



3. Plaintiff Miller worked in a number of different hourly-paid positions at Defendants' Topgolf facility in Naperville, Illinois during 2017, 2018, and 2019.

**ANSWER:** Topgolf admits the allegations in Paragraph 3.

4. Throughout their employment, Defendants required Plaintiffs and other hourly paid employees to use a biometric time clock system to record their time worked.

**ANSWER:** Defendants admit that plaintiffs and other hourly workers used a biometric time clock during plaintiffs' employment to record time worked but are unclear what plaintiffs mean by "required" and, therefore, deny the remaining allegations in Paragraph 4.

5. Defendants required Plaintiffs and other hourly employees to scan their fingerprints in Defendants' biometric time clock when they started working a shift, stopped for a break, returned from a break, and finished working a shift.

**ANSWER:** Defendants deny the allegations in Paragraph 5.

6. Unlike an employee identification number or employee identification card, fingerprints are *unique* and *permanent* identifiers.

**ANSWER:** Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 6 and, therefore, deny them.

7. By requiring employees to use their fingerprints to record their time, instead of identification numbers or badges only, Defendants ensured that one employee could not clock in for another.

**ANSWER:** Defendants deny the allegations in Paragraph 7.

8. Thus, there's no question that Defendants benefited from using a biometric time clock.

**ANSWER:** Defendants deny the allegations in Paragraph 8.

9. But there's equally no question that Defendants placed employees at risk by using their biometric identifiers to "punch the clock."

**ANSWER:** Defendants deny the allegations in Paragraph 9.

10. In enacting the Biometric Information Privacy Act, the Illinois legislature recognized that biologically unique identifiers, like fingerprints, can never be changed when compromised, and thus subject a victim of identity theft to heightened risk of loss.

**ANSWER:** Defendants deny that Paragraph 10 accurately describes the legislative intent of the General Assembly in enacting the Biometric Information Privacy Act and, therefore, denies the allegations in Paragraph 10. The statutory language and legislative history speak for themselves.

11. As a result, Illinois restricted private entities, like Defendants, from collecting, storing, using, or transferring a person's biometric identifiers and information without adhering to strict informed-consent procedures established by the Biometric Information Privacy Act.

**ANSWER:** Defendants deny the allegations in Paragraph 11.

12. Defendants collected, stored, used, and transferred the unique biometric fingerprint identifiers, or information derived from those identifiers, of Plaintiff [sic] and others similarly situated without following the detailed requirements of the Biometric Information Privacy Act.

**ANSWER:** Defendants deny the allegations in Paragraph 12.

13. As a result, Defendants violated Plaintiff's [sic] statutory rights under the Biometric Information Privacy Act and the statutory rights of others similarly situated.<sup>1</sup>

**ANSWER:** Defendants deny the allegations in Paragraph 13.

### **JURISDICTION AND VENUE**

14. This Court has personal jurisdiction over Defendants because, during the relevant time period, Defendants did business in Illinois, were registered to do business in Illinois, and committed the statutory violations alleged in this Second Amended Class Action Complaint in Illinois.

**ANSWER:** Defendants admit that this Court has jurisdiction over this action but deny the remaining allegations in Paragraph 14.

15. DuPage County is an appropriate venue for this litigation because Defendants do business in DuPage County and thus are residents of DuPage County.

**ANSWER:** Defendants deny the allegations in Paragraph 15 as the venue for this action is the United States District Court for the Northern District of Illinois, Eastern Division.

### **THE PARTIES**

16. Plaintiffs are individuals who lives [sic] in Illinois.

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<sup>1</sup> Plaintiff does [sic] not allege that he [sic] and others similarly situated suffered *physical* or *psychological* injuries during their employment as a results of Defendant's [sic] violations of the Biometric Information Privacy Act.

**ANSWER:** Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 16 and, therefore, deny them.

17. Top Golf USA is a Delaware corporation. *See* Exhibit A.

**ANSWER:** Defendants admit the allegations in Paragraph 17.

18. Top Golf Salt Creek is an Illinois limited liability company. *See* Exhibit B.

**ANSWER:** Defendants admit the allegations in Paragraph 18.

19. Topgolf USA Naperville, LLC is a Delaware limited liability company. *See* Exhibit C.

**ANSWER:** Defendants admit the allegations in Paragraph 19.

20. Top Golf Salt Creek is a company established to operate Defendants' driving range and bar in Wood Dale, Illinois.

**ANSWER:** Defendants admit that Top Golf Salt Creek was established to operate the Topgolf facility in Wood Dale but deny the remaining allegations in Paragraph 20, including that Wood Dale remains in operation.

