court)
☐ 155 Declaratory Judgment
☐ 157 Habeas Corpus
☐ 184 Landlord Tenant Dispute- Other
☐ 190 Declaration of Factual Innocence
 (A.R.S. §12-771)
☐ 191 Declaration of Factual Improper Party Status
☐ 193 Vulnerable Adult (A.R.S. §46-451)
☐ 165 Tribal Judgment
☐ 167 Structured Settlement (A.R.S. §12-2901)
☐ 169 Attorney Conservatorships (State Bar)
☐ 170 Unauthorized Practice of Law (State Bar)
☐ 171 Out-of-State Deposition for Foreign Jurisdiction
☐ 172 Secure Attendance of Prisoner
☐ 173 Assurance of Discontinuance
☐ 174 In-State Deposition for Foreign Jurisdiction
☐ 176 Eminent Domain- Light Rail Only
☐ 177 Interpleader- Automobile Only
☐ 178 Delayed Birth Certificate (A.R.S. §36-333.03)
☐ 183 Employment Dispute- Discrimination
☐ 185 Employment Dispute-Other
☐ 195(a) Amendment of Marriage License
☐ 195(b) Amendment of Birth Certificate
☐ 163 Other _____
 (Specify)

COMPLEXITY OF THE CASE

If you marked the box on page one indicating that Complex Litigation applies, place an "X" in the box of no less than one of the following:

- ☐ Antitrust/Trade Regulation
☐ Construction Defect with many parties or structures
☐ Mass Tort
☐ Securities Litigation with many parties
☐ Environmental Toxic Tort with many parties
☒ Class Action Claims
☐ Insurance Coverage Claims arising from the above-listed case types
☐ A Complex Case as defined by Rule 8(i) ARCP

Additional Plaintiff(s)

Additional Defendant(s)

OCT 02 2015

FILED

MICHAEL K. JEANES, Clerk
By *[Signature]*
S. Healey, Deputy

BONNETT, FAIRBOURN, FRIEDMAN
& BALINT, P.C.

FRANCIS J. BALINT, JR. (007669)

WILLIAM F. KING (023941)

2325 E Camelback Rd.

Suite 300

Phoenix, AZ 85016

Tel: (602) 274-1100

Fax: (602) 274-1199

ORIGINAL

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF ARIZONA

COUNTY OF MARICOPA

JANET CHEATHAM, individually,
and on behalf of all others similarly
situated,

Plaintiff,

vs.

THE ADT CORPORATION, a Delaware
Corporation, and ADT, LLC d/b/a ADT
SECURITY SERVICES, a Florida limited
liability company,

Defendants.

CASE NO. CV2015-008263

SUMMONS

If you would like legal advice from a lawyer,
Contact the Lawyer Referral Service at
602-257-4434

or

www.maricopalawyers.org

Sponsored by the
Maricopa County Bar Association

THE STATE OF ARIZONA TO THE DEFENDANTS:

ADT, LLC d/b/a ADT SECURITY SERVICES, a Florida limited liability company

YOU ARE HEREBY SUMMONED and required to appear and defend, within the time applicable, in this action in this Court. If served within Arizona, you shall appear and defend within 20 days after the service of the Summons and Complaint upon you, exclusive of the day of service. If served out of the State of Arizona -- whether by direct service, by registered or certified mail, or by publication -- you shall appear and defend within 30 days after the service of the Summons and Complaint upon you is complete, exclusive of the day of service. Where process is served upon the Arizona Director of Insurance as an insurer's attorney to receive service of legal process against it in this state, the insurer shall not be

1 required to appear, answer or plead until expiration of 40 days after date of such service upon
 2 the Director. Service by registered or certified mail without the State of Arizona is complete
 3 30 days after the date of filing the receipt and affidavit of service with the Court. Service by
 4 publication is complete 30 days after the date of first publication. Direct service is complete
 5 when made. Service upon the Arizona Motor Vehicle Superintendent is complete 30 days
 6 after filing the Affidavit of Compliance and return receipt of Officer's Return. **Ariz.R.Civ.P.**
4; A.R.S. §20-222, 28-502, 28-503.

7 **YOU ARE HEREBY NOTIFIED** that in case of your failure to appear and defend
 8 within the time applicable, judgment by default may be rendered against you for the relief
 9 demanded in the Complaint.

10 **YOU ARE CAUTIONED** that in order to appear and defend, you must file an Answer
 11 or proper response in writing with the Clerk of this Court, accompanied by the necessary filing
 12 fee, within the time required, and you are required to serve a copy of any Answer or response
 13 upon the Plaintiff's attorney. **Ariz.R.Civ.P. 10(d); A.R.S. §12-311; Ariz.R.Civ.P. 5.**

14 The name and address of plaintiff's attorney is:

15 Francis J. Balint, Jr.
 16 William F. King
 17 BONNETT, FAIRBOURN, FRIEDMAN
 18 & BALINT, P.C.
 19 2325 E. Camelback Rd., #300
 20 Phoenix, Arizona 85016

21 Requests for reasonable accommodation for persons with disabilities must be made to
 22 the division assigned to the case by the party needing the accommodation or his/her
 23 counsel at least three (3) judicial days in advance of a scheduled proceeding. Requests
 24 for an interpreter for persons with limited English proficiency must be made to the
 25 division assigned to the case by the party needing the interpreter and/or translator or
 26 his/her counsel at least ten (10) judicial days in advance of a scheduled court proceeding.

27 **SIGNED AND SEALED** this date: **SEP 09 2015**

28 **MICHAEL K. JEANES, CLERK**



Clerk

By

Deputy Clerk

D. Espinoza

MICHAEL K. JONES-REDA
RECEIVED CCC #8
DOCUMENT DEPOSITORY

15 OCT -6 AM 10:08

FILED BY: *J. Baker*

1 BONNETT, FAIRBOURN, FRIEDMAN
2 & BALINT, P.C.
3 FRANCIS J. BALINT, JR. (007669)
4 WILLIAM F. KING (023941)
5 2325 E Camelback Rd.
6 Suite 300
7 Phoenix, AZ 85016
8 Tel: (602) 274-1100
9 Fax: (602) 274-1199

ORIGINAL

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF ARIZONA

COUNTY OF MARICOPA

11 JANET CHEATHAM, individually,
12 and on behalf of all others similarly
13 situated,

14 Plaintiff,

15 vs.

16 THE ADT CORPORATION, a Delaware
17 Corporation, and ADT, LLC d/b/a ADT
18 SECURITY SERVICES, a Florida limited
19 liability company,

20 Defendants.

CV2015-008263

CASE NO.

