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

10 BRENDAN LUNDY, AN INDIVIDUAL
 11 AND COLORADO RESIDENT, AND
 12 MYRIAH WATKINS, AN INDIVIDUAL
 13 AND COLORADO RESIDENT,

14 Plaintiffs,

15 vs.

16 FACEBOOK, INC., GOOGLE, LLC,
 17 ALPHABET, INC., and APPLE INC.,

18 Defendants.

Case No.:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

- (1) UCL – Unlawful Business Practice
- (2) UCL – Unfair Business Practice
- (3) UCL – Fraudulent/Deceptive Business Practice
- (4) Intrusion upon Seclusion
- (5) Violation of California’s Constitutional Right to Privacy
- (6) Intentional Misrepresentation and Omission
- (7) Unjust Enrichment
- (8) Violation of CIPA
- (9) Violation of California’s Right to Publicity Statute
- (10) Violation of California’s Consumer Legal Remedies Act (CLRA)
- (11) Violation of Colorado Consumer Protection Act

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1 Plaintiffs Brendan Lundy and Myriah Watkins (“Plaintiffs”), on behalf of themselves and all
2 others similarly situated, allege the following against Defendants Facebook, Inc. (“Facebook”),
3 Google, LLC (“Google”), Alphabet, Inc. (“Alphabet”), and Apple Inc. (“Apple”) (collectively,
4 “Defendants”), based on personal knowledge as to Plaintiffs and Plaintiffs’ own acts and on
5 information and belief as to all other matters based upon, *inter alia*, the investigation conducted by
6 and through Plaintiffs’ undersigned counsel.

7 **PRELIMINARY STATEMENT**

8 1. This case involves Facebook’s clandestine access to, and collection of, detailed
9 location data from its users’ mobile and/or tablet devices who have never explicitly opted in, or
10 specifically opted out of, Facebook’s access to location tracking, aided and abetted by various
11 misrepresentations and omissions by operating system developers Google and Apple.

12 2. Just this summer, Chief Justice John Roberts observed that “a cell phone – almost a
13 ‘feature of human anatomy[.]’ – tracks nearly exactly the movements of its owner A cell phone
14 faithfully follows its owner beyond public thoroughfares and into private residences, doctor’s
15 offices, political headquarters, and other potentially revealing locales,” and when a third-party has
16 access to the information stored on one’s cell phone, that entity “achieves near perfect surveillance,
17 as if it had attached an ankle monitor to the phone’s user.” *Carpenter v. United States*, 138 S. Ct.
18 2206 at 2218 (2018).

19 3. The overwhelming majority of mobile and tablet devices (“Devices”) run on one of
20 two operating systems: Android or iOS, which were developed by Google and Apple, respectively.

21 4. Google and Apple represented to Android and iOS users that through certain settings
22 on their Devices, they had the ability to expressly opt-in or opt-out of allowing specific third-party
23 applications access to their Devices’ location tracking, including the Facebook application.

24 5. Google, Apple, and Facebook categorically represented to users that, absent users’
25 explicit opt-in to the Facebook application’s access to location tracking from their Devices, Google
26 and/or Apple would prevent Facebook from accessing and storing their location information.

27 6. However, Facebook accessed and stored user’ detailed location information-through
28 their Devices’ location services – even when they did not affirmatively agree to, or expressly opt

1 out of, Facebook accessing and storing their location data. Facebook used this location information
2 to significantly benefit itself – to the tune of millions of dollars from increased advertising revenue
3 – at the expense of its users’ privacy rights.

4 **JURISDICTION AND VENUE**

5 7. This court has jurisdiction over this action pursuant to the Class Action Fairness Act
6 (“CAFA”), 28 U.S.C. § 1332(d), because the aggregate amount in controversy exceeds \$5,000,000,
7 exclusive of interests and costs, there are more than 100 proposed class members, and Defendants
8 are citizens of this state and at least one proposed class member is a citizen of a foreign state. In
9 addition, the Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. §
10 1367.

11 8. Venue is proper under 28 U.S.C. § 1391(c) because Defendants are corporations that
12 do business in and are subject to personal jurisdiction in this District. Venue is also proper because
13 a substantial part of the events or omissions giving rise to the claims in this action occurred in or
14 emanated from this District, including the decisions made by Defendants’ governance and
15 management personnel that led to the misrepresentations and invasions of privacy. Further,
16 Facebook, Google, and Apple’s terms of service governing Users all over the world provide for
17 venue in the Northern District of California for all claims arising out of Plaintiffs’ relationships
18 with Facebook, Google, and/or Apple.

19 **PARTIES**

20 **A. Plaintiffs**

21 9. Plaintiff Brendan Lundy is, and at all relevant times was, a citizen of the State of
22 Colorado. Since at least 2014 and continuously to the present, Plaintiff Lundy has owned and used
23 an Apple iPhone6, powered by iOS, with the third-party Facebook application downloaded onto the
24 device.

25 10. While using the iOS mobile device, Plaintiff Lundy never expressly opted-in to
26 granting Facebook access of his location data through his Location Services settings. Based on
27 Plaintiff Lundy never expressly opting-in the Facebook’s access of Location Tracking on his iOS
28 mobile device, Facebook’s Settings represented that his “Location History” was set to “off.”

1 Nevertheless, and unbeknownst to Plaintiff, Facebook continued to collect location information
2 from his device, and thereby was able to store his location information and exploit it.

3 11. Plaintiff Lundy downloaded a copy of the information obtained by Facebook,
4 specific to him, by using Facebook's "Download Your Information" feature. Plaintiff Lundy
5 downloaded his "location_history" folder, which revealed no data. However, when Plaintiff Lundy
6 reviewed the "security_and_login_information" folder, including the "login_protection_data" and
7 "where_you're_logged_in" files, Plaintiff Lundy was shocked to find that Facebook had access to
8 and had obtained and stored his location information. Plaintiff Lundy saw that Facebook had
9 obtained and stored multiple entries of specific location information, providing his location by
10 latitude and longitude, on a specific date, at a specific time. For example, when viewing this data,
11 Plaintiff Lundy saw that Facebook had recorded and stored his location information, including but
12 not limited to, where he lives, places he has traveled for work and vacation, even down to the road
13 he frequently cycles on. This location information went back to 2014. After viewing this
14 voluminous location data detailing his location on specific dates, at specific times, continuously
15 updating over the years, Plaintiff Lundy felt that his privacy was significantly violated by the
16 collection of detailed location information without his consent.

17 12. Plaintiff Myriah Watkins is, and at all relevant times was, a citizen of the State of
18 Colorado. Since at least 2013 and continuously to the present, Plaintiff has owned and used a
19 mobile device powered by Android's operating system, developed by Google. Plaintiff has the
20 third-party Facebook application downloaded onto her Android mobile device. Since 2013, Plaintiff
21 has owned and used a Samsung Galaxy S6, Samsung Galaxy S7, and Samsung Galaxy S8. She
22 currently owns and uses a Samsung Galaxy S8.

23 13. While using each of these devices, Plaintiff Watkins expressly attempted to limit
24 Facebook's access to her location data through her Application Manager, App Permissions settings
25 – toggling the Facebook application's location tracking permissions to "off." Plaintiff Watkin's
26 Facebook page represented that her "Location History" was set to "off," reflecting the permissions
27 given on her mobile device. Nevertheless, and unbeknownst to Plaintiff, Facebook continued to
28

1 access her location information from her device, and thereby was able to collect her location
2 information and exploit it.

3 14. Plaintiff Watkins downloaded a copy of the information obtained by Facebook using
4 Facebook's "Download Your Information" feature. Plaintiff Watkins downloaded her
5 "location_history" folder, which revealed no data. However, when Plaintiff Watkins viewed the
6 "security_and_login_information" folder, including the "login_protection_data" and
7 "where_you're_logged_in" files, Plaintiff Watkins was shocked to find that Facebook had access to
8 and had obtained and stored her location information. Plaintiff Watkins saw that Facebook had
9 obtained and stored multiple entries of detailed location information, providing her specific
10 location, by latitude and longitude, on specific dates, at specific times. For example, when viewing
11 this data, Plaintiff Watkins saw that Facebook had recorded and stored her location information,
12 including but not limited to, where she lives, where she works, places she has traveled for vacation,
13 and places she frequently visits. This location information went back to 2015. After viewing this
14 voluminous location data detailing her location on specific dates, at specific times, continuously
15 updating over the years, Plaintiff Watkins felt that her privacy was significantly violated by the
16 collection of detailed location information without her consent.

17 **B. Defendants**

18 15. Defendant Facebook, Inc. ("Facebook") is a Delaware corporation with its principal
19 executive offices located at 1601 Willow Road, Menlo Park, California 94025.

20 16. Defendant Google, LLC ("Google") is a Delaware corporation with its principal
21 headquarters in Mountain View, California.

22 17. Defendant Alphabet, Inc. ("Alphabet") is a Delaware corporation with its principal
23 headquarters in Mountain View, California. Alphabet is a public holding company formed in a
24 corporate reorganization by Google. Through the corporate restructuring, Defendant Google is now
25 a direct, wholly owned subsidiary of Defendant Alphabet.

26 18. Defendant Apple Inc. ("Apple") is a California corporation with its principal place
27 of business in Cupertino, California.

28

1 19. At all relevant times, Defendants were and are engaged in business in San Mateo
2 County and throughout the U.S. and world.