21. Top Golf USA manages or controls Top Golf Salt Creek as well as other corporations or limited liability companies, including Topgolf USA Naperville, LLC, to operate driving range and bar facilities in Illinois.

**ANSWER:** Defendants deny the allegations in Paragraph 21.

22. Top Golf USA is the employer's name on the IRS form W-2 Defendants provided to Plaintiffs.

**ANSWER:** Defendants deny that Top Golf USA was plaintiffs' employer.

23. Top Golf Salt Creek is the employer's name on the Earnings Statements Defendants provided to Plaintiffs.

**ANSWER:** Defendants admit that Top Golf Salt Creek was plaintiffs' employer for a period of their employment but deny the remaining allegations in Paragraph 23.

24. Defendants are jointly responsible for the violations of the Biometric Information Privacy Act alleged in this Second Amended Class Action Complaint because each entity is

involved in collecting, storing, and disseminating employees' fingerprints and information based on employee's fingerprints without following the requirements of the law.

**ANSWER:** Defendants deny the allegations in Paragraph 24.

### **REQUIREMENTS OF THE BIOMETRIC PRIVACY INFORMATION ACT**

25. In enacting the Biometric Information Privacy Act, the Illinois legislature recognized that the full ramifications of biometric technology are not yet fully known and so the public will benefit from "regulations on the collection, use, safeguarding, handling, storage retention, and description of biometric identifiers and information." 740 ILCS 14/5(f)-(g).

**ANSWER:** Defendants admit that the Illinois legislature enacted the Biometric Information Privacy Act but lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 25 and, therefore, denies them.

26. The Biometric Information Privacy Act prohibits a "private entity" from capturing or collecting biometric identifiers or information from an individual unless that private entity first obtains the individual's written consent or employment-related release authorizing the private entity to capture or collect an individual's biometric identifiers and/or biometric information. 740 ILCS 14/15(b)(3).

**ANSWER:** Paragraph 26 sets forth legal conclusions to which no response is required. To the extent a response is required, defendants deny the allegations in Paragraph 26. The statute speaks for itself.

27. Relatedly, the Biometric Information Privacy Act prohibits a private entity from capturing or collecting biometric identifiers or information from an individual unless that private entity first informs the individual, in writing, of the following: (a) that the private entity is collecting biometric identifiers or information, (b) the purpose of such collection, and (c) the length of time the private entity will retain the biometric identifiers or information. 740 ILCS 14/15(b)(1)(b).

**ANSWER:** Paragraph 27 sets forth legal conclusions to which no response is required. To the extent a response is required, defendants deny the allegations in Paragraph 27. The statute speaks for itself.

28. In addition, the Biometric Information Privacy Act prohibits a private entity from possessing biometric identifiers or information unless it first creates a written policy, made available to the public, establishing a retention schedule and destruction guidelines for its possession of biometric identifiers and information. 740 ILCS 14/15(a).

**ANSWER:** Paragraph 28 sets forth legal conclusions to which no response is required. To the extent a response is required, defendants deny the allegations in Paragraph 27. The statute speaks for itself.

29. Finally, the Biometric Information Privacy Act prohibits a private entity from disclosing or otherwise disseminating biometric identifiers or information without first obtaining an individual's consent for that disclosure or dissemination, unless the disclosure or dissemination was (a) in furtherance of an authorized financial transaction, (b) authorized by law, or (c) pursuant to a valid warrant or subpoena. 740 ILCS 14/15(d).

**ANSWER:** Paragraph 29 sets forth legal conclusions to which no response is required. To the extent a response is required, defendants deny the allegations in Paragraph 29. The statute speaks for itself.

### **BACKGROUND FACTS**

30. When Plaintiffs scanned their fingerprints in Defendants' biometric time clock, Defendants captured, collected, and stored Plaintiffs' fingerprint, or a representation derived from Plaintiffs' fingerprint.

