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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

BRIANNA SINOHUI, MICHELE ARENA,
JOSEPH BROUGHER, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

INTUIT INC.,

Defendant.

Case No. _____

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

- 1. Breach of Contract**
- 2. Violation of California's Consumer Legal Remedies Act**
- 3. Violation of California's Unfair Competition Law**
- 4. Violation of New York's General Business Law**
- 5. Violation of Pennsylvania's Unfair Trade Practices and Consumer Protection Law**

1 Plaintiffs Brianna Sinohui, Michele Arena, and Joseph Brougher, individually and on behalf of
2 the classes defined below, make the following allegations based upon information and belief, except as
3 to allegations specifically pertaining to them, which are based on personal knowledge.

4 **INTRODUCTION**

5 1. TurboTax is a tax preparation software, owned and manufactured by Intuit, that is utilized
6 to file more than 35 million tax returns for American taxpayers every year when filing their income tax
7 returns with both the United States Internal Revenue Service (“IRS”) and individual states. One of the
8 main benefits of using TurboTax is the ability to electronically file tax returns. This not only results in
9 convenience at the time of filing, but refunds for electronic filings are processed more quickly than for
10 hard copy filings.

11 2. Pursuant to an agreement with the IRS, TurboTax and 11 other tax preparation providers
12 are required to cumulatively offer 70% of U.S. taxpayers the option to file their taxes for free. For the
13 2018 tax season, any taxpayer whose adjusted gross income is \$66,000 or less is eligible to use tax
14 preparation software from one of these providers to prepare and file their tax returns for free.

15 3. TurboTax violated its agreement with the IRS by intentionally diverting qualified
16 taxpayers away from its “free filing” program in favor of its paid product offerings. It did this by
17 segregating its “free file” webpage from its primary website and then altering the website’s code in order
18 to keep it hidden from search engines like Google so that it would not be easily accessible to qualified
19 taxpayers.

20 4. TurboTax also marketed its paid offerings as “Free Guaranteed”—so that qualified
21 taxpayers believed they were filing their taxes pursuant to the free-filing program, only to be hit with
22 unexpected charges after they already spent hours entering information and were getting ready to file.

23 5. As a result of this scheme, TurboTax breached its agreement with the government, took
24 advantage of the U.S. public, and generated millions of dollars of ill-gotten gains from persons who least
25 can afford it.

26 **PARTIES**

27 6. Plaintiff Brianna Sinohui is a resident and citizen of Redlands, California who paid to file
28 her 2018 tax returns using TurboTax despite qualifying for the IRS free filing program.

7. Plaintiff Michele Arena is a resident and citizen of Selden, New York who paid to file her 2018 tax returns using TurboTax despite qualifying for the IRS free filing program.

8. Plaintiff Joseph Brougher is a resident and citizen of West Mifflin, Pennsylvania who paid to file his 2018 tax returns using TurboTax despite qualifying for the IRS free filing program.

9. Defendant Intuit Inc. (“Intuit” or “TurboTax”) is headquartered in Mountain View, California, and incorporated under the laws of the State of Delaware. Intuit markets, sells and operates TurboTax, a tax preparation and filing software product and service.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332 of the Class Action Fairness Act of 2005 because: (i) there are 100 or more class members, (ii) there is an aggregate amount in controversy exceeding \$5,000,000, exclusive of interest and costs, and (iii) there is minimal diversity because at least one plaintiff and one defendant are citizens of different States. This court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

11. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Defendant resides in this District, transacts business in this District, and its principal place of business is located in this District. Likewise, Defendant’s terms of service contain a venue provision stating that “you and Intuit agree to the exclusive jurisdiction of state courts in Santa Clara County, California U.S.A. or federal court for the Northern District of California.”

12. This court has personal jurisdiction over Defendant because it has conducted substantial business in this District, and intentionally and purposefully placed its tax preparation software into the stream of commerce within the Districts of California and throughout the United States. Additionally, Defendant’s corporate headquarters are located within this District in Mountain View, California.

INTRADISTRICT ASSIGNMENT

13. Assignment is proper to the San Jose division of this District under Local Rule 3-2(c)-(e) as a substantial part of the events or omissions which give rise this claim occurred in Santa Clara County.

ALLEGATIONS

14. Intuit Inc. is a business and financial software company that develops and sells financial, accounting, and tax preparation software including TurboTax, QuickBooks, and Mint. Its flagship

product, TurboTax, is a leading tax preparation software that provides step-by-step guidance for filling out state and federal tax returns and permits users to electronically file their tax returns using a computer or other mobile device. Intuit had revenues of more than \$6.2 billion for the 12-month period ending on January 31, 2019.