3 **FACTUAL BACKGROUND**

4 **A. Google Specifically Represented to Users That They Had the Ability to Opt-Out**
5 **of Location Tracking on Their Android Devices**

6 20. At all relevant times, Google adopted a Privacy Policy, covering all Google products
7 and services, which purported to help users “understand what information we collect, why we
8 collect it, and how you can update, manage, export, and delete your information.”¹

9 21. Additionally, Google’s Privacy Policy demonstrated its understanding of the
10 significant position of trust that users placed with Google and, in light of that trust, the importance
11 of users’ ability to control their private information: “[w]hen you use our services, *you’re trusting*
12 *us with your information*. We understand this is a *big responsibility* and work hard to protect your
13 information and *put you in control*.”²

14 22. In its Privacy Policy, under the “Your location information” section, Google
15 specifically represented to users that they can control Google’s collection of their location
16 information, providing that “[t]he types of location data we collect *depend in part on your device*
17 *and account settings*. For example, *you can turn your Android device’s location on or off using*
18 *the device’s settings app*.”³

19 23. Next, under the “Managing, reviewing, and updating our information” section in its
20 Privacy Policy, Google represented to users that they could “[d]ecide which types of activity you’d
21 like saved in your account,” specifically referencing “Location History” as an example of a choice
22 users could make regarding the private information they chose to share⁴:

27 ¹ Google, *Privacy Policy* (May 25, 2018), available at <https://policies.google.com/privacy> (last visited November 1, 2018).

28 ² *Id.* (emphasis added).

³ *Id.* (emphasis added).

⁴ *Id.*

1 Privacy controls



4 **Activity Controls**

5 Decide what types of activity you'd like saved in your account. For example, you can turn on Location History if you want traffic predictions for your daily commute, or you can save your YouTube Watch History to get better video suggestions.

6 [Go to Activity Controls](#)

7

8 24. Later in its Privacy Policy, Google again emphasized to users that they could control
9 the location information sent to Google and third-parties by modifying the location setting on their
10 Devices, providing that⁵:

- 11 • Device-level settings: Your device may have controls that determine what information we collect. For example, you
12 can [modify location settings](#) on your Android device.

13

14 There are other ways to control the information Google collects whether or not you're signed in to a Google Account,
15 including:

16

17 25. To effectuate users' control over information sent to Google and third-parties,
18 Google provided a setting on Android devices titled App Permissions whereby users can opt-in or
19 opt-out of an application's access to location tracking and location data storage by switching a
20 toggle "on" or "off." Theoretically, users can opt-out of location information being sent to
21 Facebook by accessing the Facebook application's App Permissions setting and switching the
22 location toggle to "off."

23 26. If accessing location tracking under the Facebook application's App Permissions
24 setting, users are given an additional, even more detailed disclosure from Google on their Devices.
25 This disclosure designated the type of location information that Facebook will collect if, *and only if*,
26 access to location tracking is toggled "on" by the user: location tracking for Facebook "[a]llows the
27 app to get your precise location using the Global Positions System (GPS) or network location

28

⁵ *Id.*

1 sources such as cell towers and Wi-Fi. *These location services must be turned on and available to*
 2 *your device for the app to use them.*”

3 **B. Apple Specifically Represented to Users That They Had the Ability to Opt-Out**
 4 **of Location Tracking on Their iOS Devices**

5 27. At all relevant times, Apple’s Privacy Policy, which purported to provide a “a clear
 6 explanation of how we collect, use, disclose, transfer, and store your information”⁶ for all Apple
 7 products and services, specified under the “Location-Based Services” section that users’ location
 8 information is only imparted to third-party application providers if the user affirmatively opted in:

9 **Location-Based Services**

10 To provide location-based services on Apple products, Apple and our partners
 11 and licensees may collect, use, and share precise location data, including the
 12 real-time geographic location of your Apple computer or device. Where
 13 available, location-based services may use GPS, Bluetooth, and your IP Address,
 14 along with crowd-sourced Wi-Fi hotspot and cell tower locations, and other
 15 technologies to determine your devices’ approximate location. Unless you
 16 provide consent, this location data is collected anonymously in a form that does
 17 not personally identify you and is used by Apple and our partners and licensees
 18 to provide and improve location-based products and services. *For example, your*
 19 *device may share its geographic location with application providers when you*
 20 *opt in to their location services.*⁷

21 28. On its “Location Services & Privacy” support page, Apple again specifically
 22 represented to Users that they controlled what location information was sent to Apple and third-
 23 parties through the Location Services setting on iOS devices:

24 Location Services is designed to protect your information and *enable you to*
 25 *choose what you share.*

26 *Location Services allows Apple and third-party apps and websites to gather*
 27 *and use information based on the current location of your iPhone or Apple*
 28 *Watch to provide a variety of location-based services. For example, an app might*
 use your location data and location search query to help you find nearby coffee
 shops or theaters, or your device may set its time zone automatically based on
 your current location. To use features such as these, *you must enable Location*
Services on your iPhone and give your permission to each app or website

29 ⁶ Apple, *Apple Customer Privacy Policy*, available at <https://www.apple.com/legal/privacy/> (last visited November 1, 2018).

30 ⁷ Apple, *Privacy Policy* (May 22, 2018), available at <https://www.apple.com/legal/privacy/en-ww/> (last visited November 1, 2018) (emphasis added).

1 *before it can use your location data.* Apps may request limited access to your
 2 location data (only when you are using the app) or full access (even when you
 are not using the app)

3 Location Services uses GPS and Bluetooth (where those are available) along
 4 with crowd-sourced Wi-Fi hotspot and cell tower locations to determine your
 device’s approximate location.

5 *If Location Services is on,* your iPhone will periodically send the geo-tagged
 6 locations of nearby Wi-Fi hotspots and cell towers in an anonymous and
 encrypted form to Apple, to be used for augmenting this crowd-sourced database
 of Wi-Fi hotspot and cell tower locations

7 *You may choose to disable Location Services at any time. To do so, open*
 8 *Settings on your iPhone, tap Privacy, tap Location Services, and either turn off*
 9 *the global Location Services switch or turn off the individual location switch of*
each location-aware app or feature by setting it to “Never”⁸

10 29. To effectuate users’ control over what location information was sent to Apple and
 11 third-parties, Apple provided a setting on iOS devices titled Location Services whereby users can
 12 opt-in or opt-out of an application’s access to location tracking and storage of location data by
 13 choosing between three allowances of access to location information: “Always”, “While Using”, or
 14 “Never.” Theoretically, users can opt-out of location information being collected by Facebook by
 15 accessing Apple’s Location Services settings and selecting “Never” for the Facebook application.

16 **C. Facebook Specifically Represented to Users That They Had the Ability to Opt-**
 17 **Out of Location Tracking by Turning Location Services Off on Their Android**
 18 **and/or iOS Devices**

19 30. Prior to a change in policy in or around May 2018, Facebook’s Data
 20 Policy, which purported to explain which kind of information Facebook collected from
 21 its users, provided⁹:

22
 23
 24
 25
 26
 27 ⁸ Apple, *Location Services & Privacy*, available at <https://support.apple.com/en-us/HT207056> (last visited November 1,
 2018) (emphasis added).

28 ⁹ Facebook, *Data Policy*, available at
<https://support.google.com/accounts/answer/3118687?hl=en> (visited April 16, 2018, using Wayback Machine).

1 **Device information.**

2 We collect information from or about the computers, phones, or other
3 devices where you install or access our Services, depending on the
4 permissions you've granted. We may associate the information we
5 collect from your different devices, which helps us provide consistent
6 Services across your devices. Here are some examples of the device
7 information we collect:

- 8
- 9 • Attributes such as the operating system, hardware version, device
10 settings, file and software names and types, battery and signal
11 strength, and device identifiers.
 - 12 • Device locations, including specific geographic locations, such as
13 through GPS, Bluetooth, or WiFi signals.
 - 14 • Connection information such as the name of your mobile operator or
15 ISP, browser type, language and time zone, mobile phone number
16 and IP address.
- 17

18 31. Notably, Facebook represented that it collected “[d]evice information” including
19 “[d]evice locations, including specific geographic locations, such as through GPS, Bluetooth, or
20 WiFi signals” *“depending on the permissions you’ve granted.”*¹⁰ The granted permissions referred
21 to the setting selected by users through the location services setting if using an iOS device, or the
22 App Permissions setting if using an Android device.

23 32. This ability to opt-in or opt-out of Facebook compiling and storing location
24 information on a user’s Device is verified in Facebook’s “Location Settings” page within the user’s
25 Facebook profiles, accessible by logging into his or her Facebook account on a computer. The
26 “Location Settings” page specifies that “[y]ou can change your Location Settings in the app on your
27 device,” which again references the control selections on users’ Devices. If a Facebook user has

28 _____
¹⁰ *Id* (emphasis added).

1 not expressing opted in to or set the access or permissions of the Facebook application to “off” or
2 “never” on his or her Device, this page will confirm that selection by providing that “[y]our
3 Location History is off.”

4 33. Facebook CEO Mark Zuckerberg reiterated this opt-in process during his April 10,
5 2018, Congressional testimony following Facebook’s Cambridge Analytica scandal, providing the
6 following responses to Senator Debra Fischer’s (R-NE) questioning:

7
8 FISCHER: How much do you store of that? All of it? All of it? Everything we click
9 on, is that in storage somewhere?

10 ZUCKERBERG: Senator, we store data about what people share on the service and
11 information that's required to do ranking better, to show you what you care about in
12 news feed.