**ANSWER:** Defendants deny the allegations in Paragraph 30.

31. When Plaintiffs scanned their fingerprint in Defendants' biometric time clock, their fingerprints – or a representation of their fingerprints – were disseminated and disclosed to Defendants' time-keeping vendor.

**ANSWER:** Defendants deny the allegations in Paragraph 31.

32. Defendants never provided Plaintiff Burlinski any written materials about its collection, retention, destruction, use, or dissemination of his fingerprint or information derived from his fingerprint.

**ANSWER:** Defendants deny the allegations in Paragraph 32.

33. Prior to initially collecting his biometric data, Defendants never provided Plaintiff Miller any written materials about its collection, retention, destruction, use, or dissemination of his fingerprint or information derived from his fingerprint. Upon information and belief, nearly two years after using and collecting Plaintiff Miller's biometric information, the Defendants provided him with information about the use of his biometric information for the first time.

**ANSWER:** Defendants deny the allegations in Paragraph 33.

34. Prior to first collecting their biometric data, Defendants never first obtained Plaintiffs' written consent, or release as a condition of employment, before collecting, storing, disseminating, or using his fingerprint, or information derived from his fingerprint.

**ANSWER:** Defendants deny the allegations in Paragraph 34.

### **CLASS ACTION ALLEGATIONS**

35. Plaintiffs seek to represent a class of employees who worked at a Topgolf location in Illinois and who scanned their fingerprints in a biometric time clock system ("the Class").

**ANSWER:** Defendants admit only that plaintiffs purport to bring a class claim and deny the remaining allegations in Paragraph 35.

36. Plaintiffs and the Class are similar to one another because they were all subject to the same allegedly illegal practices: being required to scan their fingerprints in a biometric time clock system despite Defendants failing to adhere to the requirements of the Biometric Information Privacy Act.

**ANSWER:** Defendants deny the allegations in Paragraph 36.

37. The Class includes more than 40 members.

**ANSWER:** Defendants deny the allegations in Paragraph 37.

38. As a result, the Class is so numerous that joining of all class members in one lawsuit is not practical.

**ANSWER:** Defendants deny the allegations in Paragraph 38.

39. The issues involved in this lawsuit present common questions of law and fact, including: whether Defendants required the Class to use their fingerprints to clock in and out during shifts; whether Defendants collected, stored, or disseminated the Class's "biometric identifiers" or "biometric information" under the Biometric Information Privacy Act; and whether Defendants complied with the procedures in 740 ILCS 14/15(a), (b), and (d) of the Biometric Information Privacy Act.

**ANSWER:** Defendants deny the allegations in Paragraph 39.

40. These common questions of law and fact predominate over the variations that may exist between members of the Class, if any.

**ANSWER:** Defendants deny the allegations in Paragraph 40.

41. Plaintiffs, the members of the Class, and Defendants have a commonality of interest in the subject matter of the lawsuit and the remedy sought.

**ANSWER:** Defendants deny the allegations in Paragraph 41.

42. If individual actions were required to be brought by each member of the Class injured or affected, the result would be a multiplicity of actions, creating a hardship to the Class, to the Court, and to Defendants.

**ANSWER:** Defendants deny the allegations in Paragraph 42.

43. Accordingly, a class action is an appropriate method for the fair and efficient adjudication of this lawsuit and distribution of the common fund to which the Class are entitled.

**ANSWER:** Defendants deny the allegations in Paragraph 43.

44. The books and records of Defendants are material to Plaintiff's [sic] case as they disclose how and when Plaintiff [sic] and the Class scanned their fingerprints in Defendant's [sic] biometric time clock system and what information Defendants provided Plaintiff [sic] and the Class about the collection, retention, use, and dissemination of their biometric identifiers and information.

**ANSWER:** Defendants deny the allegations in Paragraph 44.

45. Plaintiffs and their counsel will fairly and adequately protect the interests of the Class.

**ANSWER:** Defendants deny the allegations in Paragraph 45.

46. Plaintiffs retained counsel experienced in complex class action litigation.

**ANSWER:** Defendants deny the allegations in Paragraph 46.

## **COUNT I**

### **Violation of Section 15(a) of the Biometric Information Privacy Act Failure to Implement and Adhere to a Publicly Available Retention/Destruction Policy (Class Action)**

47. Plaintiffs reallege and incorporate the previous allegations of this Second Amended Class Action Complaint.

**ANSWER:** Defendants restate and incorporate their answers to Paragraphs 1 through 46 as if fully set forth herein.

48. Defendants are each a "private entity" under the Biometric Information Privacy Act. 740 ILCS 14/10.

**ANSWER:** Count I has been dismissed, so no response is required.

49. Plaintiffs' and the Class's fingerprints qualify as "biometric identifier[s]" as defined by the Biometric Information Privacy Act. 740 ILCS 14/10.

