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*Counsel for Plaintiff and the Putative Class*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

MICHEL SASSINE, individually and on  
behalf of all others similarly situated,

*Plaintiff,*

v.

NETGEAR, INC., a Delaware corporation.

*Defendant.*

Case No.:

**CLASS ACTION COMPLAINT FOR:**

- (1) Violation of Cal. Bus. & Prof. Code §§ 17200 et seq.;**
- (2) Breach of Express Warranty;**
- (3) Breach of Contract; and**
- (4) Unjust Enrichment.**

**DEMAND FOR JURY TRIAL**

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

Plaintiff Michel Sassine (“Plaintiff” or “Sassine”) brings this Class Action Complaint and Demand for Jury Trial against Defendant Netgear, Inc. (“Defendant” or “Netgear”), for deleting consumers’ personal files from their Netgear storage devices. Plaintiff, for his Complaint, alleges as follows upon personal knowledge as to himself and his own acts and experiences, and as to all other matters, upon information and belief, including investigation conducted by his attorneys:

**NATURE OF THE ACTION**

1. Defendant Netgear is a computer networking company that sells networking hardware to consumers, businesses, and service providers.

2. Among the products Netgear sells is its Network Attached Storage (“NAS”) devices,

1 branded under the “ReadyNAS” product line. In general, a NAS is an enclosure containing a  
2 number of hard drives that connects to a user’s local network and acts as a centralized storage hub.  
3 Authorized users on the local network can access the NAS and its files.

4 3. The primary purpose of a NAS is to store, backup, and share files across a network,  
5 such as photographs, documents, music, and videos. Consumers pay a premium for a NAS over  
6 conventional hard drives or traditional external drives (e.g., USB hard drives) because NAS devices  
7 offer additional file protections and redundancies, that is, synchronized copies of data for backup  
8 purposes.

9 4. Indeed, Netgear advertised that its ReadyNAS devices offer “5 levels of protection”  
10 that safeguard against file loss. The protections include anti-virus protection and built-in redundant  
11 storage in the event of a hard drive failure.

12 5. Beyond the built-in protections, Netgear’s other advertised feature for the  
13 ReadyNAS product line was its “ReadyCLOUD” functionality. With ReadyCLOUD, users could  
14 connect to their ReadyNAS devices even when not on their local network. Through this remote  
15 connection over the Internet, users could manage their ReadyNAS device and access files on their  
16 local ReadyNAS device.

17 6. Despite Netgear’s express promises to safeguard consumers’ files, in March of 2017,  
18 Netgear remotely triggered the wholesale destruction of its customers’ data (the “Deletion  
19 Command”).

20 7. As a consequence of Netgear’s Deletion Command, consumers’ family photographs,  
21 videos, and business documents (among other files entrusted to the purported protections of the  
22 ReadyNAS devices) were deleted without warning. Worst yet, and due to the design of the  
23 ReadyNAS devices, the Deletion Command caused irreversible deletion, which was further  
24 exacerbated by Netgear’s failure to notify users that their personal files were deleted. As a result,  
25 users lost out on any chance of recovering deleted files.

## 26 PARTIES

27 8. Plaintiff Michel Sassine is a natural person and a citizen of the State of New York.

9. Defendant Netgear, Inc., is a corporation organized and existing under the laws of Delaware with its principal place of business located at 350 East Plumeria Drive, San Jose, California 95134.

### JURISDICTION AND VENUE

10. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2), because (i) at least one member of the Class is a citizen of a different state than the Defendant, (ii) the amount in controversy exceeds \$5,000,000, exclusive of interests and costs, and (iii) none of the exceptions under that subsection apply to this action.

11. This court has personal jurisdiction over Defendant and venue is proper because Defendant resides in this District, the events giving rise to this lawsuit occurred, in substantial part, in the state of California, and Defendant conducts business in California and through this District.

### COMMON FACTUAL ALLEGATIONS

#### *Overview of Netgear and ReadyNAS.*

12. Netgear is a network hardware company that markets and sells its products to consumers, businesses, and service providers.

13. Netgear sells a line of ReadyNAS Network Attached Storage (“NAS”) devices for the consumer, “prosumer” (i.e., consumers looking for “professional” grade equipment), and business market.

14. A NAS is a storage device containing multiple hard drives that connects to a users’ local area network (“LAN”). A NAS allows all authorized individuals on the LAN to access the NAS’s files and functions as a secure central file-storage hub for consumers and businesses.