13 FISCHER: Do you — do you store text history, user content, activity, *device*
14 *location*?

15 ZUCKERBERG: Senator, some of that content *with people’s permission, we do*
16 *store*.

17 FISCHER: Do you disclose any of that?

18 ZUCKERBERG: Yes, it — Senator, in order to — *for people to share that*
19 *information with Facebook, I believe that almost everything that you just said*
20 *would be opt in.*¹¹

21 **D. Facebook Received and Stored Location Data from Its Users’ Devices Without**
22 **Permission (and in Contravention of Its Users’ Wishes)**

23 34. Despite Google’s and Apple’s representations that Facebook will not receive
24 location information if users do not expressly opt-in or select “off” or “never” on their Devices,
25 and despite Facebook’s representation that it will only receive location information from users’
26 Devices if they permitted, Facebook has been covertly obtaining detailed location information
27 from users regardless of whether a user has opted in or opted out on his or her Device.

28 ¹¹ The Washington Post, *Transcript of Mark Zuckerberg’s Senate hearing* (April 10, 2018), available at
https://www.washingtonpost.com/news/the-switch/wp/2018/04/10/transcript-of-mark-zuckerbergs-senate-hearing/?utm_term=.ca3abe9c3500 (emphasis added).

1 35. Facebook represents the users' "Location History" in the settings menu of the users'
2 account. Facebook users' "Location History" is displayed as "off" if user has not expressly opted-
3 in or selected "off" or "never" on their mobile device. The Facebook application also offers users a
4 "Download Your Information" feature allowing them to download reports compiling the
5 information that Facebook has collected about them.

6 36. One of the many reports Facebook users can download is their "location_history."
7 When "Location History" is set to "off" the report reads, "[y]ou have no data in this section."
8 However, buried within the myriad of folders containing the user information obtained by
9 Facebook is a folder titled "security_and_login_information" which has two files:
10 "login_protection_data" and "where_you're_logged_in." These two files show specific personal
11 location information about the user, including but not limited to, a description of the user's
12 location, by latitude and longitude, on specific dates, at specific times.

13 37. In or around May 2018, prompted by the implementation of Europe's strict new
14 data protection and privacy regulation, Facebook realized that it had to come clean about its data
15 collection practices in its Data Policy. Prior to that date, Facebook specifically represented that its
16 collection of any location information depended on "the permissions" users had "granted" on their
17 Devices.¹²

18 38. In an attempt to correct this misrepresentation, Facebook changed the
19 aforementioned "Device Information" section of its Data Policy in or around May 2018 to remove
20 the language "depending on the permissions you've granted," and instead represented that
21 Facebook *will* obtain location information from users' Devices, including "GPS location" and
22 "Device signals: Bluetooth signals, and information about nearby Wi-Fi access points, beacons,
23 and cell towers."¹³

24 39. However, Facebook had already obtained valuable location data from users for
25 years without their consent based on Facebook's Data Policy regarding its location information
26

27 ¹² Facebook, *Data Policy*, available at
<https://support.google.com/accounts/answer/3118687?hl=en> (visited April 16, 2018, using Wayback Machine).

28 ¹³ Facebook, *Data Policy*, available at
<https://support.google.com/accounts/answer/3118687?hl=en> (visited June 3, 2018, using Wayback Machine).

1 collection practices. Facebook’s attempt to paper over the misrepresentations and omissions in its
2 Data Policy after its deceptive practice of secretly amassing a considerable amount of profitable
3 data does not absolve it of liability.

4 **E. Facebook Profited Enormously from Tracking and Storing Users’ Location**
5 **Data**

6 40. Most of Facebook’s revenue comes from the sale of targeted advertising services.
7 For example, during 2017 alone, Facebook generated \$40.65 billion in revenue, of which \$39.94
8 billion was advertising revenue.¹⁴

9 41. Facebook offers advertising services to its customers (advertisers) that include or
10 have included at various points in time, *inter alia*, assisting customers in developing and creating
11 advertisements and advertising strategies, obtaining information about users from Facebook’s
12 website and third-party sources, compiling user data and maintaining databases of user information,
13 developing a marketing and advertising strategy to target and/or exclude certain groups of users
14 from receiving advertisements, tracking and evaluating the effectiveness of advertisements and user
15 targeting strategies, implementing advertising campaigns, and delivering advertisements to users,
16 including via News Feed.

17 42. Facebook’s customers can use Facebook’s advertising services to target its users
18 with specific attributes. Facebook applies its own algorithm to categorize users and to determine
19 which users and groups of users will be targeted to receive advertisements via its advertising
20 platform. As touted on Facebook’s website: “With our powerful audience selection tools, you can
21 target people who are right for your business. Using what you know about your customers—like
22 demographics, interests and behaviors—you can connect with people similar to them.”

23 43. Facebook also provides detailed analytical data to advertisers on how their
24 advertisement campaigns are performing, including among certain groups of Facebook users with
25 specified attributes and characteristics that the advertiser seeks to target. By monitoring this data
26 and providing this information to its customers on an ongoing basis, Facebook captures consumer
27

28 _____
¹⁴ Facebook, *Form 10-K, for the fiscal year ended December 31, 2017*, at 34.

1 behavior, profile, preferences, lifestyle, and other attributes which allows it to run targeted
2 advertisements. This enables customers to target specific groups of users for advertisements.

3 44. Targeting advertising of this nature requires Facebook to compile an enormous
4 amount of personal information from its users, including location information. This information is
5 highly valuable because the average cost per click for an online Facebook advertisement in 2017
6 was \$1.72¹⁵, and the average U.S. Facebook user is reportedly worth about \$200 a year.¹⁶

7 45. Location data presents one of the most valuable forms of data that Facebook collects
8 about its users for its advertisers not only because of what the data point alone says about an
9 individual (i.e., where he or she is at any particular point in time), but because of the massive
10 amount of personal and private information that can be extracted from the location data (such as
11 medical treatment, personal relationships, and private interests).

12 46. On June 8, 2018, Congress released Facebook's responses to post-hearing questions
13 stemming from Facebook CEO Mark Zuckerberg's April 10, 2018, Congressional testimony
14 following Facebook's Cambridge Analytica scandal. Regarding how Facebook constructs digital
15 profiles for purposes of selling advertisements, Zuckerberg stated, "We use data from devices (such
16 as location data) to help advertisers reach people in particular areas. For example, if people have
17 shared their device locations with Facebook or checked into a specific restaurant, we can show
18 them ads from an advertiser that wants to promote its services in their area or from the restaurant."¹⁷

19 **F. Tracking Users' Location Without Permission (and in Contravention of Their**
20 **Wishes) Violates the Federal Trade Commission Act as a Deceptive Trade**
21 **Practice**

22 47. Federal Trade Commission ("FTC") enforcement actions have specifically found
23 that conduct similar to that alleged herein against Defendants is a deceptive trade practice in
24 violation of § 5 of the FTC Act.

25 ¹⁵ Mark Irvine, *Facebook Ad Benchmarks for YOUR Industry [New Data]* (August 13, 2018), available at
26 <https://www.wordstream.com/blog/ws/2017/02/28/facebook-advertising-benchmarks> (last visited November 1, 2018).

27 ¹⁶ Sam Harnett, *Here's How Much You Are Worth To Facebook In Dollars and Cents* (April 11, 2018), available at
28 <https://www.kqed.org/news/11661387/heres-how-much-you-are-worth-to-facebook-in-dollars-andcents> (last visited
November 1, 2018).

¹⁷ *Zuckerberg Responses to Judiciary Committee QFRs* (June 8, 2018), available at
<https://www.judiciary.senate.gov/imo/media/doc/Zuckerberg%20Responses%20to%20Judiciary%20Committee%20QFRs.pdf>
at 16.

1 48. For example, in June 2018, the FTC announced that it had settled charges against a
2 mobile advertising company, InMobi PTE (“InMobi”), for deceptively tracking the locations of
3 hundreds of millions of individuals without their knowledge or consent in order to serve them geo-
4 targeted advertising (i.e., advertisements tailored to individuals based on where they live or places
5 they frequent).¹⁸

6 49. In that action, the FTC alleged that InMobi misleadingly represented that its
7 advertising software would only track consumers’ locations if they opted in to being tracked, and in
8 a manner consistent with their devices’ privacy settings.¹⁹ According to the FTC complaint,
9 InMobi was actually tracking consumers’ locations whether or not the applications using InMobi’s
10 software asked for their permission to do so, and even where consumers had denied permission to
11 access their location information.²⁰

12 50. As a result of the FTC enforcement action, InMobi agreed to pay \$950,000 in civil
13 penalties and to implement a comprehensive privacy program which included a prohibition against
14 collecting consumers’ location information without their affirmative express consent as well as
15 requirements that InMobi honor consumers’ location privacy settings and for the program to be
16 independently audited every two years for the next 20 years.²¹ InMobi was further required to
17 delete all of the consumers’ location information that it had collected without their consent and was
18 prohibited from further misrepresenting its privacy practices.²²

19 **G. Defendant Google and Facebook’s History of Poor Protection of User Data**

20 **1. Google’s Poor Protection of User Data**

21 51. Google has been on notice of deficiencies regarding its policies, processes, and
22 procedures involving the collection and protection of user data since at least 2010.

23 52. After the FTC charged Google with using deceptive tactics and violating its own
24 privacy promises to consumers when launching its first social network product, Google Buzz, in
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26 ¹⁸ U.S. FTC, *Mobile Advertising Network InMobi Settles FTC Charges It Tracked Hundreds of Millions of Consumers’*
Locations Without Permission (June 22, 2018), available at [https://www.ftc.gov/news-events/pressreleases/](https://www.ftc.gov/news-events/pressreleases/2016/06/mobile-advertising-network-inmobi-settles-ftc-charges-it-tracked)
[2016/06/mobile-advertising-network-inmobi-settles-ftc-charges-it-tracked](https://www.ftc.gov/news-events/pressreleases/2016/06/mobile-advertising-network-inmobi-settles-ftc-charges-it-tracked).

