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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

JASON FRY, on behalf of himself and all others  
similarly situated,

Plaintiff,

vs.

PEOPLECONNECT, INC.,

Defendant.

NO.

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

**I. NATURE OF ACTION**

1. Plaintiff Jason Fry (“Plaintiff”) and members of the proposed class (the “Class”) are private individuals who have no relationship with the Defendant PeopleConnect, Inc. (“Defendant” or “Classmates”) or the website it owns and operates, Classmates.com. Plaintiff and the Class have never used Classmates.com, nor did they provide their names, photographs, or any other personal information to Classmates.

2. Plaintiff was seriously distressed to discover that Classmates is using decades-old photographs of Plaintiff and the Class as minor children to advertise paid subscriptions to Classmates.com.

1           3.       Plaintiff and the Class did not consent to Classmates using their photographs to  
2 promote Classmates.com subscriptions and products, nor did they consent to Classmates  
3 sharing their photographs as minors to a worldwide audience on the Internet.

4           4.       Classmates uses the Plaintiff's and Class members' personalities in multiple  
5 advertising techniques, all of which involve displaying the Plaintiff's and Class members'  
6 photographs in low-resolution and volume-limited formats for free. Classmates promises the  
7 viewer that purchasing a paid subscription to Classmates.com will reveal the full versions of  
8 Plaintiff's and Class members' photographs and personal information. A paid subscription will  
9 also deliver many additional services.

10          5.       Classmates provides a publicly accessible landing page on which a visitor may  
11 search by name and location for any person. In response to searches for the Plaintiff's and  
12 Class members' names, Classmates delivers a list of photographs in its possession showing the  
13 Plaintiff's and Class members' faces.

14          6.       In the first of its advertising techniques, Classmates initially displays low-  
15 resolution versions of Plaintiff's and the Class members' photographs. Users who click on  
16 photograph looking for a higher-resolution photograph are shown two pop-up messages asking  
17 them to register for a Classmates.com membership at a cost of \$3 per month.

18          7.       In the second of Classmates' advertising techniques, users who attempt to view  
19 more than two of Plaintiff's and the Class members' photographs are shown a pop-up message  
20 asking them to purchase a yearbook reprint for \$99.95.

21          8.       In the third of its advertising techniques, Classmates displays messages adjacent  
22 to the Plaintiff's and Class members' photographs soliciting the purchase of a Classmates  
23 subscription for "as low as \$1.23 a month."

24          9.       By using Plaintiff's and Class members' photographs as minor children in its  
25 advertising, Classmates misleads the public into believing Plaintiff and Class members are  
26 Classmates.com users, willingly shared their personal information with Classmates.com, and  
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1 endorse Classmates' subscriptions and products. In fact, Plaintiff and the Class have no  
2 relationship with Classmates, had no knowledge their photographs as minors were being used,  
3 and do not approve of Classmates' use of their personalities to advertise Classmates  
4 subscriptions and products. Classmates' website and advertisements fail to disclose that  
5 Plaintiff and the Class are unaffiliated with Classmates.

6 10. Classmates does not present Plaintiff's and Class members' photographs as  
7 "samples" advertising the purchase of the photographs themselves. Classmates uses Plaintiff's  
8 and Class members' names and photographs to advertise subscriptions to Classmates.com and  
9 yearbook reprints. A Classmates.com subscription includes far more than access to the  
10 photograph Classmates used to advertise the subscription. At a cost of \$3 per month, a  
11 subscription to Classmates.com delivers a wide range of services, including: access to full-  
12 resolution student photographs from hundreds of thousands of yearbooks; visibility into who  
13 has visited the subscriber's profile; and the ability to read and reply to messages sent by other  
14 subscribers. Similarly, users who purchase yearbook reprints receive many pages of content,  
15 most of which does not contain the Plaintiff's and Class members' photographs.

16 11. Classmates is the sole author, designer, and implementor of the advertising  
17 techniques and messages giving rise to this lawsuit. Classmates does not host user-generated  
18 content on any part of the website relevant to this lawsuit. Classmates is the sole curator,  
19 designer, and creator of the content described in this Complaint.