15. For instance, consumers upload their family photos and videos, pictures captured on their phones and digital cameras, and digital media, in general, to their ReadyNAS devices. According to Netgear, ReadyNAS devices are a “storage solution for media content captured on your smartphone, DSLR, or GoPro action camera.”<sup>1</sup>

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<sup>1</sup> *ReadyNAS RBU Series / Connected Storage / Home / NETGEAR*,

1           16.     Additionally, consumers may host their multimedia such as music (e.g., their entire  
2 iTunes music library), movies, and television shows on their NAS device in order to stream it to  
3 multiple devices throughout their home.

4           17.     Working professionals or “prosumers,” like photographers and videographers, rely  
5 on their ReadyNAS devices to make a living by storing their own and their clients’ photos and  
6 videos.

7           18.     Likewise, businesses heavily rely on NAS devices. A NAS allows a business to store  
8 and share important business files and documents so that employees can access the files from a  
9 central location. For instance, a business can store their client information, invoices, billing records,  
10 and documents on a NAS. According to Netgear, “running a successful business often depends on  
11 successful file sharing—application data, virtual images, client files, email, all the digital files that  
12 make your business go. With ReadyNAS you finally have an advanced and easy-to-use solution for  
13 centralizing, securing, and sharing those critical assets.”<sup>2</sup>

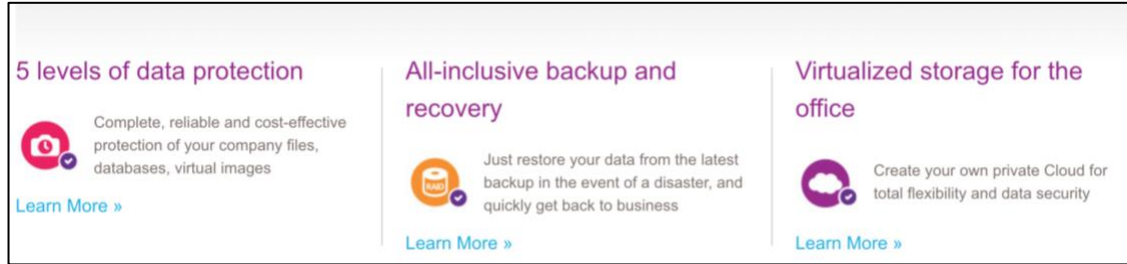
14           19.     Consumers pay a premium over conventional hard drives and external storage drives  
15 (like USB drives, SD cards, and portable hard drives) because NAS devices—like Netgear’s  
16 ReadyNAS—provide greater file protection and file management capabilities.

17           20.     Netgear markets the ReadyNAS device as a complete file protection solution that  
18 will safeguard consumers’ personal files. For example, ReadyNAS webpage promises “Complete,  
19 reliable and cost-effective protection of your company files, databases, virtual images.” *See Figure*  
20 1.<sup>3</sup>

21  
22  
23  
24 <https://www.netgear.com/home/products/connected-storage/readynas.aspx#tab-featurevideos> (last  
visited Feb. 28, 2018).