SUMMONS

If you would like legal advice from a lawyer,
Contact the Lawyer Referral Service at
602-257-4434

or

www.maricopalawyers.org

Sponsored by the
Maricopa County Bar Association

THE STATE OF ARIZONA TO THE DEFENDANTS:

THE ADT CORPORATION, a Delaware Corporation

24 **YOU ARE HEREBY SUMMONED** and required to appear and defend, within the
25 time applicable, in this action in this Court. If served within Arizona, you shall appear and
26 defend within 20 days after the service of the Summons and Complaint upon you, exclusive of
27 the day of service. If served out of the State of Arizona -- whether by direct service, by
28 registered or certified mail, or by publication -- you shall appear and defend within 30 days
after the service of the Summons and Complaint upon you is complete, exclusive of the day of
service. Where process is served upon the Arizona Director of Insurance as an insurer's
attorney to receive service of legal process against it in this state, the insurer shall not be

required to appear, answer or plead until expiration of 40 days after date of such service upon the Director. Service by registered or certified mail without the State of Arizona is complete 30 days after the date of filing the receipt and affidavit of service with the Court. Service by publication is complete 30 days after the date of first publication. Direct service is complete when made. Service upon the Arizona Motor Vehicle Superintendent is complete 30 days after filing the Affidavit of Compliance and return receipt of Officer's Return. **Ariz.R.Civ.P. 4; A.R.S. §20-222, 28-502, 28-503.**

YOU ARE HEREBY NOTIFIED that in case of your failure to appear and defend within the time applicable, judgment by default may be rendered against you for the relief demanded in the Complaint.

YOU ARE CAUTIONED that in order to appear and defend, you must file an Answer or proper response in writing with the Clerk of this Court, accompanied by the necessary filing fee, within the time required, and you are required to serve a copy of any Answer or response upon the Plaintiff's attorney. **Ariz.R.Civ.P. 10(d); A.R.S. §12-311; Ariz.R.Civ.P. 5.**

The name and address of plaintiff's attorney is:

Francis J. Balint, Jr.
William F. King
BONNETT, FAIRBOURN, FRIEDMAN
& BALINT, P.C.
2325 E. Camelback Rd., #300
Phoenix, Arizona 85016

Requests for reasonable accommodation for persons with disabilities must be made to the division assigned to the case by the party needing the accommodation or his/her counsel at least three (3) judicial days in advance of a scheduled proceeding. Requests for an interpreter for persons with limited English proficiency must be made to the division assigned to the case by the party needing the interpreter and/or translator or his/her counsel at least ten (10) judicial days in advance of a scheduled court proceeding.

SIGNED AND SEALED this date:

SEP 09 2015

MICHAEL K. JEANES, CLERK



Clerk

By D. Espinoza
Deputy Clerk

D. Espinoza

MICHAEL K. JEANES
 Clerk of the Superior Court
 By Darlene Espinoza, Deputy
 Date 09/09/2015 Time 16:26:14

Description	Amount
CASE# CV2015-008263	
CIVIL NEW COMPLAINT	319.00
TOTAL AMOUNT	319.00
Receipt# 24774324	

BONNETT, FAIRBOURN, FRIEDMAN
 & BALINT, P.C.
 FRANCIS J. BALINT, JR. (007669)
 WILLIAM F. KING (023941)
 2325 E Camelback Rd.
 Suite 300
 Phoenix, AZ 85016
 Tel: (602) 274-1100
 Fax: (602) 274-1199

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF ARIZONA

COUNTY OF MARICOPA

JANET CHEATHAM, individually,
 and on behalf of all others similarly
 situated,

Plaintiff,

vs.

THE ADT CORPORATION, a Delaware
 Corporation, and ADT, LLC d/b/a ADT
 SECURITY SERVICES, a Florida limited
 liability company,

Defendants.

CASE NO.

CV2015-008263

CLASS ACTION COMPLAINT

(Jury Trial Demanded)

Plaintiff Janet Cheatham ("Plaintiff") by and through counsel brings this action individually, and on behalf of all other similarly situated Arizona residents and entities, and for her complaint against Defendants The ADT Corporation ("ADT Corp.") and ADT, LLC d/b/a ADT Security Services ("ADT LLC") (collectively, "ADT"), alleges as follows:

INTRODUCTION

1
2 1. Plaintiff brings this individual and class action to redress ADT's deceptive and
3 unlawful business acts and practices in connection with the sale of wireless home security
4 equipment and monitoring services. Specifically, ADT markets its home security equipment
5 and monitoring services as being safe and reliable, and that ADT uses the most innovative
6 and advanced technology; however, in reality, ADT's wireless signals are *unencrypted* and
7 *unauthenticated*, and as such can easily be intercepted and interfered with by unauthorized
8 third parties. As such, ADT's customers are far less safe than ADT leads them to believe.
9

10
11 2. Through a variety of brands (including ADT, ADT Pulse, and Companion
12 Services), ADT provides electronic security, interactive home and business automation
13 products and related monitoring services to approximately 2,000 residential and small
14 business customers in Arizona.
15

16
17 3. The majority of ADT's annual revenue (typically 90%) is driven by the
18 equipment and services ADT provides, which are governed by multi-year contracts that
19 generate recurring revenue.
20

21 4. ADT's service offerings include the installation and monitoring of residential
22 and small business security and premises automation systems that react to movement, smoke,
23 carbon monoxide, flooding, temperature and other environmental conditions and hazards, and
24 address personal emergencies, such as injuries, medical emergencies or incapacitation.
25

26 5. In its marketing materials, including on its website, ADT represents, *inter alia*,
27 that it "has one of the most trusted and well-known brands in the security industry today."
28

1 Additionally, ADT's marketing materials are intentionally designed to give potential
2 customers the overall net impression that its home security equipment and services are secure
3 and reliable. Indeed, ADT's authorized agent in Arizona does business under the registered
4 trade name "Protect Your Home."
5

6 6. However, ADT's marketing materials and statements are misleading. ADT's
7 home security system wireless signals are unencrypted, unauthenticated, and otherwise
8 insufficiently protected from intrusion and interference by unauthorized third parties.
9 Indeed, it is easy for third parties to hack into ADT's home security wireless signals and
10 interfere with their transmission. For example, third parties can disable or suppress the home
11 security system, or cause the system to activate an alarm when there is actually no security
12 breach.
13

14
15 7. At all relevant times, ADT knew that its home security wireless signals were
16 unencrypted and therefore less safe and reliable than advertised, and that ADT does not use the
17 most innovative and advanced technology.
18

19 8. Yet, despite the ease with which ADT's systems can be breached, ADT does not
20 notify customers about the fact that its wireless systems are unencrypted and insufficiently
21 secure to prevent third parties from interfering with them. To the contrary, all of ADT's
22 marketing materials promote the safety, security, and peace of mind that ADT's systems will
23 provide to its customers.
24
25

26 9. ADT's misleading marketing statements and omissions are particularly egregious
27 in light of the fact that they provide a false sense of security to those individuals and businesses
28

1 that are most vulnerable: individuals and businesses who are seeking the comfort of an extra
2 level of security that a home security system provides.

3
4 10. ADT's knowing misrepresentations and omissions regarding the quality of its
5 home security systems and the safety that the systems provide, and ADT's failure to encrypt or
6 otherwise secure its wireless signals, violates the Arizona Consumer Fraud Act ("CFA"),
7 A.R.S. § 44-1521, *et seq.*, constitutes unjust enrichment and subjects ADT Corp. to strict
8 liability in tort.
9

10 11. Plaintiff, on behalf of herself and the putative Class, seeks declaratory and
11 injunctive relief pursuant to Arizona Rules of Civil Procedure 23(a) and (b)(2) requiring ADT
12 to change its marketing materials and to secure its customers' wireless systems, plus actual
13 damages, statutory damages, exemplary damages, injunctive relief, attorneys' fees, litigation
14 expenses, and costs of suit pursuant to Rule 23(a) and 23(b)(3), for violations of the statutory
15 and common law of the State of Arizona.
16
17

18 12. The allegations in this Complaint are based on the personal knowledge of
19 Plaintiff as to herself, and on information and belief as to all other matters through investigation
20 of Plaintiff's undersigned counsel.
21

22 JURISDICTION

23 13. This Court has original subject matter jurisdiction pursuant to A.R.S. § 12-123.

