

1 Rafey S. Balabanian (SBN 315962)
rbalabanian@edelson.com
2 EDELSON PC
3 150 California Street, 18th Floor
San Francisco, California 94111
4 Tel: 415.212.9300
Fax: 415.373.9435
5

6 *Counsel for Plaintiff and the Proposed Class*

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN FRANCISCO**

10 SAMAN MOLLAEI, individually and on
behalf of all others similarly situated,

11 *Plaintiff,*

12 v.

13 OTONOMO INC., a Delaware corporation,

14 *Defendant.*
15

Case No.

CLASS ACTION COMPLAINT FOR:

(1) Violation of Cal. Penal Code § 637.7

DEMAND FOR JURY TRIAL

16 Plaintiff Saman Mollaei brings this Class Action Complaint and Demand for Jury Trial
17 against Defendant Otonomo, Inc. for unlawfully tracking automobile drivers' locations and
18 movements without their permission or consent. Plaintiff alleges as follows upon personal
19 knowledge as to himself and his own acts and experiences and, as to all other matters, upon
20 information and belief.

21 **NATURE OF THE ACTION**

22 1. Defendant Otonomo Inc. is a data broker that secretly collects and sells real-time
23 GPS location information from more than 50 million cars throughout the world, including from
24 tens of thousands in California. This data allows Otonomo—and its paying clients—to easily
25 pinpoint consumers' precise locations at all times of day and gain specific insight about where
26 they live, work, and worship, and who they associate with. Not surprisingly, Otonomo never
27 requests (or receives) consent from drivers before tracking them and selling their highly private
28 and valuable GPS location information to its clients.

1 **JURISDICTION AND VENUE**

2 8. This Court has jurisdiction over this action pursuant to Article VI, Section 10 of
3 the California Constitution.

4 9. This Court has personal jurisdiction over Defendant because it conducts business
5 in this State, and the conduct alleged in this Complaint occurred in, and/or emanated from, this
6 State.

7 10. Venue is proper in this Court because the conduct at issue occurred in, and/or
8 emanated from, this County.

9 **FACTUAL BACKGROUND**

10 ***The California Invasion of Privacy Act***

11 11. In 1967, the California Legislature declared that “advances in science and
12 technology have led to the development of new devices and techniques for the purpose of
13 eavesdropping upon private communications and that the invasion of privacy resulting from the
14 continual and increasing use of such devices and techniques has created a serious threat to the
15 free exercise of personal liberties and cannot be tolerated in a free and civilized society.” Cal.
16 Penal Code § 630. As a result, the Legislature passed the California Invasion of Privacy Act “to
17 protect the right of privacy of the people of this state.” *Id.*

18 12. In recognition of the dangers posed by the increasing power, sophistication, and
19 availability of modern computer and communications technologies, CIPA expressly prohibits the
20 use of an “electronic tracking device to determine the location or movement of a person” without
21 consent. Cal. Penal Code § 637.7(a). “Electronic tracking device” is defined as “any device
22 attached to a vehicle or other movable thing that reveals its location or movement by the
23 transmission of electronic signals.” *Id.* § 637.7(d).

24 ***Otonomo Secretly Tracks Real-Time Locations and Movements In Violation of CIPA***

25 13. Otonomo is a data broker that collects a multitude of data generated by
26 automobile drivers, including specifically, real-time GPS location data. Though it is not a
27 consumer-facing company and provides no information to drivers about the data it is collecting
28 from them and selling, Otonomo proudly admits that it collects 4.1 *billion* data points per day

1 and has already tracked 330 billion miles of travel. See Figure 1 below, showing a screenshot of
2 the marketing materials Otonomo provides to potential investors and customers.



3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20 **(Figure 1.)**

21 14. Not only does Otonomo collect enormous amounts of data from unsuspecting
22 drivers, it also sells the data to various third parties, including software application developers,
23 insurance companies, and advertisers, among many others.

24 15. To collect the highly private and valuable location data from automobiles without
25 the drivers knowing, Otonomo partners with automobile manufacturers—such as BMW—to
26 install electronic tracking devices in their cars. These electronic tracking devices typically take
27 the form of telematics control units (“TCUs”) that feature persistent internet connections. These
28 devices collect information from the variety of sensors and radios—including the GPS sensors—

1 to determine the car’s precise physical GPS location. The devices then transmit the data over the
2 persistent cellular data connection to Otonomo, which, in turn, allows Otonomo—and its paying
3 clients—to pinpoint the location and movement of every similarly connected car and driver.

4 16. Unfortunately, Otonomo does not obtain—or even try to obtain—consent from
5 the tens of thousands of California drivers it tracks.

6 **FACTS SPECIFIC TO PLAINTIFF MOLLAEI**

7 17. Plaintiff Mollaei is a California resident that drives a 2020 BMW X3.