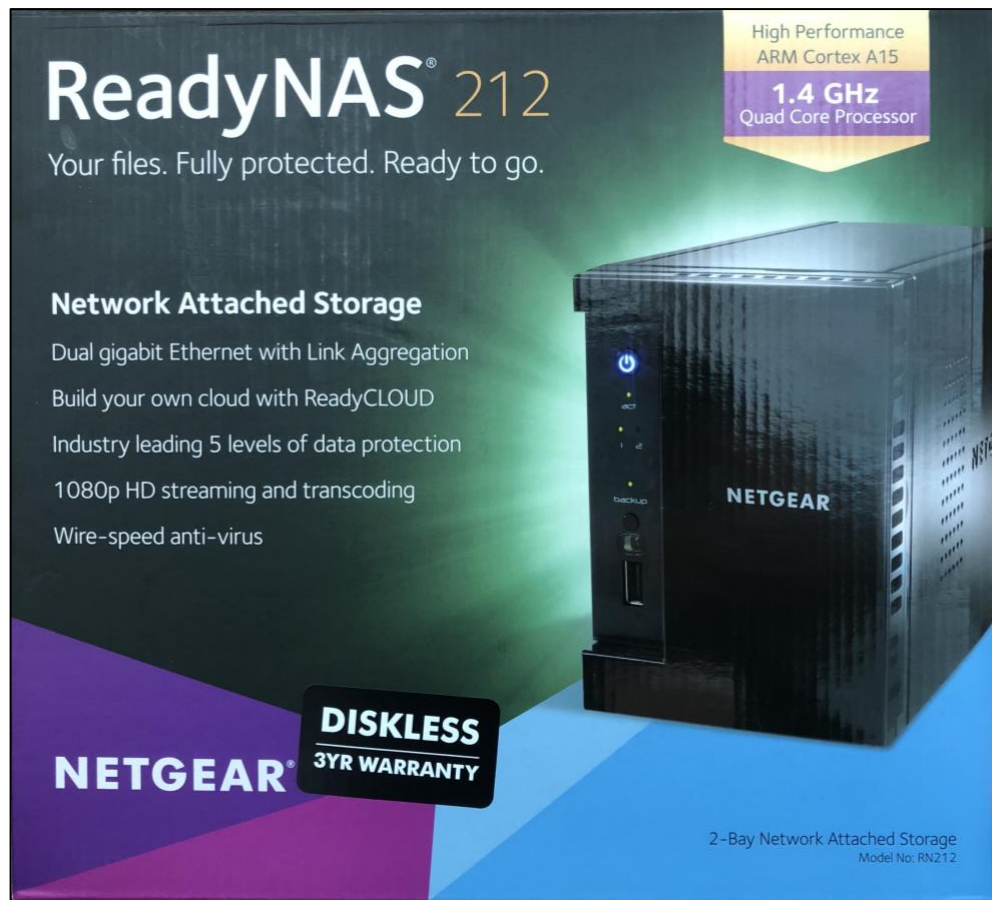
25 <sup>2</sup> *ReadyNAS for Business / Business Desktop Storage / NETGEAR*,  
26 <https://www.netgear.com/business/products/storage/readynas/readynas-desktop.aspx#tab-solutions>  
(last visited Feb. 28, 2018).

27 <sup>3</sup> *ReadyNAS for Business / Business Desktop Storage / NETGEAR*,  
28 <https://www.netgear.com/business/products/storage/readynas/readynas-desktop.aspx> (last visited  
Feb. 1, 2018).



(Figure 1.)

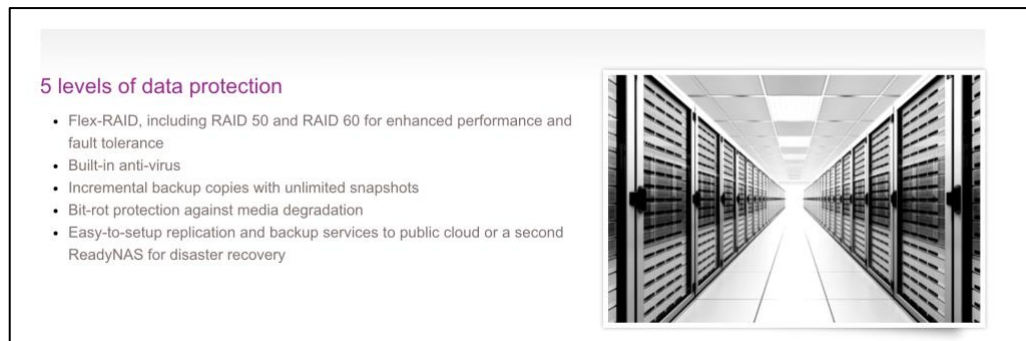
21. Netgear also devotes significant space on the ReadyNAS packaging promising the data protections it offers with statements like “Your files. Fully protected. Ready to go,” and “Industry leading 5 levels of data protection.” See Figure 2.



(Figure 2, showing the ReadyNAS packaging.)

22. Netgear further explains that its “5 levels of data protection” means a bevy of technical solutions to ensure data integrity: real-time anti-virus protection, bit-rot protection, and RAID functionality. While anti-virus protection safeguards against malicious files and viruses

invading consumers' hard drives, bit-rot protection ensures consumers' files are not corrupted over time due to a hard drive's natural deterioration. Similarly, a RAID (a Redundant Array of Inexpensive Disks) protects data in the event of a hard drive failure by storing the same data across multiple hard drives inside the NAS. *See Figure 3.*



**(Figure 3.)**<sup>4</sup>

23. A NAS also serves as a back-up for consumers' computers and devices through its "incremental backup copies with unlimited snapshots" feature. *Id.* ReadyNAS can store PC users' computer backups, Mac users' Time Machine backups, and smartphone backups. According to the ReadyNAS packaging, consumers can "sync folders between ReadyNAS and PCs" and ReadyNAS has "Time Machine backup support for all the Macs in your home."