15. In October 2002, a consortium of tax preparation providers led by TurboTax known as the “Free File Alliance” entered into a three-year agreement with the IRS to offer free online tax preparation and filing services to taxpayers “least able to afford the electronic filing of their tax returns.”

16. That agreement was entered into for the express benefit of low-income taxpayers. It has been extended multiple times through the years, most recently in October 2018. It is entitled the “Eighth Memorandum of Understanding on Service Standards and Disputes between the Internal Revenue Service and Free File, Incorporated” and extends the parties’ agreement through October 31, 2021 (the “IRS Free-Filing Agreement”).¹

17. In exchange for a commitment to provide free filing options “to economically disadvantaged and underserved populations”—the federal government “pledged to not enter the tax preparation software and e-filing services marketplace.” This commitment from the government protects the viability of the commercial tax preparers’ business model by ensuring they can always charge a significant portion of the U.S. population fees for their services.

18. In fact, TurboTax and its competitors have spent millions of dollars lobbying *against* the IRS creating its own free tax filing system, as well as pushing Congress to codify the IRS Free-Filing Agreement to ensure that a free government-sponsored program cannot ever threaten the industry’s profits.

19. The IRS Free-Filing Agreement provides that members of the Free File Alliance² must cumulatively offer 70% of U.S. taxpayers – or approximately 100 million people – the option to file

¹ *IRS Free-Filing Agreement*, <https://www.irs.gov/pub/irs-utl/Eight%20Free%20File%20MOU.pdf> (last accessed May 11, 2019).

² The tax preparation companies currently participating in the Free File Alliance and bound by the IRS Free-Filing Agreement include: TurboTax, H&R Block, TaxAct, eSmart, 1040NOW.net, FileYourTax.com, FreeTaxReturns.com, FreeTaxUSA, OLT.com, TaxSlayer, exTaxReturn.com, and 1040.com.

1 their taxes for free. For the 2018 tax season, any taxpayer whose adjusted gross income is \$66,000 or
2 less is eligible to use tax preparation software from one of these providers to prepare and file tax forms
3 for free, although each provider sets its own eligibility requirements.

4 20. Because TurboTax is the market leader and has more volume than its competitors, its
5 eligibility requirements are more stringent. Accordingly, TurboTax permits free state and federal filings
6 for any U.S. taxpayer who (a) has an adjusted gross income under \$34,000; (b) is eligible for the Earned
7 Income Tax Credit; or (c) is an active military member with an adjusted gross income of \$66,000 or
8 less.³

9 21. But while 70% of U.S. taxpayers are eligible to file for free, *less than 2.5% of eligible*
10 *taxpayers actually utilize the program*. The reason for this stark discrepancy is due in no small part to
11 an array of deceptive practices employed by TurboTax (and its competitors) to prevent lower-income
12 taxpayers from utilizing the program in favor of its paid product offerings.

13 22. For example, TurboTax's actual free product is referred to as TurboTax "Freedom
14 Edition" – which enables users eligible to complete and e-file their federal tax returns for free in
15 accordance with the IRS Free File program, no matter how many state or federal forms are required to
16 file. Yet – and as but one example of TurboTax's deceptive practices – TurboTax also offers a different
17 "free" online tax product bearing a similar name: TurboTax "Free Edition." Despite being heavily
18 marketed, the TurboTax Free Edition is not associated with the IRS Free File program and is a basic
19 software offering that supports only the simplest of tax returns, wherein most users (who would
20 otherwise be eligible for free filing under the IRS Free-Filing Agreement) are forced to pay to file their
21 returns.

22 23. On April 22, 2019, *ProPublica*, a non-profit organization focused on investigative
23 journalism, released its first in a series of articles about the effect of TurboTax's deceptive business
24 practices entitled "*Here's How TurboTax Just Tricked You Into Paying to File Your Taxes.*"⁴

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27 ³ IRS Free File Software Offers, <https://apps.irs.gov/app/freeFile/> (last accessed May 11, 2019).

28 ⁴ Justin Elliott and Lucas Waldron, *Here's How TurboTax Just Tricked You Into Paying to File Your Taxes*, PROPUBLICA (April 22, 2019), <https://www.propublica.org/article/turbotax-just-tricked-you-into-paying-to-file-your-taxes> (last accessed May 11, 2019).

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