24 14. Venue is appropriate in this Court pursuant to A.R.S. § 12-401.
25
26
27
28

1 21. ADT describes its home security products and services as “Prevention and
2 protection solutions for your home, family and peace of mind.”

3 22. ADT describes its home automation products and services as “Innovative
4 technology lets you manage your home and lifestyle – anytime, anywhere.”

5 23. Furthermore, ADT markets and advertises its ADT Pulse® service as providing
6 peace of mind as well, stating that “Smart home systems help you stay connected and protected
7 with easy-to-use features that give you peace of mind – practically anywhere, any time.”
8

9
10 ***ADT's Deceptive and Misleading Marketing Statements***

11 24. In marketing materials, including on its website, ADT misrepresents that its home
12 security equipment and services are safe, reliable, and secure. ADT makes these
13 misrepresentations to customers knowing that extra security is the main reason consumers and
14 businesses purchase home security and automation systems.
15

16 25. For example, ADT makes the following representations on its website:
17

- 18 A. Customers can “Get Security You Can Count On. Every Day of
19 the Year”;
- 20 B. “Your haven is armed with 24-hour-a-day protection, 365 days a
21 year”;
- 22 C. Customers can “Live worry-free with ADT Security for less than
23 \$1 a Day”; and
- 24 D. “Fast. Reliable. Security Protection. ADT stays constantly alert
25 with six Customer Monitoring Centers operating day and night
26 across the country. Our Customer Monitoring Centers are
27 nationally connected, equipped with secure communication links
28 and backed by the latest technology so that our security team is
always ready to act the moment an incident occurs.”

1 26. Additionally, ADT emphasizes the importance of having a home security system
2 and the safety it provides to customers and their families. For example, ADT makes the
3 following representations on its website:
4

5 A. “When you want to do everything you can to safeguard your
6 loved ones, your home and your treasured possessions, you owe
7 it to yourself and your family to talk to us about our continuous
8 24/7 protection”;

9 B. “When it comes to you and your family’s safety, we let nothing
10 stand in the way of our professionally trained team immediately
11 working to help ensure your safety”;

12 C. “Only home security monitoring provides you and your family
13 with the reassurance that even when no one’s home, you’re
14 protected against unwanted entry and property loss”;

15 D. “When the alarm is triggered, every second counts”; and

16 E. “When security counts [sp] Count on the company with a fast
17 response time.”

18 27. ADT also represents that it uses advanced and innovative technology. For
19 example, on ADT’s website, there is a section entitled “Innovative Technology.” In that
20 section, ADT states “Our six nationwide Customer Monitoring Centers are operated by state-
21 of-the-art technology backed by powerful equipment and secure communication links. It is this
22 nationwide connection and innovative security technology that gives ADT the ability to
23 provide security protection during adverse conditions.”

24 28. ADT’s marketing materials further highlight ADT’s purported advanced
25 technology. For example, ADT represents that:
26

27 A. “ADT takes pride in using the most advanced technology....”;
28

1 B. "Only ADT has the most security industry experience, is the
2 leader in innovative security technology, and can provide you
3 with the fastest response times";

4 C. "Our experience, technology and people make the difference in
5 your security protection"; and

6 D. "You invest in ADT home security and automation systems to
7 help protect your loved ones. Your satisfaction is important to us,
8 and is the reason we are committed to providing you with state-
of-the-art equipment and service."

9 29. ADT's representations in its marketing materials are designed to give customers
10 the overall impression that ADT wireless home security systems and equipment provide the
11 highest and most advanced level of safety, and that customers can feel secure in trusting that
12 their security systems will work as advertised.
13

14 *ADT's Wireless Systems Are Unencrypted and Easily Hacked*

15 30. Despite its representations in its marketing materials, ADT's wireless systems are
16 unencrypted and unauthenticated, and otherwise insecure. Therefore, ADT's wireless systems
17 are easily accessed and manipulated—or "hacked"—by unauthorized third parties.
18

19 31. By hacking ADT's wireless systems, unauthorized third parties can, *inter alia*,
20 remotely disconnect or turn off the security systems so that customers are unknowingly left
21 unprotected by their systems.
22

23 32. Unauthorized third parties can also hack into ADT's wireless systems and use
24 customers' own security cameras to unknowingly spy on them.
25

26 33. Moreover, unauthorized third parties can manipulate ADT's wireless security
27 systems to falsely report that the alarm was triggered. This causes ADT to call customers and
28

1 ask if they want the police called. Troublingly, third parties can use this tactic to see if
2 specific customers actually have the police summoned to their homes; if not, the third parties
3 can use that information to target those customers for home invasions (or worse).
4

5 34. Upon information and belief, third parties can hack into ADT's wireless systems
6 with, *inter alia*, something as simple as a Software-Defined Radio ("SDR"), which sells on the
7 open market with no restrictions for less than \$10.
8

9 35. ADT knows that its systems are vulnerable to intrusion, and has known for some
10 time. For example, in a statement, an ADT spokesperson said that "There are many
11 experiments conducted each year by professional hackers in controlled environments who seek
12 vulnerabilities within an array of different products and systems. Our customers should know
13 that we take the outcome from any of these tests with the highest level of seriousness, and we
14 continually invest significant resources in modifying and improving our systems
15 accordingly."¹
16
17

18 36. Further demonstrating ADT's knowledge that its wireless systems can be
19 interfered with, upon information and belief, most—if not all—of ADT's alarm panels that it
20 installs in customers' homes and businesses contain a feature that will jam outside signals.
21 However, ADT does not activate this feature for its customers, and indeed, conceals from its
22 customers the fact that this feature is available.
23
24

25 ¹ See [http://www.forbes.com/sites/kashmirhill/2014/07/23/how-your-security-system-could-](http://www.forbes.com/sites/kashmirhill/2014/07/23/how-your-security-system-could-be-used-to-spy-on-you/)
26 [be-used-to-spy-on-you/](http://www.forbes.com/sites/kashmirhill/2014/07/23/how-your-security-system-could-be-used-to-spy-on-you/) (last visited February 5, 2015). This article establishes notice to ADT,
27 not the Plaintiff. Plaintiff became aware of this article less than a year from the date of this
28 Complaint.