24. Together with the promised data protections, the ReadyNAS features the ability to access a local ReadyNAS device remotely (i.e., over the internet) with the ReadyCLOUD feature. According to Netgear, "ReadyCLOUD is a free service that allows you to access files on your ReadyNAS...anytime, anywhere, or from any web-enabled device."<sup>5</sup>

25. In other words, ReadyCLOUD turns a consumer's local ReadyNAS device into a personal cloud storage system that can share files throughout the home, business, or anywhere in the world. Consumers can access their files through the ReadyCLOUD web portal, the ReadyCLOUD

<sup>4</sup> ReadyNAS for Business / Business Desktop Storage / NETGEAR, <https://www.netgear.com/business/products/storage/readynas/readynas-desktop.aspx> (last visited Jan. 22, 2018).

<sup>5</sup> ReadyCLOUD, <http://readycloud.netgear.com/client/en/what-is-readycloud.html> (last visited Jan. 26, 2018).



1 mobile application, or the ReadyCLOUD desktop application on a Mac or PC.

2 26. Indeed, Netgear sought to compete against popular cloud storage services, like  
3 Google Drive and Dropbox, by allowing consumers to host their own files on their ReadyNAS  
4 device without paying monthly fees. With ReadyNAS, Netgear offered a product where consumers  
5 could maintain control of their own files and not turn them over to a third party (e.g., Dropbox).

6 27. The thrust of Netgear's promises was that data stored on the ReadyNAS device  
7 would be secure and protected. Consumers and prosumers purchased Netgear's ReadyNAS because  
8 they believed they were purchasing "full protection" of their valuable data and files.

9 ***Netgear Issued The Deletion Command, Erasing Consumers' Valuable Data.***

10 28. On March 30, 2017, consumers woke up to find that their personal files had been  
11 deleted from their local ReadyNAS devices. All personal photos, videos, business documents, and  
12 other important documents were deleted without warning.

13 29. Panicked consumers turned to Netgear for immediate help. Unfortunately, Netgear  
14 remained silent regarding this issue for several days, thus leaving consumers clueless about what  
15 steps (if any) they could take to attempt to recover their files.

16 30. On April 4, 2017, Netgear issued a statement on its community forum regarding  
17 consumers' missing data. In explaining the issue, Netgear admitted that it had issued a Deletion  
18 Command that triggered the wholesale destruction of its customers' data from their local  
19 ReadyNAS devices. According to Netgear:

20 ReadyCLOUD had an issue on March 30th, 2017 between 1:00 AM and  
21 12:00 PM US Pacific time, which caused ReadyNAS devices to leave  
22 ReadyCLOUD. This incident stopped the connection from your ReadyNAS  
23 to the Cloud and may be preventing you from accessing your ReadyNAS  
24 remotely. Also, private home shares for ReadyCLOUD users were removed  
as part of a ReadyCLOUD user cleanup mechanism (which has since been  
disabled).<sup>6</sup>

25 31. Sometime after Netgear issued the Deletion Command, moderators on Netgear's

26  
27 <sup>6</sup> *Having ReadyCLOUD problems since 3/30/17? - NETGEAR Communities*,  
<https://community.netgear.com/t5/ReadyCLOUD/Having-ReadyCLOUD-problems-since-3-30-17/td-p/1259697> (last visited Jan. 26, 2018).

1 community forums provided critical information regarding the steps a user could take in order to  
2 increase his or her chances of recovering deleted files. For instance, Netgear advised users not to  
3 enable ReadyCLOUD on their ReadyNAS devices and to switch their ReadyNAS into “read only  
4 mode” in order to prevent overwriting deleted data.

5 32. Netgear’s statement, however, was not directly communicated to affected  
6 ReadyNAS customers. Instead, Netgear assumed ReadyNAS users would navigate to its community  
7 forum themselves, and find this important communication among hundreds of posts.

8 33. Finally, on April 20, 2017—three weeks after Netgear issued the Deletion  
9 Command—Netgear notified its customers directly via email regarding their missing files and  
10 advised them to review their ReadyNAS to determine whether it was affected.

