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Attorneys for Plaintiffs David Evans, Patrick Lenahen, Adam Smotkin, Oswaldo Herrera and the Proposed Classes

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JAMES COTTLE AND FREDERICK
SCHOENEMAN, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

PLAID INC., a Delaware corporation,

Defendants.

Case No. 4:20-cv-03056-DMR

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

CLASS ACTION

1 Pursuant to Civil L.R. 7-11, Plaintiffs David Evans, Patrick Lenahen, Adam Smotkin, and
2 Oswaldo Herrera (the “Evans Plaintiffs”), hereby move to relate *Evans, et al. v. Plaid, Inc.*, No.
3 3:20-cv-04804-JSC, to the above-captioned action.

4 **I. LEGAL STANDARD**

5 Civil Local Rule 3-12(b) provides that “[w]henver a party knows or learns that an action,
6 filed in or removed to this district is (or the party believes that the action may be) related to an
7 action which is or was pending in this District as defined in Civil L.R. 3-12(a), the party must
8 promptly file in the lower-numbered case an administrative motion to consider whether cases
9 should be related, pursuant to Civil L.R. 7-11.”

10 Civil Local Rule 3-12(a) provides that “[a]n action is related to another when: (1) The
11 actions concern substantially the same parties, property, transaction or event; and (2) It appears
12 likely that there will be an unduly burdensome duplication of labor and expense or conflicting
13 results if the cases are conducted before different Judges.”

14 **II. ARGUMENT**

15 The Evans Plaintiffs filed their complaint on July 17, 2020. Like the complaint in this
16 case, the Evans Plaintiffs’ complaint alleges that Defendant Plaid, Inc. (“Plaid”) violated state
17 and federal laws by deceiving customers into disclosing passwords that gave Plaid access to their
18 sensitive financial and transactional information. Plaintiffs in both cases allege claims including
19 invasion of privacy, and violations of the Computer Fraud and Abuse Action (18 U.S.C. § 1030),
20 the Stored Communications Act (18 U.S.C. § 2701), the California Unfair Competition Law (Cal.
21 Bus & Prof Code § 17200 et seq.), as well as other claims. *See* Decl. of Jon A. Tostrud, Exs. A
22 and B (Complaints). Plaintiffs in both cases allege similar facts regarding Plaid’s misconduct,
23 which will be the overwhelming focus of discovery and other proceedings in both cases. In
24 particular, Plaintiffs in both cases allege that Plaid, which embeds its software in several popular
25 financial technology applications, uses that software to induce consumers to disclose their bank
26 login credentials by creating the appearance that they are communications directly with, and only
27
28

1 with, their own banks. In light of the substantial overlap in the questions of fact and law in these
2 actions, relating them will avoid waste of the Court's resources and prevent inconsistent results.

3 It will also assure the most just, speedy and inexpensive determination of both actions.
4 See FED. R. CIV P. 1.

5
6 Dated: July 22, 2020

7 **TOSTRUD LAW GROUP, P.C.**

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23 *Attorneys for Plaintiffs David Evans, Patrick*
24 *Lenahen, Adam Smotkin, and Oswaldo Herrera,*
25 *and the Proposed Classes*
26
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CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2020, I electronically filed the foregoing Administrative Motion to Consider Whether Cases Should be Related with the Clerk of this Court using the CM/ECF system and served a copy of same upon all counsel of record via the Court's electronic filing system.

/s/ Jon A. Tostrud

Jon A. Tostrud