1. 37. Despite ADT's knowledge of the shortcomings and promise to modify and
2 improve its systems, ADT has failed to modify or improve its systems to encrypt the wireless
3 signals, or to otherwise make them more secure.
4

5 38. Moreover, ADT does not notify customers that their systems are unencrypted or
6 insufficiently secure. Additionally, despite representing in their contracts with customers that
7 "We have explained the full range of protection, equipment and services available to you,"
8 ADT uniformly fails to explain to its customers the feature in its alarm panels that can jam
9 outside signals.
10

11 39. Instead, ADT misrepresents the security of its wireless systems and its use of
12 purportedly "advanced and innovative technology" in its marketing materials in order to create
13 the net impression that its security systems are secure and not susceptible to outside
14 interference.
15

16 40. Plaintiff and Class members had a reasonable belief that ADT's wireless security
17 equipment would be encrypted or otherwise secured against outside interference. Indeed,
18 ADT's marketing and advertising materials emphasize safety and security, and give the net
19 impression that ADT's wireless security equipment could not easily be breached or interfered
20 with.
21

22 41. Specifics of wireless technology—such as how easily it is to "hack" into the
23 technology—is outside the realm of knowledge of the average consumer. By offering wireless
24 security systems to the public, ADT unquestionably has greater knowledge of wireless
25
26
27
28

1 technology than the average consumer, and therefore, consumers can reasonably expect to rely
2 on ADT's representations regarding the safety and reliability of its wireless security systems.

3
4 42. However, in its marketing materials, ADT does not warn customers to take
5 precautions against hacking, or that these wireless systems can be hacked.

6 43. ADT's misrepresentations and omissions regarding the security of its wireless
7 systems is especially dangerous, as customers review these misrepresentations and believe that
8 they and their families and businesses have an extra layer of protection guarding them when
9 the wireless systems are activated, whereas, in truth, that extra protection is easily disabled or
10 turned against the customers.
11

12
13 44. As a result of ADT's misrepresentations and omissions and ADT's failure to
14 secure its wireless systems, customers are much less safe than they think that they are when
15 ADT's wireless systems are activated.
16

17 45. ADT's misrepresentations and omissions regarding the security of its wireless
18 systems were deliberate and intentional, and were designed to mislead customers as to the
19 security and quality of its wireless systems and actively conceal the systems' shortcomings,
20 because if potential customers knew the truth, they would not have purchased an ADT wireless
21 system. Indeed, the primary—if not sole—function of ADT's wireless systems is to provide
22 safety and security, and ADT's misrepresentations and omissions concern that primary
23 function.
24
25
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1 46. ADT knows that it is possible to encrypt or otherwise secure wireless signals in
2 its security systems, as the encryption technology is available and other companies use it in
3 their security systems.
4

5 **FACTS SPECIFIC TO PLAINTIFF**

6 47. In May 2013, Plaintiff in response to ADT website advertisements for security
7 services contacted ADT about the possible installation of an ADT wireless system at her
8 residence.
9

10 48. On May 29, 2013, Plaintiff signed a contract ("the Contract") under which
11 Protect Your Home agreed to sell and install an ADT Corp. security alarm system in her
12 residence, including ADT Corp. wireless security equipment, such as sensors, a wireless
13 device, and a control box (collectively, the "ADT Corp. Equipment"). Under the same
14 Contract, ADT LLC agreed to provide monitoring services using the ADT Corp. Equipment.
15
16

17 49. Upon information and belief, the terms of Plaintiff's Contract were the same or
18 substantially similar to all Class members' Contracts, as Protect Your Home and ADT LLC
19 use standardized, uniform contracts for all of their Arizona customers.
20

21 50. Although it supplied the ADT Corp. Equipment to Protect Your Home and ADT
22 LLC, ADT Corp. is not itself a party to the Contract.

23 51. In determining whether to enter into the Contract with Protect Your Home and
24 ADT LLC, Plaintiff reviewed, *inter alia*, ADT's marketing and advertising materials,
25 including the statements made on ADT's website set forth above.
26
27
28

1 52. None of the marketing materials that Plaintiff saw prior to entering into the
2 Contract disclosed that the ADT Corp. Equipment was unencrypted, unauthenticated, or
3 otherwise insecure and easily hacked.
4

5 53. On October 28, 2014, Plaintiff upgraded to the ADT "Pulse" system, which
6 added a video camera to her ADT wireless security system.
7

8 54. In November 2014, Plaintiff experienced an incident in which a puppy was
9 removed from its pen while no one was at home. The ADT video footage was compromised
10 during the time the puppy was moved. On several subsequent occasions, items were moved in
11 Plaintiff's residence without detection by the ADT security system.
12

13 55. Plaintiff repeatedly inquired to ADT about these security breaches, but was
14 consistently falsely assured that her ADT wireless system was properly encrypted.
15

16 56. Plaintiff subsequently learned that her ADT wireless security system was not in
17 fact encrypted, as repeatedly represented by ADT.
18

19 57. Had Plaintiff and the Class members known the truth about ADT's misleading
20 representations, or about ADT's omissions regarding the insecurity of ADT Corp.'s
21 Equipment, she and they would not have entered into the Contract or purchased any of the
22 ADT Corp. Equipment.
23

24 58. Plaintiff and the Class members continue to suffer harm as a result of ADT's
25 aforementioned acts and practices, as they remain bound by their Contract with ADT LLC,
26 and will have to pay a penalty if they cancel it.
27
28

CLASS ALLEGATIONS

59. **Class Definition:** Plaintiff brings this action pursuant to Ariz. R. Civ. P. 23(a), (b)(2), and (b)(3), on behalf of herself and a putative Class of similarly situated individuals, defined as follows:

All Arizona residents and entities who entered into an ADT Alarm Services Contract and purchased ADT Corp wireless security equipment (the "Class").

Excluded from the Class are: (1) Defendants, Defendants' agents, subsidiaries, parents, successors, predecessors, and any entity in which Defendants or their parents have a controlling interest, and those entities' current and former employees, officers, and directors; (2) the Judge to whom this case is assigned and the Judge's immediate family; (3) any person who executes and files a timely request for exclusion from the Class; (4) any persons who have had their claims in this matter finally adjudicated and/or otherwise released; and (5) the legal representatives, successors and assigns of any such excluded person.

60. **Numerosity:** The exact number of Class members is unknown and is not available to Plaintiff at this time, but individual joinder in this case is impracticable. Given the size of ADT, the fact that ADT boasts that it has more than a 25% share of the \$11 billion United States residential security and automation industry, and a 13% share of the \$2.4 billion United States small business security and automation industry, the Class likely consists of thousands of individuals and entities in Arizona.

61. **Commonality and Predominance:** There are several questions of law and fact common to the claims of Plaintiff and members of the putative Class, and those questions

predominate over any questions that may affect individual putative Class members. Common questions include, but are not limited to, the following:

- A. whether ADT misrepresents the security and safety that the wireless equipment and monitoring services it provides;
- B. whether ADT misrepresents that it uses advanced and innovative technology in connection with its wireless equipment and monitoring services;
- C. whether the ADT wireless equipment and monitoring services are unencrypted, unauthenticated, or otherwise insecure;
- D. whether ADT Corp. failed to warn customers and potential customers that the ADT Corp. wireless equipment is unencrypted, unauthenticated, or otherwise insecure;
- E. whether ADT Corp. failed to warn customers and potential customers that the ADT Corp. wireless equipment could be hacked;
- F. whether ADT's misrepresentations and omissions regarding the ADT wireless systems constitute an unfair and/or deceptive practice under the Arizona Consumer Fraud Act;
- G. Whether ADT's failure to sufficiently secure its wireless systems is an unfair and/or deceptive practice under the Arizona Consumer Fraud Act;
- H. Whether the ADT Corp. wireless equipment constitute defective products;
- I. Whether Plaintiff and members of the Class were damaged as a result of ADT's conduct alleged herein; and
- J. whether ADT was unjustly enriched as a result of the conduct alleged herein.