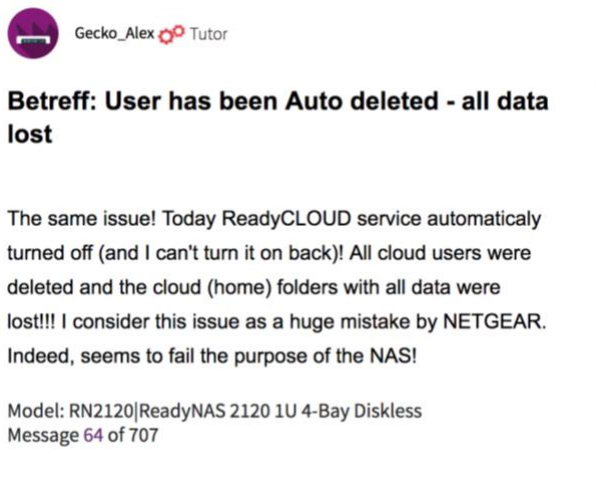
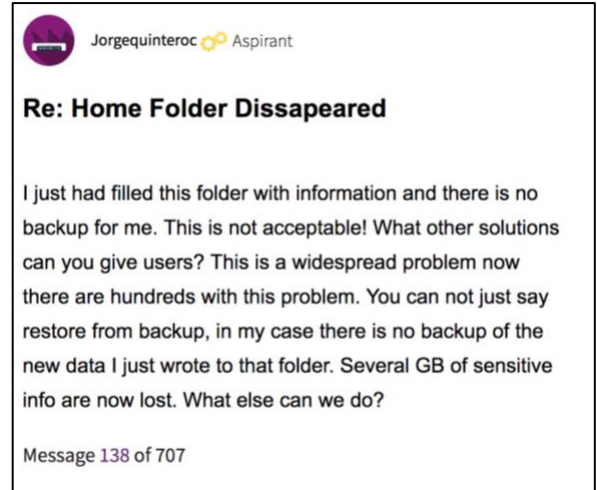
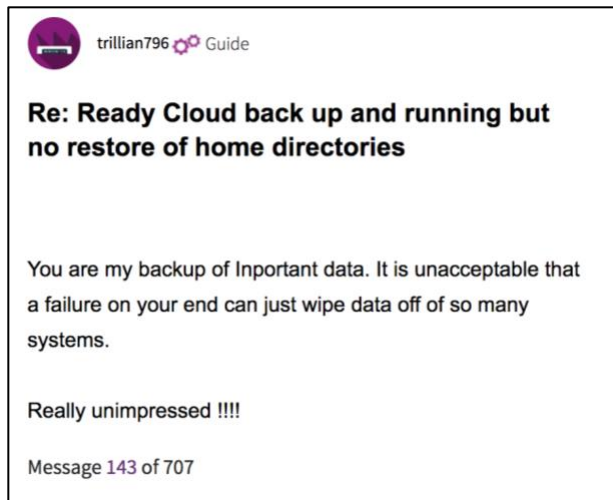
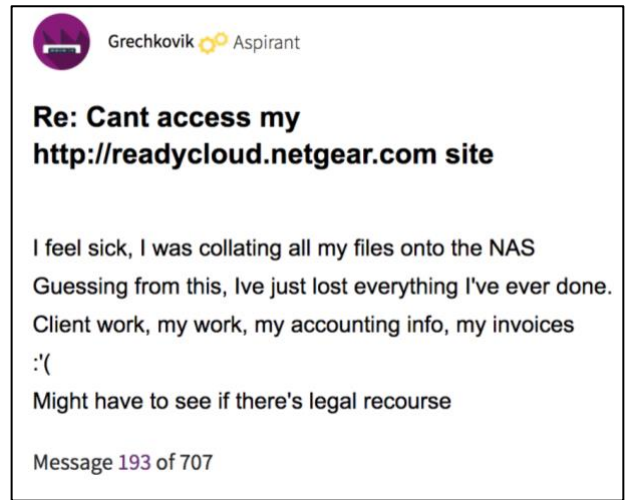
11 34. Unfortunately, Netgear’s delay exasperated the issue and decreased any chances of  
12 recovering deleted files. Because Netgear did not immediately advise ReadyNAS customers what  
13 steps to take after it issued the Deletion Command, consumers’ personal data was irreversibly and  
14 permanently deleted. For example, had ReadyNAS customers put their device into “read only  
15 mode” immediately after Netgear issued the Deletion Command, they may have had greater success  
16 in recovering some of their deleted files.

17 35. When it issued the Deletion Command, Netgear unilaterally deleted ReadyNAS  
18 customers’ locally-stored files without any notice or permission and sidestepped any purported  
19 protections, including its promises that consumers files would be “fully protected” by “industry  
20 leading 5 levels of protection.”

21 36. Netgear breached its agreement with ReadyNAS customers to store and protect their  
22 valuable data and files by deleting them instead.