27 ¹⁹ *Id.*

28 ²⁰ *Id.*

²¹ *Id.*

²² *Id.*

1 2010, Google entered into a consent decree as part of a proposed settlement in March 2011.²³
2 Under the settlement, the FTC barred Google from misrepresenting the privacy of personal
3 information or the extent to which consumers may exercise control over the collection, use, or
4 exposure of certain personal information.²⁴ The FTC also required Google to establish a
5 “comprehensive privacy program that was reasonably designed to: (1) address privacy risks related
6 to the development and management of new and existing products and services for consumers, and
7 (2) protect the privacy and confidentiality of covered information.”²⁵ Included in the privacy
8 program was the “regular testing or monitoring of the effectiveness of those privacy controls and
9 procedures,” which would be audited by an independent third-party professional.²⁶

10 53. Less than a year after entering into the FTC consent decree, Google violated it –
11 becoming one of the rare companies in the country that has violated an FTC consent decree – and
12 paid a record fine for its circumvention of privacy protections in the web browser Safari.²⁷ In
13 discussing the settlement, Jon Leibowitz, Chairman of the FTC, said, “The record setting penalty in
14 this matter sends a clear message to all companies under an FTC privacy order. No matter how big
15 or small, all companies must abide by FTC orders against them and keep their privacy promises to
16 consumers, or they will end up paying many times what it would have cost to comply in the first
17 place.”²⁸

18 2. Facebook’s Poor Protection of User Data

19 55. Facebook has been on notice of deficiencies regarding its policies, processes, and
20 procedures involving the collection and protection of user data for even longer than Google.
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25 ²³ U.S. FTC, *In the Matter of GOOGLE INC., a corporation* (October 13, 2011), Docket No. C-4436, available at
<https://www.ftc.gov/sites/default/files/documents/cases/2011/10/111024googlebuzzdo.pdf>

26 ²⁴ *Id.*

27 ²⁵ *Id.*

28 ²⁶ *Id.*

²⁷ U.S. FTC, *Google Will Pay \$22.5 Million to Settle FTC Charges It Misrepresented Privacy Assurances to Users of Apple’s Safari Internet Browser* (August 9, 2012), available at <https://www.ftc.gov/news-events/press-releases/2012/08/google-will-pay-225-million-settle-ftc-charges-it-misrepresented> (last visited November 1, 2018).

²⁸ *Id.*

1 56. In 2008, a Facebook technical glitch revealed the confidential birthdates of 80
2 million users' profiles.²⁹ Then, in 2013, Facebook disclosed a software flaw that exposed 6 million
3 users' phone numbers and email addresses to unauthorized viewers for a year.³⁰

4 57. Earlier this year in March, news broke that Facebook had allowed for the personal
5 data of up to 87 million user profiles to be harvested by Cambridge Analytica.³¹ This scandal was
6 significant for inciting a public discussion on the ethical standards of data collection by social
7 media companies, resulting in a call for greater consumer protection over users' right to privacy in
8 online media and eventually leading to Facebook CEO Mark Zuckerberg's testimony before
9 Congress.³² Most recently, in September 2018, a security breach exposed the personal information
10 of up to 50 million Facebook users.³³ This already egregious exposure of Facebook users' personal
11 information was exponentially worsened by Facebook's collection of location data without users'
12 consent. The breach allowed hackers to gain access to, and potentially take control of, user
13 accounts which, given the troubling data practices alleged herein, included detailed location history
14 that users had not consented to Facebook having – much less hackers.³⁴

15 **H. Apple Was Aware, Or Should Have Been Aware, of Facebook's Improper**
16 **Collection of User Data Due to Its Data-Sharing Partnership with Facebook**

17 58. Apple knew, or should have known, that Facebook was improperly accessing
18 location data from users with iOS Devices.

19 59. As detailed in a June 3, 2018, New York Times article titled "Facebook Gave Device
20 Makers Deep Access to Data on Users and Friends," Facebook had formed data-sharing

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24 ²⁹ Reuters, *Facebook says big breach exposed 50 million accounts to full takeover* (September 28, 2018), available at
[https://www.reuters.com/article/us-facebook-cyber/facebook-unearts-security-breach-affecting-50-million-users-
idUSKCN1M82BK?feedType=RSS&feedName=newsOne](https://www.reuters.com/article/us-facebook-cyber/facebook-unearts-security-breach-affecting-50-million-users-idUSKCN1M82BK?feedType=RSS&feedName=newsOne) (last visited November 1, 2018)

25 ³⁰ *Id.*

26 ³¹ The New York Times, *Facebook Says Cambridge Analytica Harvested Data of Up to 87 Million Users* (April 4, 2018),
available at <https://www.nytimes.com/2018/04/04/technology/mark-zuckerberg-testify-congress.html> (last visited November
1, 2018).

27 ³² *See id.*

28 ³³ The New York Times, *Facebook Security Breach Exposes Accounts of 50 Million Users* (September 28, 2018), available at
<https://www.nytimes.com/2018/09/28/technology/facebook-hack-data-breach.html> (last visited November 1, 2018).

³⁴ *Id.*

1 partnerships with various device makers, including Apple.³⁵ The article described how extensive
2 the scope of the partnerships were, providing, in relevant parts:

3 But the partnerships, whose scope has not previously been reported, raise concerns
4 about the company's privacy protections and compliance with a 2011 consent
5 decree with the Federal Trade Commission. Facebook allowed the device
6 companies access to the data of users' friends without their explicit consent, even
7 after declaring that it would no longer share such information with outsiders. Some
8 device makers could retrieve personal information even from users' friends who
9 believed they had barred any sharing, The New York Times found

10 Most of the partnerships remain in effect, though Facebook began winding them
11 down in April

12 *The company views its device partners as extensions of Facebook*, serving its
13 more than two billion users, the officials said

14 Facebook's view that the device makers are not outsiders lets the partners go even
15 further, The Times found: They can obtain data about a user's Facebook friends,
16 even those who have denied Facebook permission to share information with any
17 third parties

18 An Apple spokesman said the company relied on private access to Facebook data for
19 features that enabled users to post photos to the social network without opening the
20 Facebook app, among other things.³⁶

21 60. In the New York Times article, Serge Egelman, a privacy researcher at the
22 University of California, Berkeley who studies the security of mobile apps, noted with regard to
23 data-sharing relationships, "You might think that Facebook or the device manufacturer is
24 trustworthy, but the problem is that as more and more data is collected on the device — and if it can
25 be accessed by apps on the device — it creates serious privacy and security risks."³⁷

26 61. In responding to the New York Times article, Facebook admitted that Facebook had
27 formed a "partnership" with device makers "including many household names such as Amazon,
28 *Apple*, Blackberry, HTC, Microsoft and Samsung" in a June 3, 2018 news release titled "Why We
Disagree with The New York Times."³⁸

35 The New York Times, *Facebook Gave Device Makers Deep Access to Data on Users and Friends* (June 3, 2018), available at <https://www.nytimes.com/interactive/2018/06/03/technology/facebook-device-partners-users-friends-data.html> (last visited November 1, 2018).

36 *Id.* (emphasis added).

37 *Id.*

38 Facebook, *Why We Disagree with The New York Times* (June 3, 2018), available at <https://newsroom.fb.com/news/2018/06/why-we-disagree-with-the-nyt/> (last visited November 1, 2018) [emphasis added].

1 **Numerosity:** The members of each Class and Sub-Class are so numerous that joinder of all
2 members of every Class and Sub-Class would be impracticable. Plaintiffs reasonably believe that
3 Class and Sub-Class members number hundreds of thousands of people or more in the aggregate
4 and well over 1,000 in the smallest of the classes or sub-class. The names and addresses of Class
5 and Sub-Class members are identifiable through documents maintained by Defendants.

6 **Commonality and Predominance:** This action involves common questions of law or fact,
7 which predominate over any questions affecting individual Class and Sub-Class members,
8 including:

9 a. Whether Defendants represented that Facebook would not access, record,
10 and exploit location information from Plaintiffs and Class and Sub-Class members if they
11 never explicitly agreed to such use of their location information, or if they expressly turned
12 off permissions or access to location tracking on their Devices;

13 b. Whether Facebook’s alleged misconduct amounts to the use of an electronic
14 tracking device to determine the location or movement of a person, in violation of Cal. Pen.
15 Code § 637.7;

16 c. Whether the Android and iOS devices which inherently contain the
17 technology utilized by Facebook are “electronic tracking devices” under Cal. Pen. Code §
18 637.7(d);

19 d. Whether Defendants’ alleged misconduct was an unlawful, unfair and/or
20 deceptive business practice under Cal. Bus. & Prof. Code § 17200, *et seq.*;

21 e. Whether Defendants intentionally intruded on and into Plaintiffs’ and the
22 other Class members’ solitude, seclusion, or private affairs by the conduct alleged herein;

23 f. Whether Defendants were unjustly enriched by the conduct alleged herein;

24 g. Whether Defendants engaged in the unauthorized appropriation of
25 Plaintiffs’ and Class members’ identity for commercial gain in violation of Cal. Civ. Code
26 § 3344, *et seq.*;

27 h. Whether Defendants Apple’s and Google’s conduct alleged herein
28 constitutes unfair methods of competition and unfair and deceptive acts and practices in

1 violation of the California Consumer Legal Remedies Act (“CLRA”), Cal. Civ. Code §
2 1750, *et seq.*;

3 i. Whether Defendants’ alleged misconduct violated the Colorado Consumer
4 Protection Act, Colo. Rev. Stat. 6-1-101, *et seq.*;

5 j. Whether Defendants, in engaging in the conduct alleged herein, made
6 intentional misrepresentations and/or omissions to Plaintiffs and the other Class members;

7 k. Whether Defendants’ alleged misconduct amounts to egregious breaches of
8 social norms; and

9 l. Whether Defendants acted intentionally in violating the privacy rights of
10 Plaintiffs and Class and Sub-Class members.