**ANSWER:** Count I has been dismissed, so no response is required.

50. Defendants have "biometric information" from Plaintiffs and the Class through their acquisition and retention of information based on Plaintiffs' and the Class's "biometric identifier[s]," as defined in the previous paragraph.

**ANSWER:** Count I has been dismissed, so no response is required.

51. Defendants violated the Biometric Information Privacy Act by possessing Plaintiffs' and the Class's fingerprints and information based on their fingerprints without creating and adhering to a written policy, made available to the public, establishing a retention schedule and destruction guidelines for its possession of biometric identifiers and information.

**ANSWER:** Count I has been dismissed, so no response is required.

52. Defendants knew or should have known of the requirements of the Biometric Information Privacy Act.

**ANSWER:** Count I has been dismissed, so no response is required.

WHEREFORE, Plaintiffs and the Class pray for a judgment against Defendants as follows:

- A. Awarding liquidated or actual monetary damages, whichever is higher, to Plaintiffs and the Class for each negligent or reckless violation of the Biometric Information Privacy Act as provided by 740 ILCS 14/20(1)-(2);
- B. Enjoining Defendants from committing further violations of the Biometric Information Privacy Act as authorized by 740 ILCS 14/20(4);
- C. Awarding Plaintiffs' reasonable attorneys' fees and costs incurred in filing and prosecuting this action as provided by 740 ILCS 14/20(3); and
- D. Such other and further relief as this Court deems appropriate and just as provided by 740 ILCS 14/20(4).

**ANSWER:** Count I has been dismissed, so no response is required.

**COUNT II**  
**Violation of Section 15(b) of the Biometric Information Privacy Act**  
**Collection of Biometric Identifiers and Information Without Required**  
**Disclosures and Written Release**  
**(Class Action)**

53. Plaintiffs reallege and incorporate the previous allegations of this Second Amended Class Action Complaint.

**ANSWER:** Defendants restate and incorporate their answers to Paragraphs 1 through 52 as if fully set forth herein.

54. Defendants are each a “private entity” under the Biometric Information Privacy Act. 740 ILCS 14/10.

**ANSWER:** Defendants admit the allegations in Paragraph 54.

55. Plaintiffs’ and the Class’s fingerprints qualify as “biometric identifier[s]” as defined by the Biometric Information Privacy Act. 740 ILCS 14/10.

**ANSWER:** Defendants deny the allegations in Paragraph 55.

56. Defendants have “biometric information” from Plaintiffs and the Class through their acquisition and retention of information based on Plaintiffs’ and the Class’s “biometric identifier[s],” as defined in the previous paragraph.

**ANSWER:** Defendants deny the allegations in Paragraph 56.

57. Defendants violated the Biometric Information Privacy Act by capturing or collecting Plaintiff’s [sic] and the Class’s fingerprints and information based on their fingerprints without first informing them in writing that Defendants were doing so.

**ANSWER:** Defendants deny the allegations in Paragraph 57.

58. Defendants violated the Biometric Information Privacy Act by capturing or collecting Plaintiffs’ and the Class’s fingerprints and information based on their fingerprints without first informing them in writing of the purpose of Defendants doing so and the length of time Defendants would store and use Plaintiff’s [sic] and the Class’s biometric identifiers and/or biometric information.

**ANSWER:** Defendants deny the allegations in Paragraph 58.

59. Defendants violated the Biometric Information Privacy Act by capturing or collecting Plaintiff’s [sic] and the Class’s fingerprints and information based on their fingerprints without first obtaining their written consent or other release authorizing Defendants to capture or collect Plaintiff’s [sic] and the Class’s biometric identifiers and/or biometric information.

**ANSWER:** Defendants deny the allegations in Paragraph 59.

60. Defendants knew or should have known of the requirements of the Biometric Information Privacy Act.

**ANSWER:** Defendants deny that they violated the Biometric Information Privacy Act and, therefore, deny the allegations in Paragraph 60.