23 37. After Netgear issued the Deletion Command, customers publically complained on  
24 Netgear forums and shared their experience. One forum thread regarding this issue alone had over  
25 700 posts by consumers and Netgear moderators. *See Figures 4-7.*



**(Figure 4.)****(Figure 5.)****(Figure 6.)****(Figure 7.)**

### FACTS SPECIFIC TO PLAINTIFF SASSINE

38. Plaintiff Sassine purchased a Netgear ReadyNAS RN104 on or around March 2015.

39. Sassine uploaded approximately 5 terabytes (TB) of files to his ReadyNAS device including, *inter alia*, family photographs, vacation photos and videos, pictures he took from his cellphone throughout the years, drone and GoPro videos, movies, music, and his writing projects from college. A majority of Sassine's files have a priceless sentimental value that he entrusted Netgear's NAS to protect.



1 timely request for exclusion from the Class; (4) persons whose claims in this matter have been  
2 finally adjudicated on the merits or otherwise released; (5) Plaintiff's counsel and Defendant's  
3 counsel; and (6) the legal representatives, successors, and assigns of any such excluded persons.

4       48.     **Numerosity:** The exact number of Class members is unknown and not available to  
5 Plaintiff at this time, but it is clear that individual joinder is impracticable. Class members can be  
6 identified through Defendant's records.

7       49.     **Commonality and Predominance:** There are many questions of law and fact  
8 common to the claims of Plaintiff and the putative Class, and those questions predominate over any  
9 questions that may affect individual members of the Class. Common questions for the Class  
10 include, but are not necessarily limited to the following:

- 11             a.     Whether Defendant Netgear violated Cal. Bus. & Prof. Code §§ 17200 *et*  
12                     *seq.*;
- 13             b.     Whether Defendant breached its express warranty pursuant to Cal. Comm.  
14                     Code § 2313;
- 15             c.     Whether Defendant breached its contract with Plaintiff and the Class; and
- 16             d.     Whether Defendant, in the alternative, was unjustly enriched.

17       50.     **Typicality:** Plaintiff's claims are typical of other members of the Class, in that  
18 Plaintiff and the Class members sustained damages arising out of Defendant's uniform wrongful  
19 conduct.

20       51.     **Adequate Representation:** Plaintiff will fairly and adequately represent and protect  
21 the interests of the Class and has retained counsel competent and experienced in complex class  
22 actions. Plaintiff has no interest antagonistic to those of the Class, and Defendant has no defenses  
23 unique to Plaintiff.

24       52.     **Policies Generally Applicable to the Class:** This class action is appropriate for  
25 certification because Defendant has acted or refused to act on grounds generally applicable to the  
26 Class as a whole, thereby requiring the Court's imposition of uniform relief to ensure compatible  
27 standards of conduct toward the members of the Class, and making final injunctive relief

1 appropriate with respect to the Class as a whole. Defendant's policies challenged herein apply and  
 2 affect members of the Class uniformly and Plaintiff's challenge of these policies hinges on  
 3 Defendant's conduct with respect to the Class as a whole, not on facts or laws applicable only to  
 4 Plaintiff. Plaintiff and the members of the Class have suffered harm and damages as a result of  
 5 Defendant's unlawful and wrongful conduct.

6       53.     **Superiority:** This case is also appropriate for class certification because class  
 7 proceedings are superior to all other available methods for the fair and efficient adjudication of this  
 8 controversy because joinder of all parties is impracticable. The damages suffered by the individual  
 9 members of the Class will likely be relatively small, especially given the burden and expense of  
 10 individual prosecution of the complex litigation necessitated by Defendant's actions. Thus, it would  
 11 be virtually impossible for the individual members of the Class to obtain effective relief from  
 12 Defendant's misconduct. Even if members of the Class could sustain such individual litigation, it  
 13 would still not be preferable to a class action because individual litigation would increase the delay  
 14 and expense to all parties due to the complex legal and factual controversies presented in this  
 15 Complaint. By contrast, a class action presents far fewer management difficulties and provides the  
 16 benefits of single adjudication, economies of scale, and comprehensive supervision by a single  
 17 Court. Economies of time, effort, and expense will be fostered and uniformity of decisions ensured.

18                                   **FIRST CAUSE OF ACTION**  
 19                                   **Violation of California's Unfair Competition Law**  
 20                                   **Cal. Bus. & Prof. Code §§ 17200**  
 21                                   **(On Behalf of Plaintiff and the Class)**

22       54.     Plaintiff incorporates the foregoing allegations as if fully set forth herein.

23       55.     California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*  
 24 ("UCL"), protects both consumers and competitors by promoting fair competition in commercial  
 25 markets for goods and services.