62. **Typicality:** Plaintiff's claims are typical of the claims of the Class members. All are based on the same legal and factual issues concerning the conduct of ADT. Plaintiff and

1 each of the Class members entered into ADT LLC's standard, uniform Contract, and
2 purchased the same defective ADT Corp. wireless equipment. Moreover, ADT's
3 aforementioned misrepresentations and omissions were uniformly made to Plaintiff and all
4 Class members.
5

6 63. **Adequacy of Representation:** Plaintiff will fairly and adequately represent and
7 protect the interests of the Class, and has retained counsel competent and experienced in
8 complex class actions. Plaintiff has no interest antagonistic to those of the Class, and ADT has
9 no defenses unique to Plaintiff.
10

11 64. **Superiority:** Class proceedings are superior to all other available methods for
12 the fair and efficient adjudication of this controversy, because joinder of all parties is
13 impracticable. Furthermore, it would be virtually impossible for the individual members of the
14 Class to obtain effective relief because the damages suffered by individual Class members are
15 likely to be relatively small, especially given the burden and cost of individually conducting
16 the complex litigation necessitated by ADT's actions. Even if Class members were able or
17 willing to pursue such individual litigation, a class action would still be preferable due to the
18 fact that a multiplicity of individual actions would likely increase the expense and time of
19 litigation given the complex legal and factual controversies presented in this Complaint. A
20 class action, on the other hand, provides the benefits of fewer management difficulties, single
21 adjudication, economy of scale, and comprehensive supervision by a single court, and would
22 result in reduced time, effort and expense for all parties and the Court, and ultimately, the
23 uniformity of decisions.
24
25
26
27
28

65. Unless a class is certified, ADT will retain monies received as a result of its conduct that was wrongfully taken from Plaintiff and Class members. Unless an injunction is issued, ADT will continue to commit the violations alleged, and the members of the putative Class and the general public will continue to be misled and continue to be less safe and secure in their homes and businesses.

66. By making the uniform misleading marketing statements detailed above, and by failing to adequately secure its wireless systems, ADT has acted and refused to act on grounds generally applicable to the proposed Class, making appropriate final injunctive relief with respect to the proposed Class as a whole.

COUNT I
Violation of the Arizona Consumer Fraud Act
(Against both Defendants)

67. Plaintiff repeats and re-alleges paragraphs 1-66 as though fully set forth herein.

68. At all times relevant hereto, there was in full force and effect the Arizona Consumer Fraud Act ("ACFA"), A.R.S. § 44-1521, *et seq.*

69. Section 44-1522 of the ACFA provides:

The act, use or employment by any person of any deception, deceptive or unfair act or practice, fraud, false pretense, false promise, misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely on such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise whether or not any person has in fact been misled, deceived or damaged thereby.

See A.R.S. § 44-1522(A).

1 70. Each defendant is a “person” within the meaning of the ACFA, and, at all
2 pertinent times, were subject to the requirements and proscriptions of the ACFA with respect
3 to all of their business and trade practices described herein. *See* A.R.S. § 44-1521(6).
4

5 71. ADT Corp.’s wireless equipment and ADT LLC’s monitoring services are
6 “merchandise” within the meaning of the CFA. *See* A.R.S. § 44-1521(5).
7

8 72. ADT made the false promises, misrepresentations, and omissions set forth above
9 in connection with the sale, offers to sell, attempts to sell and advertisement of ADT Corp.’s
10 wireless equipment and ADT LLC’s monitoring services.
11

12 73. ADT’s knowing and intentional false promises, misrepresentations, and
13 omissions set forth above constitute unfair and deceptive acts or practices prohibited by the
14 ACFA. *See* A.R.S. § 44-1522.
15

16 74. ADT’s provision of unencrypted, unauthenticated and otherwise insecure
17 wireless systems to Arizona customers is an unfair and deceptive act or practice prohibited by
18 the ACFA. *See* A.R.S. § 44-1522.
19

20 75. ADT’s false promises, misrepresentations, omissions and practices described
21 herein were designed to, and did in fact, deceive and mislead members of the public, including
22 Plaintiff and Class members, to their detriment.
23

24 76. ADT has engaged in deceptive and unfair acts or practices by, *inter alia*,
25 knowingly misrepresenting the security and advanced technology of the ADT Corp. wireless
26 equipment, failing to notify customers of the insecurity of the ADT Corp. wireless systems,
27
28

1 and failing to encrypt or otherwise secure the ADT wireless systems, which was deceptive and
2 misleading, and likely to deceive the public.

3
4 77. ADT's deceptive and unfair marketing campaign detailed herein was uniform to
5 consumers, including Plaintiff and Class members. Through this extensive and exhaustive
6 marketing campaign, ADT conveyed a uniformly deceptive and misleading message to give
7 the overall impression that consumers and businesses who purchase ADT wireless systems are
8 more secure than they actually are.
9

10 78. ADT intended to deceive and be unfair to Plaintiff and members of the putative
11 Class by engaging in the practices described herein so that ADT could obtain money from its
12 customers. ADT's intent is evidenced by, *inter alia*, its acknowledgement of the insecurity of
13 its wireless systems by its spokesperson in its statement.
14

15 79. ADT intended that Plaintiff and members of the Class rely on their false
16 promises, misrepresentations, and omissions concerning the safety and security of its wireless
17 systems.
18

19 80. Plaintiff and members of the Class relied on ADT's false promises,
20 misrepresentations and omissions to their detriment by purchasing ADT Corp. equipment and
21 the ADT LLC monitoring services.
22

23 81. The safety and security of ADT's wireless systems were material to Plaintiff and
24 Class members purchasing ADT Corp. equipment and ADT LLC monitoring services, and
25 ADT had a duty to accurately disclose that the ADT security systems were unencrypted and
26 not secure.
27
28

1 82. The above-described deceptive and unfair acts and practices were part of a
2 widespread and systematic pattern and/or practice.