11 65. Defendants engaged in a common course of conduct giving rise to the legal rights
12 sought to be enforced by Plaintiffs individually and on behalf of the members of the Classes and
13 Sub-Class. Similar or identical statutory and common law violations, business practices, and
14 injuries are involved. Individual questions, if any, pale by comparison, in both quantity and quality,
15 to the numerous common questions that dominate this action.

16 66. As further indication of the common questions of law, Defendants’ terms of service
17 provide that users agree that the laws of California, excluding California’s choice of law rules, will
18 apply to any disputes between users and Defendants.

19 67. Facebook’s terms of service provide “[f]or any claim, cause of action, or dispute you
20 have against us that arises out of or relates to these Terms or the Facebook Products . . . the laws
21 of the State of California will govern these Terms and any claim.”⁴⁰

22 68. Google’s terms of service provide that “you agree that the laws of California,
23 U.S.A., excluding California’s choice of law rules, will apply to any disputes arising out of or
24 relating to these terms or the Services.”⁴¹

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27 ⁴⁰ Facebook, *Terms of Service* (April 19, 2018), available at <https://www.facebook.com/terms.php> (last visited November 8, 2018).

28 ⁴¹ Google, *Terms of Service* (October 25, 2017), available at <https://policies.google.com/terms?hl=en&gl=ZZ> (last visited November 8, 2018).

1 69. Apple’s terms of service provide “this Agreement and the relationship between you
2 and Apple shall be governed by the laws of the State of California, excluding its conflicts of law
3 provisions.”⁴²

4 **Typicality:** Plaintiffs’ claims are typical of the claims of the other members of their
5 respective classes because, *inter alia*, Plaintiffs and Class and Sub-Class members were injured
6 through the substantially uniform misconduct by Defendants. Plaintiffs are advancing the same
7 claims on behalf of themselves and all other Class and Sub-Class members, and there are no
8 defenses that are unique to Plaintiffs. The claims of Plaintiffs and those of other Class and Sub-
9 Class members arise from the same operative facts and are based on the same legal theories.

10 **Adequacy of Representation:** Plaintiffs are adequate representatives of the Classes and
11 Sub-Class because their interests do not conflict with the interests of the other Class and Sub-Class
12 members they seek to represent; they have retained counsel competent and experienced in complex
13 class action litigation; and they will prosecute this action vigorously. The interests of Class and
14 Sub-Class members will be fairly and adequately protected by Plaintiffs and their counsel.

15 **Superiority:** A class action is superior to any other available means for the fair and efficient
16 adjudication of this controversy, and no unusual difficulties are likely to be encountered in the
17 management of this matter as a class action. The damages, harm, or other financial detriment
18 suffered individually by Plaintiffs and the other Class and Sub-Class members are relatively small
19 compared to the burden and expense that would be required to litigate their claims on an individual
20 basis against Defendants, making it impracticable for Class and Sub-Class members to individually
21 seek redress for Defendants’ wrongful conduct. Even if Class and Sub-Class members could afford
22 individual litigation, the court system could not. Individualized litigation would create a potential
23 for inconsistent or contradictory judgments and increase the delay and expense to all parties and the
24 court system. By contrast, the class action device presents far fewer management difficulties and
25 provides the benefits of single adjudication, economies of scale, and comprehensive supervision by
26 a single court.

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28 ⁴² Apple, *Apple Media Services Terms and Conditions*, available at <https://www.apple.com/ca/legal/internet-services/itunes/ca/terms.html> (last visited November 8, 2018).

1 70. Further, Defendants have acted or refused to act on grounds generally applicable to
2 the Classes and Sub-Class and, accordingly, final injunctive or corresponding declaratory relief
3 with regard to the members of the Classes and Sub-Class as a whole is appropriate under Rule
4 23(b)(2) of the Federal Rules of Civil Procedure.

5 71. Likewise, particular issues under Rule 23(c)(4) are appropriate for certification
6 because such claims present only particular, common issues, the resolution of which would advance
7 the disposition of this matter and the parties' interests therein. Such particular issues include, but
8 are not limited to:

9 a. Whether Defendants represented that Facebook would not access and
10 exploit location information from Plaintiffs and the other Class and Sub-Class members
11 who never explicitly agreed to such use of their location information, or if they expressly
12 turned off permissions or access to location tracking on their Devices;

13 b. Whether Facebook's alleged misconduct amounts to the use of an electronic
14 tracking device to determine the location or movement of a person, in violation of Cal. Pen.
15 Code § 637.7;

16 c. Whether the Android and iOS devices which inherently contain the
17 technology utilized by Facebook are "electronic tracking devices" under Cal. Pen. Code §
18 637.7(d);

19 d. Whether Defendants' alleged misconduct was an unlawful, unfair and/or
20 deceptive business practice under Cal. Bus. & Prof. Code § 17200, *et seq.*;

21 e. Whether Defendants intentionally intruded on and into Plaintiffs' and the
22 other Class members' solitude, seclusion, or private affairs by the conduct alleged herein;

23 f. Whether Defendants were unjustly enriched by the conduct alleged herein;

24 g. Whether Defendants engaged in the unauthorized appropriation of
25 Plaintiffs' and Class members' identity for commercial gain in violation of Cal. Civ. Code
26 § 3344, *et seq.*;

27 h. Whether Defendants Apple's and Google's conduct alleged herein
28 constitutes unfair methods of competition and unfair and deceptive acts and practices in

1 violation of the California Consumer Legal Remedies Act (“CLRA”), Cal. Civ. Code §
2 1750, *et seq.*;

3 i. Whether Defendants’ alleged misconduct violated the Colorado Consumer
4 Protection Act, Colo. Rev. Stat. 6-1-101, *et seq.*;

5 j. Whether Defendants, in engaging in the conduct alleged herein, made
6 intentional misrepresentations and/or omissions to Plaintiffs and the other Class members;

7 k. Whether Defendants’ alleged misconduct amounts to egregious breaches of
8 social norms; and

9 l. Whether Defendants acted intentionally in violating the privacy rights of
10 Plaintiffs and Class and Sub-Class members.

11 **CLAIMS ALLEGED ON BEHALF OF ALL CLASSES**

12 **First Claim for Relief**

13 **Violation of California’s Unfair Competition Law (“UCL”)-Unlawful Business Practices**
14 **(Cal. Bus. & Prof. Code §17200, *et seq.*)**

15 72. Plaintiffs hereby repeat, reallege, and incorporate by reference each and every
16 allegation contained above as though the same were fully set forth herein.

17 73. Defendants’ terms of service provide that the laws of California will apply to any
18 disputes between users, including Plaintiffs and Class members, and Defendants.

19 74. By reason of the conduct alleged herein, Defendants engaged in unlawful practices
20 within the meaning of the UCL. The conduct alleged herein is a “business practice” within the
21 meaning of the UCL.

22 75. Defendants Google and Apple represented that they would not disclose Plaintiffs’
23 and other Class Members’ detailed location data to third-parties, such as Facebook unless they
24 consented to third-party applications having access to location tracking on their Devices.

25 76. Defendant Facebook further represented that it would collect and store location data
26 from Plaintiffs and the other Class members only if they opted out or did not explicitly consent to
27 access to location tracking on their Devices.

1 77. Defendants failed to abide by these representations, as Defendant Facebook
2 intentionally collected and stored detailed location data from Plaintiffs and the other Class members
3 who had specifically opted out of, or never explicitly agreed to, allowing Facebook access to
4 location tracking on their Devices.

5 78. Even without these misrepresentations, Plaintiffs and other Class members were
6 entitled to assume, and did assume, that Defendants Apple and Google would not disclose their
7 location data to a third-party, such as Facebook when they had specifically opted out of, or never
8 explicitly agreed to, third-parties having access to location tracking, and that Defendant Facebook
9 would not collect, store, and financially benefit from Plaintiffs and the other Class members
10 detailed location data when they had specifically opted out of, or never explicitly agreed to,
11 Facebook receiving or collecting this location data.

12 79. Defendants violated the UCL by misrepresenting, both by affirmative conduct and
13 by omission, that Defendant Facebook would not collect and store detailed location data from
14 Plaintiffs and the other Class members.

15 80. As a result of engaging in the misconduct alleged herein, Defendants violated the
16 UCL's proscription against engaging in unlawful conduct by virtue of: (i) their fraudulent and
17 deceitful conduct in violation of California Civil Code §§ 1709 through 1711; (ii) their violations of
18 the Consumers Legal Remedies Act, California Civil Code §§ 1770(a)(5), (a)(7), and (a)(9); (iii)
19 their violations of Cal. Bus. & Prof. Code § 22576 (as a result of Defendant Facebook, Google, and
20 Apple's failure to comply with their own posted privacy policies); (iv) their violation of Cal. Penal
21 Code § 630, *et. seq.*; and (v) Defendants Google and Facebook's violations of the terms of the 2011
22 Consent Decrees with the FTC.