26       56.     The UCL prohibits any unlawful, unfair, or fraudulent business acts or practices.

27       57.     As described, Defendant entered into contracts with consumers of its ReadyNAS  
 28 devices and accepted payments from consumers based on the understanding that the ReadyNAS  
 device would store and protect consumers' data. Defendant then systematically breached its existing

1 contractual obligations with its ReadyNAS customers when it unilaterally deleted their files from  
2 their local ReadyNAS devices.

3 58. This practice of entering sales contracts and systematically breaching them has a  
4 negative impact on competition. Plaintiff and the Class would not have entered into these contracts  
5 with Defendant, as opposed to other popular cloud storage services like Google Drive and Dropbox,  
6 nor would have paid as much for the ReadyNAS device, had they known that the device would not  
7 store and protect their data, as promised. This harm outweighs any purported benefit to Defendant.

8 59. Plaintiff and Class members have suffered harm in the form of loss of the bargained-  
9 for benefit and actual monetary damages resulting from Defendant's conduct.

10 60. As such, Plaintiff, on behalf of a Class of similarly situated individuals, seeks an  
11 award of actual damages, costs, and reasonable attorneys' fees.

12 **SECOND CAUSE OF ACTION**  
13 **Breach of Express Warranties**  
14 **Pursuant to Cal. Comm. Code § 2313**  
15 **(On Behalf of Plaintiff and the Class)**

16 61. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

17 62. Pursuant to California Commercial Code § 2313, Defendants' sale of ReadyNAS  
18 devices included express warranties created by its affirmations of fact and promises made through  
19 its advertising, website, and product packaging.

20 63. Defendant's express warranties include affirmations of fact and promises that its  
21 ReadyNAS devices would store and "fully protect[]" Plaintiff's and Class members' files with "5  
22 levels of data protection." Plaintiff and the Class saw and read these affirmations either on their  
23 product's packaging or in its advertising campaign (including Netgear's website) prior to  
24 purchasing the ReadyNAS devices.

25 64. These affirmations formed the basis for the bargain, in that Plaintiff and the Class  
26 members believed that they were purchasing a product that would protect their files. But for  
27 Defendant's affirmations and promises, Plaintiff and the Class would not have purchased the  
28 ReadyNAS devices (or would have paid less for them).

65. Defendant breached its express warranty because it unilaterally deleted Plaintiff's

1 and Class members' files from their ReadyNAS devices and the ReadyCLOUD.

2 66. Defendant's breach of express warranties injured Plaintiff and Class members  
3 because they did not receive their bargained-for benefit and were damaged by the loss of their files.

4 67. By serving this Complaint, Plaintiff and the Class hereby give Defendants notice that  
5 they have breached their express warranties and request maximum damages as provided by the  
6 California Commercial Code.

7 **THIRD CAUSE OF ACTION**  
8 **Breach of Contract**  
9 **(On Behalf of Plaintiff and the Class)**

10 68. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

11 69. Plaintiff and the Class members entered into agreements with Defendants whereby  
12 Defendants agreed to sell, and Plaintiff and the Class agreed to purchase, ReadyNAS device(s) that  
13 would store and protect their files.

14 70. Based on this agreement, Plaintiff and the Class members paid—and Defendants  
15 accepted—the purchase price of the ReadyNAS devices, and therefore Plaintiff and the Class  
16 members performed their obligations under the contracts.

17 71. Defendant, however, did not adequately perform its obligations under the contract  
18 with Plaintiff and the Class members, because the ReadyNAS devices failed to store and protect  
19 Plaintiff's and Class members' files. In fact, Defendant unilaterally deleted Plaintiff's and Class  
20 members' files from their ReadyNAS device(s) and Defendant's ReadyCLOUD.

21 72. Defendant's breach of contract has proximately caused Plaintiff and the Class  
22 members economic injury and other damages because they purchased a product that does not  
23 perform as represented by Defendant and lacks the promised and paid-for utility.

24 **FOURTH CAUSE OF ACTION**  
25 **Unjust Enrichment**  
26 ***In the Alternative to Breach of Contract and***  
27 ***Breach of Express Warranties under Cal. Comm. Code § 2313***  
28 **(On Behalf of Plaintiff and the Class)**

73. Plaintiff incorporates the foregoing allegations as if fully set forth herein, excluding  
paragraphs 64-74.



74. Defendant has knowingly received and retained benefits from Plaintiff and Class members under circumstances that would render it unjust to allow Defendant to further retain such benefits.