WHEREFORE, Plaintiffs and the Class pray for a judgment against Defendants as follows:

- A. Awarding liquidated or actual monetary damages, whichever is higher, to Plaintiffs and the Class for each negligent or reckless violation of the Biometric Information Privacy Act as provided by 740 ILCS 14/20(1)-(2);
- B. Enjoining Defendants from committing further violations of the Biometric Information Privacy Act as authorized by 740 ILCS 14/20(4);
- C. Awarding Plaintiff's [sic] reasonable attorneys' fees and costs incurred in filing and prosecuting this action as provided by 740 ILCS 14/20(3); and
- D. Such other and further relief as this Court deems appropriate and just as provided by 740 ILCS 14/20(4).

**ANSWER:** Defendants deny that plaintiffs are entitled to any of their requested relief and respectfully request the Court to dismiss plaintiffs' claims with prejudice, enter judgment in defendants' favor, and award defendants' their costs and attorneys' fees and any such further relief as this Court deems appropriate.

### **COUNT III**

#### **Violation of Section 15(d) of the Biometric Information Privacy Act Disclosure of Biometric Identifiers and Information Without Obtaining Consent (Class Action)**

61. Plaintiffs realleges and incorporates the previous allegations of this First [sic] Amended Class Action Complaint.

**ANSWER:** Defendants restate and incorporate their answers to Paragraphs 1 through 60 as if fully set forth herein.

62. Defendants are each a "private entity" under the Biometric Information Privacy Act. 740 ILCS 14/10.

**ANSWER:** Defendants admit the allegations in Paragraph 62.

63. Plaintiffs' and the Class's fingerprints qualify as "biometric identifier[s]" as defined by the Biometric Information Privacy Act. 740 ILCS 14/10.

**ANSWER:** Defendants deny the allegations in Paragraph 63.

64. Defendants have "biometric information" from Plaintiffs and the Class through their acquisition and retention of information based on Plaintiffs' and the Class's "biometric identifier[s]," as defined in the previous paragraph.

**ANSWER:** Defendants deny the allegations in Paragraph 64.

65. Defendants violated the Biometric Information Privacy Act by disclosing or otherwise disseminating Plaintiffs' and the Class's fingerprints and information based on their fingerprints to Defendant's [sic] time-keeping vendor without first obtaining their consent for that disclosure or dissemination.

**ANSWER:** Defendants deny the allegations in Paragraph 65.

66. Defendants knew or should have known of the requirements of the Biometric Information Privacy Act.

**ANSWER:** Defendants deny that they violated the Biometric Information Privacy Act and, therefore, deny the allegations in Paragraph 66.

WHEREFORE, Plaintiffs and the Class pray for a judgment against Defendants as follows:

- A. Awarding liquidated or actual monetary damages, whichever is higher, to Plaintiffs and the Class for each negligent or reckless violation of the Biometric Information Privacy Act as provided by 740 ILCS 14/20(1)-(2);
- B. Enjoining Defendants from committing further violations of the Biometric Information Privacy Act as authorized by 740 ILCS 14/20(4);
- C. Awarding Plaintiffs' reasonable attorneys' fees and costs incurred in filing and prosecuting this action as provided by 740 ILCS 14/20(3); and
- D. Such other and further relief as this Court deems appropriate and just as provided by 740 ILCS 14/20(4).

**ANSWER:** Defendants deny that plaintiffs are entitled to any of their requested relief and respectfully request the Court to dismiss plaintiffs' claims with prejudice, enter judgment in defendants' favor, and award defendants' their costs and attorneys' fees and any such further relief as this Court deems appropriate.

### **JURY DEMAND**

Plaintiffs demand a trial by jury.

**ANSWER:** Defendants admit that plaintiffs requested a trial by jury but deny that the Biometric Information Privacy Act provides for a jury trial or that plaintiffs' claims are entitled to reach trial.

### **AFFIRMATIVE AND OTHER DEFENSES**

Topgolf submits the following affirmative and other defenses to the Second Amended Class Action Complaint. By pleading these defenses, defendants do not alter the burden of proof and/or burden of persuasion that exists with respect to any issues in this lawsuit. Moreover, all defenses are pled in the alternative and do not constitute an admission of liability or an admission that plaintiffs or any member of the putative class is entitled to any relief whatsoever.