3 83. As a direct and proximate result of the foregoing, Plaintiff and members of the
4 Class have been damaged in an amount to be determined at trial, and Plaintiff and members of
5 the Class continue to be damaged as a result of the insecurity of ADT Corp.'s wireless
6 systems.
7

8 84. To recover punitive damages, the plaintiff must "show 'something more' than
9 the conduct necessary to establish the tort" of bad faith. *Thompson v. Better-Bilt Aluminum*
10 *Prods. Co.*, 171 Ariz. 550, 556, 832 P.2d 203, 209 (1992) (quoting Rawlings, 151 Ariz. at 161,
11 726 P.2d at 577). Arizona courts have developed a shorthand reference for this "something
12 more," requiring the plaintiff to "prove that defendant's evil hand was guided by an evil mind."
13 Rawlings, 151 Ariz. at 162, 726 P.2d at 578. The requisite "evil mind" may be found where,
14 although not intending to cause injury, defendant consciously pursued a course of conduct
15 knowing that it created a substantial risk of significant harm to others." *Id.*
16

17 85. ADT's conduct warrants the imposition of punitive damages under Arizona law.
18

19 WHEREFORE, Plaintiff and the Class pray for relief as follows:
20

- 21
- 22 A. Entering judgment in favor of Plaintiff and the Class and
23 against ADT;
 - 24 B. Enjoining ADT's illegal conduct alleged herein and ordering
25 disgorgement of any of their ill-gotten gains;
 - 26 C. Mandatorily enjoining ADT to provide adequate warnings
27 and notice to the Class concerning the vulnerability of ADT
28 systems;

- 1 D. Mandatorily enjoining ADT to secure its wireless systems;
- 2 E. Awarding Plaintiff and the Class actual and punitive
- 3 damages, attorney's fees and costs, including interest thereon,
- 4 as allowed or required by law;
- 5 F. Granting all such further and other relief as the Court deems
- 6 just and appropriate.

7 **COUNT II**

8 **Strict Liability under Arizona Common Law**

9 ***(Against Defendant ADT Corp.)***

10 86. Plaintiff repeats and re-alleges paragraphs 1-66 as though fully set forth herein.

11 87. ADT Corp. is engaged in the business of packaging, distributing and selling

12 products to consumers, including wireless home security products.

13 88. ADT Corp. placed its wireless security equipment, including sensors, controls,

14 and broadcasting and receiving devices, into the stream of commerce.

15 89. At the time the wireless security equipment left ADT Corp.'s control and was

16 placed into interstate commerce, that equipment was defective and unreasonably dangerous

17 because—unknown to consumers—the wireless security equipment used unencrypted and

18 insecure signals that allow unauthorized third parties to access and manipulate those signals.

19 Therefore, the wireless security equipment did not provide adequate home security, which is

20 the intended, ordinary and reasonably expected use for which the equipment was sold.

21

22

23

24 90. ADT's wireless security equipment was expected to and did reach Plaintiff and

25 members of the Class without a substantial change in the condition in which it was sold.

26

27

28

1 91. Plaintiff and members of the Class could not by the exercise of reasonable care
2 have discovered that the wireless security equipment was unencrypted and insecure, and hence
3 unreasonably dangerous.
4

5 92. ADT Corp. knew that its wireless security equipment would be used by
6 consumers, including Plaintiff and members of the Class, without being inspected for this
7 defect.
8

9 93. ADT Corp. could have reasonably and without undue burden designed its
10 wireless security equipment to encrypt or otherwise secure the wireless signals it used.
11

12 94. Alternatively, ADT Corp. could have reduced or avoided the risk of harm posed
13 by the insecure wireless signals by providing Plaintiff and members of the Class with
14 reasonable warnings. ADT Corp.'s failure to adequately warn Plaintiff and the Class members
15 about the defective nature of the wireless security equipment further rendered the equipment
16 defective and unreasonably dangerous.
17

18 95. The defective and unreasonably dangerous condition of the wireless security
19 equipment was the direct and proximate cause of the damages suffered by Plaintiff and
20 members of the Class described herein.
21

22 96. Plaintiff and the members of the Class are not in contractual privity with ADT
23 Corp., and therefore their claims against ADT Corp. are not affected by the economic loss rule.
24

25 WHEREFORE, Plaintiff and the Class pray for relief as follows:

26 A. Entering judgment in favor of Plaintiff and the Class and
27 against ADT Corp.;
28

1 B. Awarding Plaintiff and the Class actual damages, attorney's
2 fees and costs, including interest thereon, as allowed or
3 required by law; and

4 C. Granting all such further and other relief as the Court deems
5 just and appropriate.

6 **COUNT III**

7 **Unjust Enrichment**

8 *(Plead in the alternative to Counts I and II, against both Defendants)*

9 97. Plaintiff repeats and re-alleges paragraphs 1-66 as though fully set forth herein.

10 98. By virtue of the misleading marketing campaign that induced Plaintiff and other
11 Arizona customers into purchasing ADT Corp. equipment and ADT LLC monitoring services,
12 ADT unjustly retained a benefit (*i.e.*, the amount of money paid for the foregoing equipment
13 and services) to the detriment of Plaintiff and the Class.

14 99. ADT's retention of this benefit violates the fundamental principles of justice,
15 equity, and good conscience.

16 100. ADT's retention of the money paid by Plaintiff and Class members for the
17 foregoing equipment and services is without justification because, had Plaintiff and Class
18 members known the truth about ADT's misrepresentations and omissions, they would not
19 have purchased ADT Corp.'s equipment or entered into contracts for ADT LLC's monitoring
20 services.
21
22

23 101. ADT accepted this unjust benefit, and it would be inequitable for ADT to retain
24 the benefit of those monies, as ADT was paid the money as a result of its deceptive and unfair
25 practices.
26
27
28

1 102. If denied relief under Counts One and Two, Plaintiff and the Class do not have
2 an adequate remedy at law for this continued harm, and the balance of the equities weighs in
3 favor of Plaintiff and the Class.
4

5 103. ADT has obtained money to which ADT are not entitled, and interest on that
6 money, and under these circumstances equity and good conscience require that ADT return the
7 money with interest to Plaintiff and the Class.
8

9 104. As a direct and proximate result of the foregoing, Plaintiff and the Class have
10 been damaged in an amount to be determined at trial.
11

12 WHEREFORE, Plaintiff and the Class pray for relief as follows:

- 13 A. Entering judgment in favor of Plaintiff and the Class and
14 against ADT;
- 15 B. Awarding Plaintiff and the Class restitution and any other
16 equitable relief that may be appropriate;
- 17 C. Awarding Plaintiff and the Class actual damages, attorney's
18 fees and costs, including interest thereon, as allowed or
19 required by law; and
- 20 D. Granting all such further and other relief as the Court deems
21 just and appropriate.

22 **JURY DEMAND**

23 Plaintiff demands a trial by jury on all issues so triable.
24
25
26
27
28

1 Dated this 9th day of September, 2015.

2
3 Plaintiff JANET CHEATHAM, individually, and on behalf of
4 all others similarly situated,

5
6 By: William F. Ly
7 *Counsel for the Plaintiff and Putative Class*
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1 BONNETT, FAIRBOURN, FRIEDMAN
2 & BALINT, P.C.
3 FRANCIS J. BALINT, JR. (007669)
4 WILLIAM F. KING (023941)
5 2325 E Camelback Rd.
6 Suite 300
7 Phoenix, AZ 85016
8 Tel: (602) 274-1100
9 Fax: (602) 274-1199

10 *Attorneys for Plaintiff*

11 **SUPERIOR COURT OF THE STATE OF ARIZONA**

12 **COUNTY OF MARICOPA**

13 JANET CHEATHAM, individually,
14 and on behalf of all others similarly
15 situated,

16 Plaintiff,

17 vs.