75. Defendant knowingly received and appreciated benefits at the expense, and to the detriment, of Plaintiff and Class members.

76. Under principles of equity and good conscience, Defendant should not be permitted to retain the monies belonging to Plaintiff and Class members that they received as a result of their misconduct alleged herein.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Michel Sassine, on behalf of himself and a Class of similarly situated individuals, respectfully requests that this Court issue an order:

A. Certifying this case as a class action on behalf of the Class defined above, appointing Michel Sassine as class representative, and appointing his counsel as class counsel;

B. Declaring that Defendant's actions as set out above constitute a violation of California's Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*), breach of express warranties pursuant to Cal. Comm. Code § 2313, breach of contract, and (in the alternative) unjust enrichment;

C. Awarding damages, including actual and punitive damages where applicable, to Plaintiff and the Class;

D. Awarding injunctive and other equitable relief as necessary to protect the interests of the Class;

E. Awarding Plaintiff and the Class their reasonable litigation expenses and attorneys' fees;

F. Awarding Plaintiff and the Class pre- and post-judgment interest;

G. Providing such other injunctive and/or declaratory relief as necessary to protect the interest of Plaintiff and the Class; and

H. Awarding such other and further relief as equity and justice may require.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury for all issues so triable.

Respectfully submitted,

Dated: March 23, 2018

**MICHEL SASSINE**, individually and on  
behalf of all other similarly situated,

By: /s/ Rafey S. Balabanian  
One of Plaintiff's Attorneys

Rafey S. Balabanian (SBN 315962)  
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*Counsel for Plaintiff and the Putative Class*

CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
MICHEL SASSINE, individually and on behalf of all others similarly situated,  
  
**(b)** County of Residence of First Listed Plaintiff New York County, NY  
(EXCEPT IN U.S. PLAINTIFF CASES)  
  
**(c)** Attorneys (Firm Name, Address, and Telephone Number)  
Edelson PC  
123 Townsend Street, Suite 100, San Francisco, CA 94107, 415-212-9300

**DEFENDANTS**  
NETGEAR, INC., a Delaware corporation  
  
County of Residence of First Listed Defendant Santa Clara County, CA  
(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
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3

	PTF	DEF
Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
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	
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment Of Veteran's Benefits 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excludes Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract 195 Contract Product Liability 196 Franchise	<b>PERSONAL INJURY</b> 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury -Medical Malpractice  <b>CIVIL RIGHTS</b> 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/ Accommodations 445 Amer w/Disabilities-Employment 446 Amer w/Disabilities-Other 448 Education	<b>PERSONAL INJURY</b> 365 Personal Injury - Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability  <b>PRISONER PETITIONS</b>  <b>HABEAS CORPUS</b> 463 Alien Detainee 510 Motions to Vacate Sentence 530 General 535 Death Penalty  <b>OTHER</b> 540 Mandamus & Other 550 Civil Rights 555 Prison Condition 560 Civil Detainee-Conditions of Confinement	625 Drug Related Seizure of Property 21 USC § 881 690 Other  <b>LABOR</b> 710 Fair Labor Standards Act 720 Labor/Management Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> 462 Naturalization Application 465 Other Immigration Actions	422 Appeal 28 USC § 158 423 Withdrawal 28 USC § 157  <b>PROPERTY RIGHTS</b> 820 Copyrights 830 Patent 835 Patent-Abbreviated New Drug Application 840 Trademark  <b>SOCIAL SECURITY</b> 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS-Third Party 26 USC § 7609	375 False Claims Act 376 Qui Tam (31 USC § 3729(a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced & Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 850 Securities/Commodities/Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes

**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-Transfer ☐ 8 Multidistrict Litigation-Direct File

**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. § 1332(d)(2), Cal. Bus. & Prof. Code §§ 17200  
Brief description of cause:  
Class Action Fairness Act Removal, Breach of Express Warranty, Breach of Contract, Unjust Enrichment

**VII. REQUESTED IN COMPLAINT:** ☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ 5,000,000.00  
CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S), IF ANY** (See instructions): JUDGE DOCKET NUMBER

**IX. DIVISIONAL ASSIGNMENT** (Civil Local Rule 3-2)  
(Place an "X" in One Box Only) ☐ SAN FRANCISCO/OAKLAND ☒ SAN JOSE ☐ EUREKA-MCKINLEYVILLE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

**Authority For Civil Cover Sheet.** The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
  - c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
  - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
  - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
  - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
  - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
  - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
  - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
  - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
  - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
  - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket.
- Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.