23 81. Defendants' violations of the UCL continue to this day. As a direct and proximate
24 result of Defendants' violations of the UCL, Plaintiffs have suffered actual damage, *inter alia*, as
25 detailed herein.

26 82. As a result of Defendants' unlawful business practices, which are violations of the
27 UCL, Plaintiffs and the Class members are entitled to restitution, disgorgement of wrongfully
28

1 obtained profits, and injunctive relief. Accordingly, pursuant to § 17203 of the UCL, Plaintiffs and
2 the other Class members seek an order that requires Defendants to:

3 a. modify Defendants’ operating systems, services, and applications in a
4 manner that prevents location tracking absent affirmative user consent;

5 b. modify Defendants’ operating systems, services, and applications in a
6 manner that truthfully advises users of location tracking;

7 c. make full restitution of all moneys wrongfully obtained from their violations
8 of the UCL, as alleged herein; and

9 d. pay the attorney fees and costs incurred by counsel for Plaintiffs and the
10 proposed class in accordance with California Code of Civil Procedure § 1021.5.

11 **Second Claim for Relief**

12 **Violation of California’s UCL – Unfair Business Practices**
13 **(Cal. Bus. & Prof. Code § 17200, *et seq.*)**

14 83. Plaintiffs hereby repeat, reallege, and incorporate by reference each and every
15 allegation contained above as though the same were fully set forth herein.

16 84. Defendants’ terms of service provide that the laws of California will apply to any
17 disputes between users, including Plaintiffs and Class members, and Defendants.

18 85. By reason of the misconduct alleged herein, Defendants engaged in unfair “business
19 practices” within the meaning of the UCL.

20 86. Defendants Google and Apple represented that they would not disclose Plaintiffs’
21 and Class Members’ detailed location data to third-parties, such as Facebook, unless Plaintiffs and
22 Class Members consented to third-parties having access to location tracking on their Devices.

23 87. Defendant Facebook further represented that it would not collect and store location
24 data from Plaintiffs and the other Class members if they expressly opted out, or did not explicitly
25 consent, to data tracking on their Devices.

26 88. Defendants failed to abide by these representations, as Defendant Facebook
27 intentionally collected and stored detailed location data from Plaintiffs and the other Class members
28

1 who had specifically opted out of, or never explicitly agreed to, allowing location tracking on their
2 Devices.

3 89. Even without these misrepresentations, Plaintiffs and other Class members were
4 entitled to assume, and did assume, that Defendants Apple and Google would not disclose their
5 location data to a third-party, such as Facebook, when they had specifically opted out of, or never
6 explicitly agreed to, allowing location tracking by a third-party, and that Defendant Facebook
7 would not collect, store, and financially benefit from Plaintiffs and the other Class members
8 detailed location data when they had specifically opted out of, or never explicitly agreed to,
9 Facebook receiving their location data.

10 90. All Defendants knew or should have known, of the material misrepresentations and
11 omissions alleged herein.

12 91. Defendants violated the UCL's proscription against unfair conduct as a result of
13 engaging in the conduct alleged herein, which violates legislatively-declared policies articulated in,
14 *inter alia*, California Civil Code §§ 1709 through 1711; CLRA, California Civil Code §§
15 1770(a)(5), (a)(7), and (a)(9); Cal. Bus. & Prof. Code § 22576 (as a result of Defendant Facebook,
16 Google and Apple's failure to comply with their own posted privacy policies); Cal. Penal Code §
17 630, *et. seq.*

18 92. Defendants engaged in unfair acts and business practices by falsely representing that
19 Defendants Apple and Google would not disclose Plaintiffs and the other Class members' location
20 data to a third-party, such as Facebook, when they had specifically opted out of, or never explicitly
21 agreed to, third-parties having access to location tracking, and that Defendant Facebook would not
22 collect, store, and financially benefit from Plaintiffs and the other Class members' detailed location
23 data when they had specifically opted out of, or never explicitly agreed to, Facebook receiving their
24 location data.

25 93. In engaging in the unfair acts and business practices alleged herein, Defendants
26 Facebook, Google and Apple failed to comply with their own policies and applicable laws or the
27 regulations and industry standards relating to the privacy of users' data.

1 94. Defendants engaged in unfair business practices under the “balancing test” because
2 the harm caused by their actions and omissions, as described in detail *supra*, greatly outweigh any
3 perceived utility. Indeed, Defendants’ unconsented tracking of Class Members cannot be said to
4 have had any utility at all, beyond that of an unfair and deceptive financial benefit to Defendants at
5 the expense of Class Members.

6 95. Defendants engaged in unfair business practices under the “tethering test” because
7 their actions and omissions, as described in detail *supra*, violated fundamental public policies
8 expressed by the California Legislature.

9 96. Defendants engaged in unfair business practices under the “FTC test” because the
10 harm caused by their actions and omissions, as described in detail *supra*, is substantial in that it
11 affected thousands of Class members and has caused those persons to suffer substantial injury and
12 lost money or property, including but not limited to the loss of their legally protected interest in the
13 confidentiality and privacy of their personal data. Defendants’ actions and omissions violated, *inter*
14 *alia*, § 5(a) of the FTC Act, 15 U.S.C. § 45.

15 97. Defendants’ violations of the UCL continue to this day. As a direct and proximate
16 result of Defendants’ violations of the UCL, Plaintiffs and the other Class members have suffered
17 actual damages, *inter alia*, as detailed herein.

18 98. As a result of Defendants’ unfair business practices, which are violations of the
19 UCL, Plaintiffs and the other Class members are entitled to restitution, disgorgement of wrongfully
20 obtained profits, and injunctive relief. Accordingly, pursuant to § 17203 of the UCL, Plaintiffs and
21 the other Class members seek an order that requires Defendants to:

- 22 a. modify Defendants’ operating systems, services, and applications in a
23 manner that prevents access to location tracking absent affirmative user consent;
- 24 b. modify Defendants’ operating systems, services, and applications in a
25 manner that truthfully advises users of access and usage of location tracking;
- 26 c. make full restitution of all moneys wrongfully obtained from their violations
27 of the UCL, as alleged herein; and
28

1 d. pay the attorney fees and costs incurred by counsel for Plaintiffs and the
2 proposed class in accordance with California Code of Civil Procedure § 1021.5.

3 **Third Claim for Relief**

4 **Violation of California’s UCL – Fraudulent/Deceptive Business Practices**

5 **(Cal. Bus. & Prof. Code § 17200, *et seq.*)**

6 99. Plaintiffs hereby repeat, reallege, and incorporate by reference each and every
7 allegation contained above as though the same were fully set forth herein.

8 100. Defendants’ terms of service provide that the laws of California will apply to any
9 disputes between users, including Plaintiffs and Class members, and Defendants.

10 101. Defendants violated the UCL’s proscription against fraud as a result of engaging in
11 the fraudulent and deceitful conduct herein.

12 102. Defendants engaged in fraudulent and deceptive acts and practices with regard to the
13 services they provided to the Class by Defendants Apple and Google representing that they would
14 not disclose Class members’ location data to a third-party, such as Facebook, when they had
15 specifically opted out of, or never explicitly agreed to, third-parties having access to location
16 tracking, and by Defendant Facebook representing that it would not collect, store, and financially
17 benefit from Class members’ detailed location data when they had specifically opted out of, or
18 never explicitly agreed to, Facebook receiving their location data.

19 103. These representations were likely to deceive members of the public, including
20 Plaintiff and the other Class Members, into believing that their detailed location data would not be
21 collected when they had specifically opted out of, or never explicitly agreed to, Facebook receiving
22 their location data.

23 104. Defendants engaged in fraudulent and deceptive acts and practices with regard to the
24 services provided to the Class by omitting, suppressing, and concealing the material fact that
25 Facebook was continuing to receive, collect, and store detailed location data from Plaintiffs and the
26 other Class Members even when had specifically opted out of, or never explicitly agreed to,
27 Facebook receiving their location data.

28

1 105. As a direct and proximate result of Defendants' deceptive practices and acts,
2 Plaintiffs and the Class were injured and lost money or property, including but not limited to, the
3 loss of their legally protected interest in the confidentiality and privacy of their personal
4 information.

5 106. Defendants' actions in engaging in the above-named unlawful practices and acts
6 were negligent, knowing and willful, and/or wanton and reckless with respect to the rights of
7 members of the Class.

8 107. Defendants' violations of the UCL continue to this day. As a direct and proximate
9 result of Defendants' violations of the UCL, Plaintiffs have suffered actual damage, *inter alia*, as
10 detailed herein.

11 108. As a result of Defendants' fraudulent and deceptive business practices, which are
12 violations of the UCL, Plaintiffs and the Class members are entitled to restitution, disgorgement of
13 wrongfully obtained profits, and injunctive relief. Accordingly, pursuant to § 17203 of the UCL,
14 Plaintiffs and the other Class members seek an order that requires Defendants to:

15 a. modify Defendants' operating systems, services, and applications in a
16 manner that prevents access to location tracking absent affirmative user consent;

17 b. modify Defendants' operating systems, services, and applications in a
18 manner that truthfully advises users of access and usage of location tracking;

19 c. make full restitution of all moneys wrongfully obtained from their violations
20 of the UCL, as alleged herein; and

21 d. pay the attorney fees and costs incurred by counsel for Plaintiffs and the
22 proposed class in accordance with California Code of Civil Procedure § 1021.5.

23 **Fourth Claim for Relief**

24 **Intrusion Upon Seclusion**

25 109. Plaintiffs hereby repeat, reallege, and incorporate by reference each and every
26 allegation contained above as though the same were fully set forth herein.