18 THE ADT CORPORATION, a Delaware
19 Corporation, and ADT, LLC d/b/a ADT
20 SECURITY SERVICES, a Florida limited
21 liability company,

22 Defendants.

CASE NO. CV2015-008263

**CERTIFICATE OF COMPULSORY
ARBITRATION**

23 The undersigned certifies that the largest award sought by the complainant, including
24 punitive damages, but excluding interest, attorneys' fees, and costs **does** exceed the limits set
25 by Local Rule for compulsory arbitration. This case **is not** subject to the Uniform Rules of
26 Procedure for Arbitration.
27
28

1 Dated this 10th day of September, 2015.

2 Plaintiff JANET CHEATHAM, individually, and on behalf of
3 all others similarly situated,

4
5 By: William F. King
6 *Counsel for the Plaintiff and Putative Class*
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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

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FILED BY:

Plaintiff / Petitioner,

vs.

Defendant / Respondent.

NO. CV2015-008263

CERTIFICATE OF SERVICE

SUMMONS & COMPLAINT, CERTIFICATE OF ARBITRATION

MANNER: By serving AMY MCLAREN, a person authorized to accept such service on their behalf, in person.

Services	\$65.00	
Mileage		
Sp. Handl.	\$60.00	
Witness		
Advances		
Cert. Prep	\$10.00	
Other	\$6.50	S/C
Total	\$141.50	

The above is covered by A.R.S. as amended 41-314 & 11-45 and Rules 4, 5 and 45.



SUPERIOR COURT OF THE STATE OF ARIZONA COUNTY OF MARICOPA

CASE NAME: JANET CHEATHAM -VS- THE ADT CORPORATION

CASE NO. CV2015-008263

MICHAEL J. HARRIS
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DOCUMENT DEPOSITORY15 OCT -6 AM 10:08
FILED BY: J. Harris

I, Charles Harris, do swear that I served a Summons and Complaint and a Certificate of Arbitration, addressed to THE ADT Corporation c/o its registered agent The Company Corporation, 1209 Orange St, Wilmington, DE, , by hand delivering to Amy McLaren, the Corporate Operations Manager for the Company Corporation, at the above address on September 29th 2015 at 12:38 a.m. (p.m.)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to penalties relating to unsworn falsification to authorities. I attest that I am legally authorized to service court documents, am over the age of 18 and am not a party in this matter.



Signature of Process Server
Charles Harris
Harris Investigations, LLC
PO Box 304
Lansdale, Pa 19446
215-368-1760

doesn't sign
Signature of Person Served

Amy McLaren
Printed Name

Age 30S Sex: M/F (F) Race: Caucasian/Asian/Afro-American/Indian/Other (Caucasian) Height: 5'5
Weight: 130 Hair: Black/Brown/Gray/Blonde/Red/Other (Brown) Glasses: Y/N (N) Facial hair: Y/N (N)

Sworn to before me on this

30 day of Sept 2015

(Signature)
Notary

DL Investigations & Attorney Support LLC
 1717 E. Morten Ave., Ste. 100
 Phoenix, AZ 85020
 (602) 285-9901

OCT 02 2015

FILED

MICHAEL K. JEANES, Clerk
 By S. Seeley, Deputy

Inv. # 106598 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 IN AND FOR THE COUNTY OF MARICOPA

JANET CHEATHAM; et al.

Plaintiff / Petitioner,

vs.

THE ADT CORPORATION; et al.

Defendant / Respondent.

NO. CV2015-008263

CERTIFICATE OF SERVICE

OUT OF TOWN SERVICE, the undersigned certifies under penalty of perjury: That I am fully qualified pursuant to RCP 4 (d), 4 (e), 45 (b) and/or ARS 13-4072, to serve process in this case, and received for service the following documents in this action:

SUMMONS & COMPLAINT, CERTIFICATE OF ARBITRATION

from Francis J. Balint, Jr. c/o Bonnett, Fairbourn, Friedman & Balint, P.C. on 9/15/15,
 that I personally served copies of these documents on those named below in the manner and time and place shown; and except where noted, all services were made in Maricopa County, Arizona.

NAME: ADT, L.L.C., dba ADT Security Services, c/o CT Corporation Systems

DATE & TIME: 9/25/15 3:25pm

PLACE & 1200 SOUTH PINE ISLAND ROAD PLANTATION, FL 33324, which is his/her place of business.

MANNER: By serving DONNA MOCH, REGISTERED AGENT, a person authorized to accept such service on their behalf, in person.

Statement of Costs

Services	\$50.00	
Mileage		
Sp. Handl.	\$60.00	
Witness		
Advances		
Cert. Prep	\$10.00	S/C
Other	\$5.00	
Total	\$125.00	

 ORIGINAL

The above is covered by A.R.S. as amended 41-314 & 11-45 and Rules 4, 5 and 45.

Francis Balint
BONNETT, FAIRBOURN, FRIEDMAN & BALINT, P.C.
2325 E. Camelback Rd., #300
Phoenix, AR 85016

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

JANET CHEATHAM, individually, and on behalf
of all others similarly situated

Plaintiff,

Case Number: CV2015-008263

AFFIDAVIT OF SERVICE

vs.

THE ADT CORPORATION, a Delaware
Corporation, ADT, LLC d/b/a ADT SECURITY
SERVICES, a Florida limited liability company
Defendant.

Received by DL Investigations on the 25th day of September, 2015 at 1:26 pm to be served on ADT, LLC d/b/a ADT SECURITY SERVICES, A Florida Limited Liability Company c/o CT Corporation Systems, 1200 South Pine Island Road, Plantation, FL 33324.

I, Frances Dixon, being duly sworn, depose and say that on the 25th day of September, 2015 at 3:25 pm, I:

served a REGISTERED AGENT by delivering a true copy of the SUMMONS AND CLASS ACTION COMPLAINT; CERTIFICATE OF ARBITRATION with the date and hour of service endorsed thereon by me, to: Donna Moch as Registered Agent at the address of: 1200 South Pine Island Road, Plantation, FL 33324 on behalf of ADT, LLC d/b/a ADT SECURITY SERVICES, A Florida Limited Liability Company, and informed said person of the contents therein, in compliance with state statutes.

Description of Person Served: Age: 50+, Sex: F, Race/Skin Color: WHITE, Height: 5'3, Weight: 130, Hair: BROWN, Glasses: N


I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served.

Subscribed and Sworn to before me on the 29th day
of September, 2015 by the affiant who is personally
known to me.


NOTARY PUBLIC



JOHN B. McADAMS
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE208129
Expires 8/11/2016


Frances Dixon
SPS #620

DL Investigations
1717 E. Morten Ave., Suite 100
Phoenix, AZ 85020
(602) 285-9901

Our Job Serial Number: FED-2015000943
Ref: Invoice: 106598

EXHIBIT B

1 J. Steven Sparks/Bar No. 015561
2 **SANDERS & PARKS, P.C.**
3 3030 North Third Street, Suite 1300
4 Phoenix, AZ 85012-3099
5 Direct Phone: (602) 532-5769
6 Direct Fax: (602) 230-5051
7 Steve.Sparks@sandersparks.com

8 *Attorney for Defendants The ADT Corporation*
9 *and ADT, LLC, d/b/a ADT Security Services*

10 **UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 JANET CHEATHAM, individually, and on
13 behalf of all others similarly situated,

14 Plaintiff,

15 v.