20 12. Plaintiff does not know how Classmates obtained his photographs as a child.  
21 Classmates' website states the photographs were originally printed in school yearbooks but  
22 does not disclose how Classmates obtained copies of Plaintiff's and Class members' school  
23 yearbooks.

24 13. Classmates misappropriated Plaintiff's and Class members' photographs  
25 without permission from the Plaintiff or the Class, the photographers who took the pictures, the  
26 authors who created the school yearbooks, or the publishers of the school yearbooks.

1 Classmates does not hold copyright in Plaintiff's or Class members' yearbooks, nor does it  
2 have permission from the copyright holder to republish or distribute Plaintiff's or Class  
3 members' yearbooks.

4 14. Consent is not all or nothing. As minors, Plaintiff and the Class had their  
5 photographs taken for school yearbooks intended solely for print distribution among a narrow  
6 circle of friends, family, and schoolmates. Plaintiff's yearbooks were originally produced  
7 decades ago when the Internet was in its infancy. Plaintiff and the Class did not consent to the  
8 commercial use of their photographs to promote a website, nor to the worldwide distribution of  
9 their photographs on the Internet.

10 15. Classmates fails to provide any mechanism by which Plaintiff or the Class may  
11 request that their photographs and personal information be removed from Classmates' website.  
12 Nor does Classmates allow Plaintiff or the Class to opt out of the use of their photographs as  
13 minors in advertisements for subscriptions and yearbook reprints.

14 16. Indiana law recognizes the intellectual property and privacy rights of Indiana  
15 citizens in controlling the use of their names, voices, photographs, images, likenesses, and  
16 personalities for commercial purposes.

17 17. By using Plaintiff's and Class members' photographs, names, and personal  
18 information in advertisements for website subscriptions and yearbook reprints without consent,  
19 Classmates has violated their intellectual property and privacy rights. Plaintiff and the Class  
20 have the right not to have their personalities exploited to promote a product with which they  
21 have no relationship and no interest in supporting. Plaintiff and the Class have an economic  
22 interest in their personalities, which Classmates has stolen, and a privacy interest in their  
23 personalities, which Classmates has violated.

24 18. By these actions, Classmates has violated the Indiana Right of Publicity,  
25 codified in Ind. Code § 32-36-1 and Indiana common law prohibiting misappropriation of a  
26 name or likeness. Plaintiff and the Class have suffered injury through the unlawful taking of  
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1 their valuable intellectual property; through the invasion of their privacy rights protected by  
2 statute and common law; through Classmates' unlawful profiting through its exploitation of  
3 their personal information; and through harm to peace of mind. Plaintiff and the Class are  
4 entitled to relief including statutory damages, disgorgement of profits, royalties for the use of  
5 their personalities, restitution of the value of their personalities, an injunction prohibiting  
6 Classmates' unlawful conduct, the award of attorneys' fees, expenses, and costs, and  
7 declaratory relief.

## 8 II. JURISDICTION AND VENUE

9 19. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d) (the  
10 Class Action Fairness Act ("CAFA")), because: (A) members of the putative class are citizens  
11 of a state different from at least one defendant. Defendant PeopleConnect, Inc. is incorporated  
12 in Delaware and has its principal place of business in Seattle, Washington. The Plaintiff and  
13 Class members are residents of Indiana. (B) The proposed Class consists of at least 100  
14 members. Classmates advertises that its yearbook collection includes "over 400,000  
15 yearbooks," photographs from all of which are used in the advertising techniques described in  
16 this Complaint. While Classmates does not publish statistics breaking down the number of  
17 photographs by state, a conservative estimate places the number of photographs of Indiana  
18 residents in the millions. And (C) the amount in controversy exceeds \$5,000,000 exclusive of  
19 interest and costs. Ind. Code § 32-36-1-10 provides for damages equal to the greater of \$1,000  
20 per violation or "actual damages, including profits derived from the unauthorized use," plus  
21 treble and/or punitive damages if the use is "knowing, willful, or intentional." Because  
22 Classmates is using millions of photographs of Indiana residents to advertise its website, the  
23 amount in controversy is well over the jurisdictional limit.

24 20. This Court has general personal jurisdiction over Classmates because its  
25 headquarters and principal place of business is in this state and district.