27 110. Plaintiffs and the other Class members have reasonable expectations of privacy in
28 their Devices. Their private affairs include their behavior on their Devices as well as any other

1 behavior that may be monitored by the surreptitious tracking employed or otherwise enabled by
2 location tracking.

3 111. The reasonableness of such expectations of privacy is supported by Defendants'
4 unique position to monitor Plaintiffs' and the other Class members' behavior through Defendants'
5 access to their private Devices. It is further supported by the surreptitious and non-intuitive nature
6 of Defendants' tracking.

7 112. Defendants intentionally intruded on and into Plaintiffs' and the other Class
8 members' solitude, seclusion, or private affairs by intentionally collecting and storing detailed
9 location data from Plaintiffs and the other Class members.

10 113. These intrusions are highly offensive to a reasonable person. This is evidenced by,
11 *inter alia*, Supreme Court precedent (most recently and forcefully articulated in the *Carpenter*
12 opinion), legislation enacted by Congress, rules promulgated and enforcement actions undertaken
13 by the FTC, and countless studies, op-eds, and articles decrying location tracking. Moreover,
14 Defendants engaged in true tracking of location information deceptively and in direct contradiction
15 of the express instructions of Plaintiffs and the other Class members. Also supporting the highly
16 offensive nature of Defendants' conduct is the fact that their principal goal was to surreptitiously
17 monitor Plaintiffs and the other Class members and to allow third-parties to do the same.

18 114. Plaintiffs and the other Class members were harmed by the intrusion into their
19 private affairs as detailed herein.

20 115. Defendants' actions and conduct complained of herein were a substantial factor in
21 causing the harm suffered by Plaintiffs and the other Class members.

22 116. As a result of Defendants' actions, Plaintiffs and the other Class members seek
23 damages and punitive damages in an amount to be determined at trial. They seek punitive damages
24 because Defendants' actions – which were malicious, oppressive, and willful – were calculated to
25 injure Plaintiffs and the other Class members and made in conscious disregard of their rights and
26 wishes. Punitive damages are warranted to deter Defendants from engaging in future misconduct.
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Fifth Claim for Relief

Violation of California's Constitutional Right to Privacy

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3 117. Plaintiffs hereby repeat, reallege, and incorporate by reference each and every
4 allegation contained above as though the same were fully set forth herein.

5 118. Defendants' terms of service provide that the laws of California will apply to any
6 disputes between users, including Plaintiffs and Class members, and Defendants.

7 119. Plaintiffs and the other Class members have reasonable expectations of privacy in
8 their Devices. Their private affairs include their behavior on their Devices as well as any other
9 behavior that may be monitored by the surreptitious tracking employed or otherwise enabled by
10 location tracking.

11 120. Defendants intentionally intruded on and into Plaintiffs' and the other Class
12 members' solitude, seclusion, right of privacy, or private affairs by intentionally collecting and
13 storing detailed location data from Plaintiffs and the other Class members.

14 121. These intrusions are highly offensive to a reasonable person because they disclosed
15 sensitive and confidential location tracking information, constituting an egregious breach of social
16 norms. This is evidenced by, *inter alia*, Supreme Court precedent (most recently and forcefully
17 articulated in the *Carpenter* opinion), legislation enacted by Congress, rules promulgated and
18 enforcement actions undertaken by the FTC, and countless studies, op-eds, and articles decrying
19 location tracking. Further, the extent of the intrusion cannot be fully known, as the nature of
20 privacy invasion involves sharing Plaintiffs' and the other Class members' location information
21 with potentially countless third-parties, known and unknown, for undisclosed and potentially
22 unknowable purposes, in perpetuity.

23 122. Plaintiffs and the other Class members were harmed by the intrusion into their
24 private affairs as detailed herein.

25 123. Defendants' actions and conduct complained of herein were a substantial factor in
26 causing the harm suffered by Plaintiffs and the other Class members.

27 124. As a result of Defendants' actions, Plaintiffs and the other Class members seek
28 damages and punitive damages in an amount to be determined at trial. They seek punitive damages

1 because Defendants' actions – which were malicious, oppressive, and willful – were calculated to
2 injure Plaintiffs and the other Class members and made in conscious disregard of their rights and
3 wishes. Punitive damages are warranted to deter Defendants from engaging in future misconduct.

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5 **Sixth Claim for Relief**
Intentional Misrepresentation and Omission

6 125. Plaintiffs hereby repeat, reallege, and incorporate by reference each and every
7 allegation contained above as though the same were fully set forth herein.

8 126. Defendants, through themselves and their agents, employees and/or subsidiaries,
9 made materially false representations and omissions to Plaintiffs and the Class that Defendants
10 Google and Apple's operating systems and applications did not secretly collect location information
11 from users against their explicit wishes.

12 127. These material misrepresentations and omissions were contained in the Purchase
13 Agreements, Instructions, Terms and Conditions, in Defendants Google and Apple's operating
14 systems, and various public statements by Defendants.

15 128. Defendants knew or recklessly disregarded the false and misleading nature of their
16 material misrepresentations and omissions.

17 129. Defendants Google and Apple made the materially false and misleading statements
18 and omissions for the purpose of inducing Plaintiffs and the other members of the Class to purchase
19 Android and iOS Devices and purchase, install, and use Google and Apple applications.

20 130. In purchasing and using Defendants Google and Apple's operating systems and
21 applications, Plaintiffs and the other Class members reasonably relied on Defendants' materially
22 misleading statements and omissions that their location information would not be monitored and
23 stored contrary to their explicit wishes.

24 131. As a result of Defendants' materially false and misleading representations and
25 omissions, Plaintiffs and the other Class members sustained damages as set forth herein.

1 139. Defendants’ terms of service provide that the laws of California will apply to any
2 disputes between users, including Plaintiffs and Class members, and Defendants.

3 140. Cal. Pen. Code § 630 provides that “[t]he Legislature hereby declares that advances
4 in science and technology have led to the development of new devices and techniques for the
5 purpose of eavesdropping upon private communication and that the invasion of privacy resulting
6 from the continual and increasing use of such devices and techniques has created a serious threat to
7 the free exercise of personal liberties and cannot be tolerated in a free and civilized society.”

8 141. Defendants’ acts and practices complained of herein, engaged in for purposes of
9 acquiring and using the detailed location information of Plaintiffs and the other Class members,
10 without their consent – and indeed in direct contravention of instructions they clearly expressed by
11 not affirmatively agreeing to, or expressly opting out of, location tracking on their Devices –
12 violated and continues to violate Cal. Pen. Code § 637.7.

13 142. Cal. Pen. Code § 637.7 prohibits the use of an electronic tracking device to
14 determine the location or movement of a person.

15 143. In direct violation of this prohibition and without the consent of Plaintiffs or the
16 other Class members – and indeed in direct contravention of their clearly-expressed wishes –
17 Defendants continued to record, store, and use Plaintiffs and the other Class members’ location
18 information after they did not affirmatively agree to, or expressly opted out of, third-parties
19 accessing the location tracking on their Devices.

20 144. As described herein, Defendants Google and Apple’s Devices are “electronic
21 tracking devices” under Cal. Pen. Code § 637.7(d) in that they are embedded with a host of
22 technology – including but not limited to device components and operating system software –
23 which allows Defendants Google and Apple to track Class members’ location (and thereby “reveals
24 [Class Members’] location or movement by the transmission of electronic signals.”). Class
25 Members’ person is a “movable thing” under the statute.

26 145. As a result of Defendants’ violations of Cal. Pen. Code § 637.7, and pursuant to Cal.
27 Pen. Code § 637.2, Plaintiffs and the other Class members are entitled to the following relief:

- 28 a. A declaration that Defendants’ alleged misconduct violates CIPA;

1 b. Statutory damages and/or trebled actual damages;

2 c. Injunctive relief in the form of, inter alia, an order enjoining Defendants from
3 geolocating Class members in violation of CIPA;

4 d. Injunctive relief in the form of, inter alia, an order requiring Defendants to
5 destroy all data created or otherwise obtained from its illegal geolocation of Class members;
6 and

7 e. An award of attorney's fees and costs of litigation as provided by CIPA, the
8 private attorney general doctrine existing at common law and codified at California Civil
9 Code § 1021.5, and all other applicable laws.

10 **Ninth Claim for Relief Against Defendant Facebook Only**

11 **Violations of California's Right of Publicity Statute**
12 **(Cal. Civ. Code § 3344, *et seq.*)**

13 146. Plaintiffs hereby repeat, reallege, and incorporate by reference each and every
14 allegation contained above as though the same were fully set forth herein.

15 147. Defendant Facebook's terms of service provide that the laws of California will apply
16 to any disputes between users, including Plaintiffs and Class members, and Defendant Facebook.

17 148. California's Right of Publicity Statute, Cal. Civ. Code § 3344, *et seq.*, protects
18 persons from the unauthorized appropriation of their identity by another for commercial gain.

19 149. During the Class Period, Defendant Facebook knowingly used Plaintiffs' and the
20 other Class Members' likeness, in the form of detailed location information, to directly advertise or
21 sell a product or service.

22 150. Facebook did not have Plaintiffs' or the other Class Members' consent to use their
23 likeness to advertise or sell a product or service.

24 151. Plaintiffs and the other Class Members received no compensation or other
25 consideration for Facebook's use of their likeness to advertise or sell a product or service.

26 152. Plaintiffs and the other Class Members were harmed by Facebook's actions.

27 153. Facebook's actions were a substantial factor in causing Plaintiffs' and the other
28 Class Members' harm.

