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18 (Additional counsel appear on signature page)

19
20 **UNITED STATES DISTRICT COURT**
21 **NORTHERN DISTRICT OF CALIFORNIA**
22 **SAN FRANCISCO DIVISION**

23 FEDERAL TRADE COMMISSION,
24 Plaintiff,
25 v.
26 INTERCONTINENTAL EXCHANGE, INC.
27 and
28 BLACK KNIGHT, INC.,
Defendants.

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Case No. 3:23-cv-01710-AMO
**NOTICE OF CONSTITUTIONAL
CHALLENGE**

NOTICE OF CONSTITUTIONAL CHALLENGE

Pursuant to Rule 5.1(a) of the Federal Rules of Civil Procedure, Defendants Intercontinental Exchange, Inc. (“Intercontinental Exchange”) and Black Knight, Inc. (“Black Knight”), by and through their counsel, hereby provide notice that this matter involves a constitutional challenge, *inter alia*, to the FTC’s administrative adjudicative process and proceedings following the issuance of a complaint by the FTC pursuant to 15 U.S.C. § 45. Defendants raised the question of that provision’s constitutionality in Intercontinental Exchange’s Answer and Affirmative Defenses and Counterclaims (Dkt. No. 57) and Black Knight’s Answer, Affirmative Defenses, and Counterclaims (Dkt. No. 58), where they argue that 15 U.S.C. § 45 as applied violates the Due Process Clause of Fifth Amendment, the Equal Protection Clause of the Fifth Amendment, Article II of the Constitution, Article III of the Constitution, the Seventh Amendment, and the nondelegation doctrine.

Intercontinental Exchange’s Answer and Affirmative Defenses and Counterclaims and Black Knight’s Answer, Affirmative Defenses, and Counterclaims have been served via certified mail on the Attorney General of the United States and the United States Attorney for the Northern District of California.

Dated: May 9, 2023

By /s/ R. James Slaughter

By /s/ Minna Lo Naranjo

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ATTORNEY ATTESTATION

Pursuant to Civil L. R. 5-1(h)(3), I attest that concurrence in the filing of this document has been obtained from each of the other signatories above.

Dated: May 9, 2023

By: /s/Minna Lo Naranjo
Minna Lo Naranjo

PROOF OF SERVICE

I, Minna Lo Naranjo, hereby certify that on May 9, 2023, I electronically filed the documents entitled “NOTICE OF CONSTITUTIONAL CHALLENGE” with the Clerk of the Court for the United States District Court, Northern District of California using the CM/ECF system and served a copy of same upon all counsel of record via the Court’s electronic filing system.

Dated: May 9, 2023

By: /s/Minna Lo Naranjo
Minna Lo Naranjo