1           21. Venue is appropriate pursuant to 28 U.S.C. § 1391(b). A substantial portion of  
2 the events and conduct giving rise to the violations alleged in this complaint occurred in this  
3 district.

4                                   **III. PARTIES**

5           22. Plaintiff Jason Fry is a citizen of Indiana. Mr. Fry resides in Wabash, Indiana.  
6 Mr. Fry has never visited, used, or subscribed to the website Classmates.com. Mr. Fry attended  
7 high school at Marion High School in Marion, Indiana. Classmates is in possession of at least  
8 five photographs of Mr. Fry, which it appears to have acquired from his high school yearbooks,  
9 and which it uses to advertise subscriptions to Classmates.com without his consent.

10          23. Defendant PeopleConnect, Inc. is a Delaware corporation with its headquarters  
11 in Seattle, Washington. It conducts business under the brand names “Classmates.com,”  
12 “Classmates,” “InstantCheckmate,” “Intelius,” and other brand names associated with websites  
13 and services it owns and operates. Defendant owns and operates the website  
14 www.classmates.com. Plaintiff refers to the Defendant and the website www.classmates.com  
15 collectively as “Classmates.”

16                                   **IV. FACTUAL ALLEGATIONS**

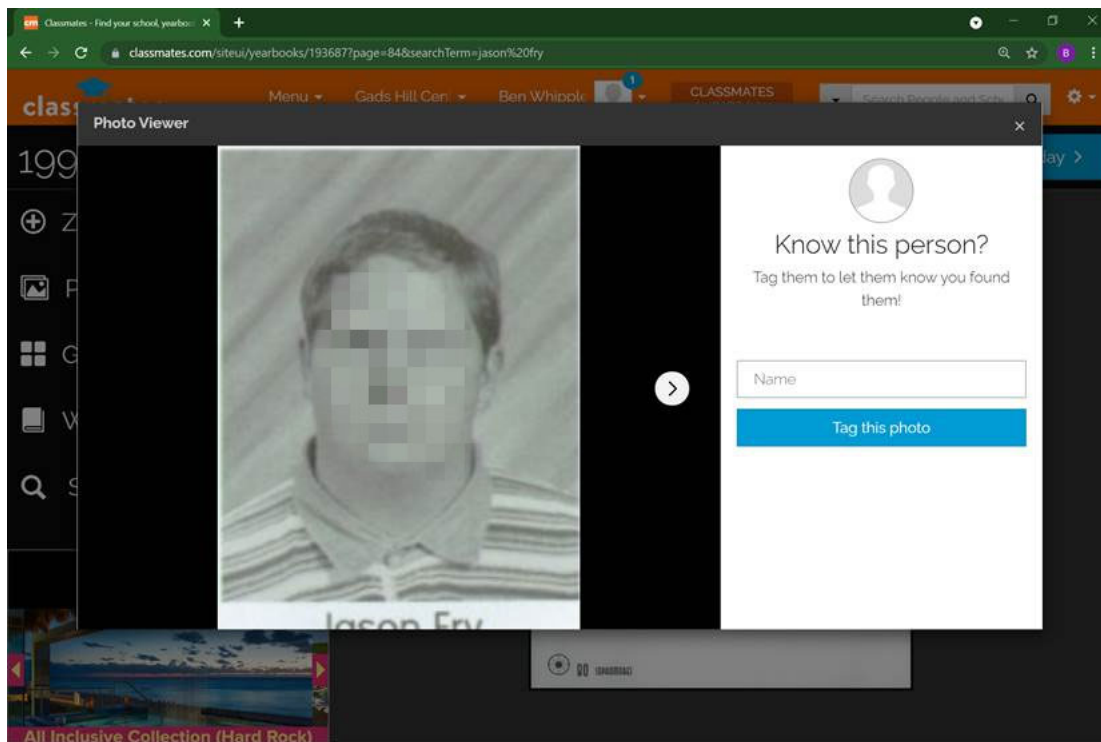
17          24. Plaintiff Jason Fry has no relationship with Classmates. He has never used  
18 Classmates.com.