1. Defendants did not collect, capture, purchase, receive through trade, or otherwise obtain any biometric identifiers or biometric information, as defined under the Biometric Information Privacy Act, and therefore, defendants were not required to comply with 740 ILCS 14/15(b).

2. Defendants did not disclose, redisclose, or otherwise disseminate any biometric identifiers or biometric information, as defined under the Biometric Information Privacy Act, and therefore, defendants were not required to comply with 740 ILCS 14/15(d).

3. The Second Amended Class Action Complaint is barred in whole or in part because plaintiffs and the putative class members implicitly or expressly consented to the conduct now alleged to violate the Biometric Information Privacy Act because they knowingly and repeatedly using the scanner each day they worked.

4. The Second Amended Class Action Complaint is barred in whole or in part by the doctrines of estoppel, waiver, ratification and acquiescence. Plaintiffs and the putative class members knew they were using a finger scanner but did nothing to object, complain or seek to opt out of its use.

5. Plaintiffs' and the putative class' purported injuries were accidental, occurred in the workplace, arising out of their employment, and are compensable under the Illinois Workers' Compensation Act. Accordingly, plaintiffs' and the putative class' claims are preempted or

otherwise barred by the Illinois Workers' Compensation Act, which provides the exclusive remedy for injuries that arise in the workplace or in connection with employment.

6. To the extent plaintiffs allege violations of Section 15(b) and (d) of the Biometric Information Privacy Act, plaintiffs' claims accrued with defendants' first collection and first dissemination without allegedly complying with Section 15's requirements.

7. Plaintiffs and the putative class' claims are barred by the one-year statute of limitations in 735 ILCS 5/13-201, to the extent their claims were not brought within this one-year period.

8. Plaintiffs and the putative class' claims are barred by the two-year statute of limitations in 735 ILCS 5/13-202, to the extent their claims were not brought within this two-year period.

9. The applicable putative class members' claims are barred by the five-year statute of limitations in 735 ILCS 5/13-205, if applicable, to the extent their claims were not brought within this five-year period.

10. The claims are barred in whole or in part by defendants' good faith, and the absence of negligent, intentional or reckless conduct. To the extent that the Biometric Information Privacy Act applies to defendants' conduct, defendants are not liable because they relied in good faith upon a reasonable interpretation of the Biometric Information Privacy Act's statutory language and any alleged violation was not negligent, intentional, or reckless.

11. The Second Amended Class Action Complaint is barred in whole or in part because defendants substantially complied with the Biometric Information Privacy Act.

12. Plaintiffs and the putative class members have not suffered any harm as a result of the conduct alleged. The statutory damages potentially available under the Biometric Information

Privacy Act are grossly excessive and disproportionate in light of the absence of any injury or harm to plaintiffs and the putative class members. Therefore, any award of statutory damages to plaintiffs or the putative class members would violate defendants' due process rights under the Illinois and/or United States Constitutions.

13. To the extent that plaintiffs and the putative class members suffered an alleged injury, they are subject to Illinois' "single recovery rule," which permits an individual to recover only once for a single, indivisible injury.

14. Plaintiffs and the putative class had actual or constructive knowledge of the risks inherent in their use of a time-tracking system to clock in and clock out for work. Nonetheless, plaintiffs and the putative class voluntarily undertook such risks and to the extent that plaintiffs and the putative class suffered any injury, the proximate cause of such injury was not a negligent action or omission by defendants.

15. Plaintiffs and/or the putative class members do not satisfy the requirements of Federal Rule of Civil Procedure 23 and, thus, plaintiffs' claims are not appropriate for class action treatment.

16. Defendants reserve the right to amend their defenses or add additional defenses in the event that discovery or developments in the law indicate they would be appropriate.

Dated: October 9, 2020

Respectfully submitted,

By: /s/ Anne E. Larson  
One of the Attorneys for Defendants

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**CERTIFICATE OF SERVICE**

The undersigned attorney certifies that on October 9, 2020, she caused the foregoing *Answer and Affirmative and Other Defenses to Plaintiffs' Second Amended Complaint* to be filed electronically with the Clerk of Court using the ECF system, which sent notification of such filing to:

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