8 18. When Plaintiff’s vehicle was delivered to him, it contained an attached electronic
9 tracking device that allowed Otonomo to track its real-time GPS locations and movements, and
10 to transmit the data wirelessly to Otonomo.

11 19. Otonomo has used the attached electronic tracking device to the collect Mollaei’s
12 real-time GPS locations and movements.

13 20. At no time did Otonomo receive—or even seek—Plaintiff’s consent to track his
14 vehicle’s locations or movements using an electronic tracking device.

15 **CLASS ACTION ALLEGATIONS**

16 21. **Class Definition:** Plaintiff Saman Mollaei brings this action on behalf of himself
17 and a class defined as follows:

18 All California residents who own or lease a vehicle and whose GPS data has been
19 collected by Otonomo.

20 The following people are excluded from the Class: (1) any Judge or Magistrate presiding
21 over this action and members of their families; (2) Defendant, Defendant’s subsidiaries, parents,
22 successors, predecessors, and any entity in which the Defendant or its parents have a controlling
23 interest and their current or former officers and directors; (3) persons who properly execute and
24 file a timely request for exclusion from the Class; (4) persons whose claims in this matter have
25 been finally adjudicated on the merits or otherwise released; (5) Plaintiff’s counsel and
26 Defendant’s counsel; and (6) the legal representatives, successors, and assigns of any such
27 excluded persons.

28 22. **Numerosity:** The exact number of Class members is unknown and not available

1 to Plaintiff at this time, but it is clear that individual joinder is impracticable. On information and
2 belief, Defendant has used electronic tracking devices to determine the locations or movements
3 of millions of people who fall into the definition of the Class. Class members can be identified
4 through Defendant's records.

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

- 9 a) Whether Defendant used an "electronic tracking device" to collect the
10 locations or movements of Plaintiff and the Class; and
- 11 b) Whether Defendant obtained consent from Plaintiff and the Class.

12 24. **Adequate Representation:** Plaintiff will fairly and adequately represent and
13 protect the interests of the Class and has retained counsel competent and experienced in complex
14 litigation and class actions. Plaintiff has no interests antagonistic to those of the Class, and
15 Defendant has no defenses unique to Plaintiff. Plaintiff and his counsel are committed to
16 vigorously prosecuting this action on behalf of the members of the Class and have the financial
17 resources to do so. Neither Plaintiff nor his counsel have any interest adverse to those of the
18 other members of the Class.

19 25. **Predominance and Superiority:** This case is also appropriate for class
20 certification because class proceedings are superior to all other available methods for the fair and
21 efficient adjudication of this controversy because joinder of all parties is impracticable. The
22 damages suffered by the individual members of the Class will likely be relatively small,
23 especially given the burden and expense of individual prosecution of the complex litigation
24 necessitated by Defendant's actions. Thus, it would be virtually impossible for the individual
25 members of the Class to obtain effective relief from Defendant's misconduct. Even if members
26 of the Class could sustain such individual litigation, it would still not be preferable to a class
27 action because individual litigation would increase the delay and expense to all parties due to the
28 complex legal and factual controversies presented in this Complaint. By contrast, a class action

1 presents far fewer management difficulties and provides the benefits of single adjudication,
2 economies of scale, and comprehensive supervision by a single Court. Economies of time, effort,
3 and expense will be fostered, and uniformity of decisions ensured.

4 **FIRST CAUSE OF ACTION**
5 **Violation of Cal. Penal Code § 637.7**
6 **(On Behalf of Plaintiff and the Class)**

7 26. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

8 27. CIPA prohibits any person or entity in the State of California from using “an
9 electronic tracking device to determine the location or movement of a person” without consent.
10 Cal. Penal Code § 637.7(a)-(b).

11 28. Defendant is a corporation and therefore an “entity” under CIPA.

12 29. Defendant uses “electronic tracking devices” under CIPA to determine the
13 locations or movements of vehicles through TCUs, which are electronic devices attached to
14 automobiles that can transmit the location or movement of such vehicles using electronic
15 signals—here, cellular data connections.

16 30. Defendant therefore uses an electronic tracking device to determine the location
17 or movement of drivers.

18 31. Defendant collects Plaintiff’s and the Class’s location and movement data for its
19 own commercial purposes.

20 32. Defendant did not obtain—or even seek—consent from Plaintiff and the Class
21 before collecting their locations or movements.

22 33. On behalf of himself and the Class, Plaintiff Mollaei seeks: (1) injunctive and
23 equitable relief as is necessary to protect the interests of Plaintiff and the Class by requiring
24 Defendant to comply with CIPA’s requirements for the use of electronic tracking devices in
25 determining the location or movement of a person; and (2) damages of \$5,000 for each violation
26 pursuant to Cal. Penal Code § 637.2.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, Plaintiff Saman Mollaei, on behalf of himself and the Class, respectfully
request that this Court enter an order:

Fax: 312.589.6378

Counsel for Plaintiff and the Proposed Class

**Admission pro hac vice to be sought.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28