1 154. Use of Plaintiffs’ and Class Members’ likeness, in the form of detailed location
2 information, was directly connected to Facebook’s commercial use.

3 155. The advertisements were not used in conjunction with news, public affairs, a sports
4 broadcast or account, or a political campaign.

5 156. Each incident is a separate and distinct violation of Cal. Civ. Code § 3344.

6 157. Plaintiffs and the other Class Members therefore seek injunctive relief, and other
7 such preliminary and other equitable or declaratory relief as may be appropriate.

8 158. Plaintiffs and the other Class Members also seek remedy as provided for by Cal. Civ.
9 Code § 3344(a) in the amount equal to the greater of \$750 per incident, or actual damages, any
10 profits attributable to Facebook’s illegal action, before taking into account any actual damages,
11 punitive damages, attorneys’ fees and costs, and any other relief as may be appropriate.

12 **Tenth Claim for Relief Against Defendants Google and Apple Only**
13 **Violation of California’s Consumer Legal Remedies Act (“CLRA”) –**
14 **Unfair and Deceptive Acts and Practices (Cal. Civ. Code §§ 1750, *et seq.*)**

15 159. Plaintiffs hereby repeat, reallege, and incorporate by reference each and every
16 allegation contained above as though the same were fully set forth herein.

17 160. Defendant Apple’s and Google’s terms of service provide that the laws of California
18 will apply to any disputes between users, including Plaintiffs and Class members, and Defendants
19 Apple and Google.

20 161. This claim for relief is brought pursuant to the CLRA. Plaintiffs and the other class
21 members are “consumers,” as that term is defined by Civil Code §1761(d), because they used their
22 Devices for personal, family, or household purposes.

23 162. Plaintiffs and the other Class members have engaged in a “transaction” with
24 Defendants Apple and Google, as that term is defined by Civil Code §1761(e).

25 163. The conduct alleged herein constitutes unfair methods of competition and unfair and
26 deceptive acts and practices for the purposes of the CLRA, and were undertaken by Defendants
27 Apple and Google in transactions intended to result in, and did result in, the sale of goods to
28 consumers; namely, the purchase of their Devices containing Defendant Apple and/or Google’s

1 operating system or installation of Defendant Apple and/or Google’s applications onto their
2 Devices.

3 164. By engaging in the conduct described herein, Defendants Apple and Google violated
4 subdivisions (a)(5), (a)(7), and (a)(9) of California Civil Code §1770 by, *inter alia*, misrepresenting
5 and concealing the true nature of Defendants Apple and Google’s operating systems and
6 applications.

7 165. By concealing the true nature and function of Defendants Apple and Google’s
8 operating systems and applications from Plaintiffs and the other Class members, Defendants Apple
9 and Google represented, and continues to represent, that their operating system and applications
10 have characteristics, uses and benefits, or qualities that they do not have, and that they are of a
11 particular standard, quality, or grade, when they are not, in violation of California Civil Code
12 §1770, subsections (a)(5) and (a)(7).

13 166. By engaging in the conduct alleged herein, Defendants Apple and Google also
14 advertised, and continues to advertise, goods with the intent not to sell them as advertised, in
15 violation of California Civil Code §1770(a)(9).

16 167. Plaintiffs now seek an order requiring Defendants Apple and Google to: (a) cease
17 violating the CLRA by using their operating system and applications to secretly monitor the
18 location of users without their consent and to provide this location information to third-parties, such
19 as Facebook; and (b) provide users of Defendants Apple and Google’s operating systems and
20 applications with notice of what improper data collection has taken place.

21 168. Unless Defendants Apple and Google agree to correct, repair, replace, or otherwise
22 rectify the problems created by their conduct as alleged herein, Plaintiffs will amend this Class
23 Action Complaint to seek an order awarding actual damages and – because Defendants Apple and
24 Google engaged in the conduct alleged herein deliberately and with willful and malicious intent –
25 punitive damages.

CLAIMS ALLEGED ON BEHALF OF THE COLORADO SUB-CLASS ONLY

Eleventh Claim for Relief

**Violation of Colorado Consumer Protection Act
(Colo. Rev. Stat 6-1-101, *et seq.*)**

169. Plaintiffs hereby repeat, reallege, and incorporate by reference each and every allegation contained above as though the same were full set forth herein.

170. Plaintiffs bring this cause of action on behalf of themselves and on behalf of the Colorado Sub-Class who are all Colorado residents.

171. Defendants are a “person” as defined by Colo. Rev. Stat. § 6-1-102(6). Plaintiffs and Colorado Sub-Class Members are actual or potential consumers of the products and services offered by the Defendants.

172. Defendants operating in Colorado, engaged in deceptive, unfair, and unlawful trade acts or practices in the course of their business, vocation, or occupation in violation of Colo. Rev. Stat. § 6-1- 105, including but not limited to the following:

a. Knowingly misrepresenting and fraudulently advertising material facts pertaining to their products and services to the Colorado Sub-Class by representing and advertising that they would prevent Facebook’s collection, use, and storage of Colorado Plaintiffs’ and the other Colorado Sub-Class members’ detailed location data in violation of Colo. Rev. Stat. §§ 6-1-105(e) and (g) by Defendant Facebook, and in violation of Colo. Rev. Stat. §§ 6-1-105(e), (g), (i), and (u) by Defendants Google and Apple; and

b. Knowingly omitting, suppressing, and concealing the material fact that the activation of certain settings would not prevent Facebook’s collection, use, and storage of Colorado Plaintiffs’ and the other Colorado Sub-Class members’ detailed location data in violation of Colo. Rev. Stat. §§ 6-1-105(e) and (g) by Defendant Facebook, and in violation of Colo. Rev. Stat. §§ 6-1-105(e), (g), (i), and (u) by Defendants Google and Apple.

173. Defendants’ representations and omissions were material because they were likely to deceive reasonable consumers about Facebook’s unauthorized collection, use, and storage of Plaintiffs’ and the other Colorado Sub-Class members’ detailed location data

1 174. Defendants intended to mislead Plaintiffs and the other Colorado Sub-Class
2 members and induce them to rely on Defendants' misrepresentations and omissions.

3 175. Had Plaintiffs and the other Colorado Sub-Class members known the truth about
4 Facebook's collection, use, and storage of their detailed location data, they would not have used, or
5 would have limited their use of, Defendants' operating systems, applications, products and/or
6 services.

7 176. Defendants engaged in the above unfair and deceptive acts or practices in the course
8 of their business.

9 177. Defendants engaged in above unfair and deceptive acts or practices with malice
10 and/or willfulness.

11 178. As a direct and proximate result of Defendants' unfair and deceptive practices,
12 Plaintiffs and Colorado Sub-Class members suffered injuries to legally protected interests,
13 including their legally protected interest in the confidentiality and privacy of their personal
14 information.

15 179. The above unfair and deceptive practices and acts by Defendants were immoral,
16 unethical, oppressive, and unscrupulous. These acts caused substantial injury to Plaintiffs and
17 Colorado Sub-Class members that they could not reasonably avoid even though they specifically
18 opted out of, or never affirmatively agreed to, Defendants' collection and use of their location data.
19 This substantial injury outweighed any benefits to consumers or to competition.

20 180. Defendants knew or should have known that their misrepresentations and omissions
21 would deceive Plaintiffs and Colorado Sub-Class members. Defendants' actions in engaging in the
22 above-named unfair practices and deceptive acts were negligent, knowing and willful, and/or
23 wanton and reckless with respect to the rights of Plaintiffs and Colorado Sub-Class members.

24 181. Plaintiffs and other Colorado Sub-Class members seek relief under Colo. Rev. Stat.
25 §§ 6-1-101, *et seq.*, including, but not limited to, compensatory damages, statutory damages,
26 restitution, penalties, injunctive relief, and/or attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the other Class and Sub-Class members, respectfully request that this Court enter an Order:

- A. Certifying the Classes and the Colorado Sub-Class, and appointing Plaintiffs as Class Representatives and Colorado Plaintiffs as the Colorado Sub-Class Representative;
- B. Awarding monetary damages, including but not limited to, compensatory, incidental and consequential damages commensurate with proof at trial for the acts complained of herein;
- C. Awarding punitive damages in an amount consistent with applicable statutes and precedent for those causes of action that permit such recovery;
- D. Pursuant to California Civil Code § 1780(a)(2), requiring Defendants to:
 - 1. provide users of Defendants operating systems, services, and/or applications with notice of their location monitoring activities; and
 - 2. modify Defendants operating systems, services, and/or applications in a manner that prevents unauthorized monitoring of user location and other activities;
- E. For equitable relief requiring restitution and disgorgement of the revenues wrongfully retained as a result of Defendants' wrongful conduct;
- F. Appropriate declaratory relief against Defendants;
- G. Injunctive relief in the form of, *inter alia*, enjoining Defendants from continuing their practice of recording and using Plaintiffs' and the other Class members' location information against their wishes and in violation of CIPA;
- H. Injunctive relief related to CIPA in the form of, *inter alia*, requiring Defendants to destroy all data acquired, created, or otherwise obtained from the unlawful recording and use of the location information of Plaintiffs and the other Class members;
- I. Awarding damages pursuant to Cal. Pen. Code § 637.2;
- J. Awarding attorneys' fees, where applicable;
- K. Awarding costs;
- L. Awarding of pre- and post-judgment interest on any amounts awarded; and

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M. For any and all other relief, the Court deems just and appropriate.

JURY TRIAL DEMAND

Plaintiffs demand a trial by jury of all claims in this Class Action Complaint so triable.

DATED: November 8, 2018

Respectfully submitted,

/s/ Ivy T. Ngo

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