16 THE ADT CORPORATION, a Delaware
17 Corporation, and ADT, LLC, d/b/a ADT
18 Security Services, a Florida limited liability
19 company,

20 Defendants.

Case No.:

**DECLARATION OF
RYAN PETTY**

21 RYAN PETTY hereby declares under penalty of perjury:

22 1. I am the Vice President of Product Development & Innovation for the defendant,
23 ADT LLC. I have personal knowledge of the facts stated herein, and I could and would
24 competently testify to them if called as a witness.

25 2. ADT, like all alarm services providers, does not make its own alarm system panels
26 and sensors. Instead, ADT purchases these components from third-party manufacturers such as
Honeywell and GE Security. My duties at ADT include the selection and purchase of alarm
system components from these manufacturers for use in our customers' alarm systems.

1 3. I understand that the plaintiff, Janet Cheatham, has brought a lawsuit on behalf of
2 all Arizona residents with unencrypted wireless alarm systems. I understand, further, that
3 among Ms. Cheatham's demands is a request for a mandatory injunction requiring ADT to
4 replace the class members' alarm systems with equipment capable of operating via encrypted
5 signals.

6 4. Wireless alarm equipment that operates with encrypted signals has not been
7 commercially available for most installations until very recently. ADT has not installed such
8 equipment in the premises of its Arizona residential or most business customers because the
9 costs have been prohibitively expensive. Today, however, it is possible to purchase a basic
10 "DMP Kit" – that is, the alarm panel and the core sensors that form the heart of every alarm
11 system – that operates on encrypted signals for about \$235 per kit. Most customers will
12 purchase additional sensors to provide additional protection as required by the size and location
13 of the protected home or business.

14 5. It is not a simple exercise to state the number of ADT customers in Arizona who
15 are using wireless alarm systems. Older systems rely on wired sensors. Most new alarm panels
16 operate wirelessly. But there are a large number of ADT customers with alarm panels that
17 interact with both wired and wireless sensors. It cannot be readily determined from ADT's
18 records which of these customers have wired sensors, and which have wireless sensors. The
19 ones with wired sensors would not be class members, while, obviously, those using wireless
20 sensors would fall within the class definition.

21 6. ADT's records do show, however, that ADT has 30,259 customers in the State of
22 Arizona with alarm panels that rely exclusively on signals from wireless sensors. The class that
23 Ms. Cheatham proposes will be much larger than this group for the reasons stated in the
24 preceding paragraph. But for the purposes of calculating a *minimum* amount in controversy for
25 Ms. Cheatham's proposed class, it by definition must include no fewer than the 30,259 ADT
26 customers in Arizona whose panels work only with wireless sensors.

7 8. ADT does not have sufficient information to state with certainty its costs of
8 complying fully with such an injunction. But at a minimum, it would cost ADT \$7,110,865 to
9 provide a basic DMP kit to each of the 30,259 Arizona customers known with certainty to be
10 within the putative class definition, and it would cost ADT an additional \$7,262,160 to install
11 the kits. Such partial compliance would therefore cost ADT \$14,373,025. This amount
12 understates the costs of compliance with such an injunction because many customers will
13 require additional sensors not included in the basic DMP kit, and because many other ADT
14 customers will also fall within the proposed class definition.

9. I understand that Ms. Cheatham also demands other forms of relief such as restitution of sums the class had paid to ADT, and various forms of damages. I am not qualified to speak to these elements of Ms. Cheatham's demand, and confine my declaration testimony to the costs of ADT's compliance with the injunction Ms. Cheatham seeks.

19 *As provided by 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is*
20 *true and correct.*

21


22 Executed on October 22, 2015.

23

24

25

26


Ryan Petty

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff
(s): **Janet Cheatham**

County of Residence: Maricopa

County Where Claim For Relief Arose: Maricopa

Plaintiff's Atty(s):

**Francis J. Balint Jr.
Bonnett, Fairbourn, Friedman & Balint, P.C.
2325 E. Camelback Rd., Ste. 300
Phoenix, Arizona 85016
(602) 274-1100**

Defendant The ADT Corporation ; ADT, LLC
(s): **d/b/a ADT Security Services**

County of Residence: Outside the State of Arizona

Defendant's Atty(s):

**J. Steven Sparks
Sanders & Parks, P.C.
3030 North Third St., Ste. 1300
Phoenix, Arizona 85012-3099
(602) 532-5769**

II. Basis of Jurisdiction: **4. Diversity (complete item III)**

III. Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff: **- 1 Citizen of This State**

Defendant: **- 5 Non AZ corp and Principal place of Business outside AZ**

IV. Origin : **2. Removed From State Court**

V. Nature of Suit: **385 Property Damage Product Liability**

VI. Cause of Action: **28 U.S.C. sec. 1332(d)(2)**

VII. Requested in Complaint

Class Action: **Yes**

Dollar Demand:

Jury Demand: **Yes**

VIII. This case is not related to another case.

Signature: **J. Steven Sparks**

Date: **10-26-2015**

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014

**SUPPLEMENTAL CIVIL COVER SHEET
FOR CASES REMOVED FROM ANOTHER JURISDICTION**

This form must be attached to the Civil Cover Sheet at the time
the case is filed in the United States District Clerk's Office

Additional sheets may be used as necessary.

1. Style of the Case:

Please include all Plaintiff(s), Defendant(s), Intervenor(s), Counterclaimant(s), Crossclaimant(s) and Third Party Claimant(s) still remaining in the case and indicate their party type. Also, please list the attorney(s) of record for each party named and include their bar number, firm name, correct mailing address, and phone number (including area code).

<u>Party</u>	<u>Party Type</u>	<u>Attorney(s)</u>
Janet Cheatham	Plaintiff	Francis J. Balint, Jr. William F. King Bonnett, Fairbourn, Friedman & Balint, P.C. 2325 E. Camelback Rd., Ste. 300 Phoenix, AZ 85016 (602) 274-1100
The ADT Corporation and ADT, LLC, d/b/a ADT Security Services	Defendants	J. Steven Sparks Sanders & Parks, P.C. 3030 North Third St., Ste. 1300 Phoenix, AZ 85012-3099 (602) 532-5769

2. Jury Demand:

Was a Jury Demand made in another jurisdiction? Yes ☒ No ☐
If "Yes," by which party and on what date?

3. Answer:

Was an Answer made in another jurisdiction? Yes ☐ No ☒
If "Yes," by which party and on what date?

4. Served Parties:

The following parties have been served at the time this case was removed:

<u>Party</u>	<u>Date Served</u>	<u>Method of Service</u>
The ADT Corporation and ADT, LLC	09-25-2015	C T Corporation System

5. Unserved Parties:

The following parties have not been served at the time this case was removed:

<u>Party</u>	<u>Reason Not Served</u>

6. Nonsuited, Dismissed or Terminated Parties:

Please indicate changes from the style of the papers from another jurisdiction and the reason for the change:

<u>Party</u>	<u>Reason for Change</u>

7. Claims of the Parties:

The filing party submits the following summary of the remaining claims of each party in this litigation:

<u>Party</u>	<u>Claims</u>

Pursuant to 28 USC § 1446(a) a copy of all process, pleadings, and orders served in another jurisdiction (State Court) shall be filed with this removal.