19          25. Mr. Fry did not give consent to Classmates to use his photographs, likeness,  
20 name, or personality in any way. Had Classmates requested his consent, Mr. Fry would not  
21 have provided it.

22          26. Mr. Fry highly values his personal privacy, and his ability to control and prevent  
23 the commercial use and distribution of his likeness without his consent. Mr. Fry works as a  
24 probation officer. In part because of his profession, Mr. Fry is deeply concerned with what  
25 information about him is made public online.

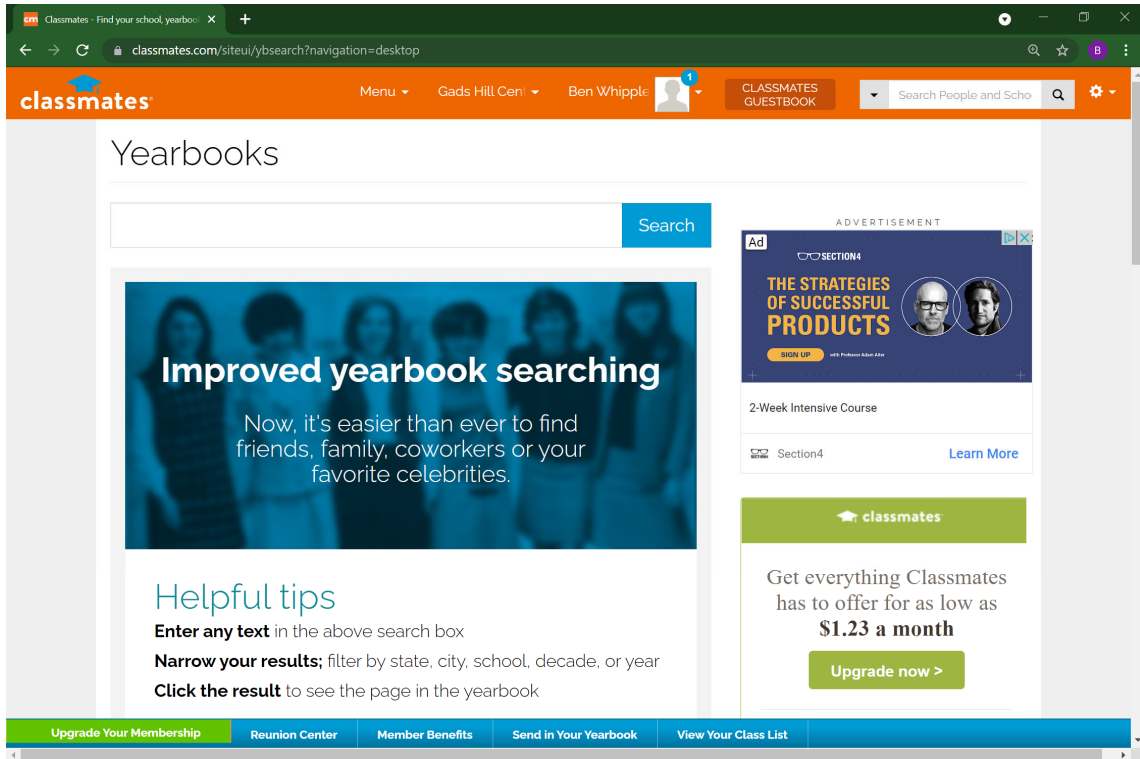
1           27.     Classmates uses Mr. Fry’s photographs as a minor child in advertisements  
 2 promoting its website and yearbook reprints. Classmates possesses at least six photographs of  
 3 Mr. Fry it uses for this purpose. The photographs clearly identify Mr. Fry. His face is plainly  
 4 visible and identifiable. The photographs are subtitled with his name and accompanied by  
 5 information identifying Mr. Fry’s city of residence and high school. Mr. Fry’s age at the time  
 6 of the photographs ranges from fifteen to eighteen years old.

7           28.     One of the photographs of Mr. Fry on Classmates’ website is shown below.  
 8 Throughout this Complaint, Plaintiff’s counsel have used image-editing software to obscure  
 9 Plaintiff’s face and the faces of other students at his high school to protect their privacy. In the  
 10 originals, the faces are plainly visible and identifiable.<sup>1</sup>



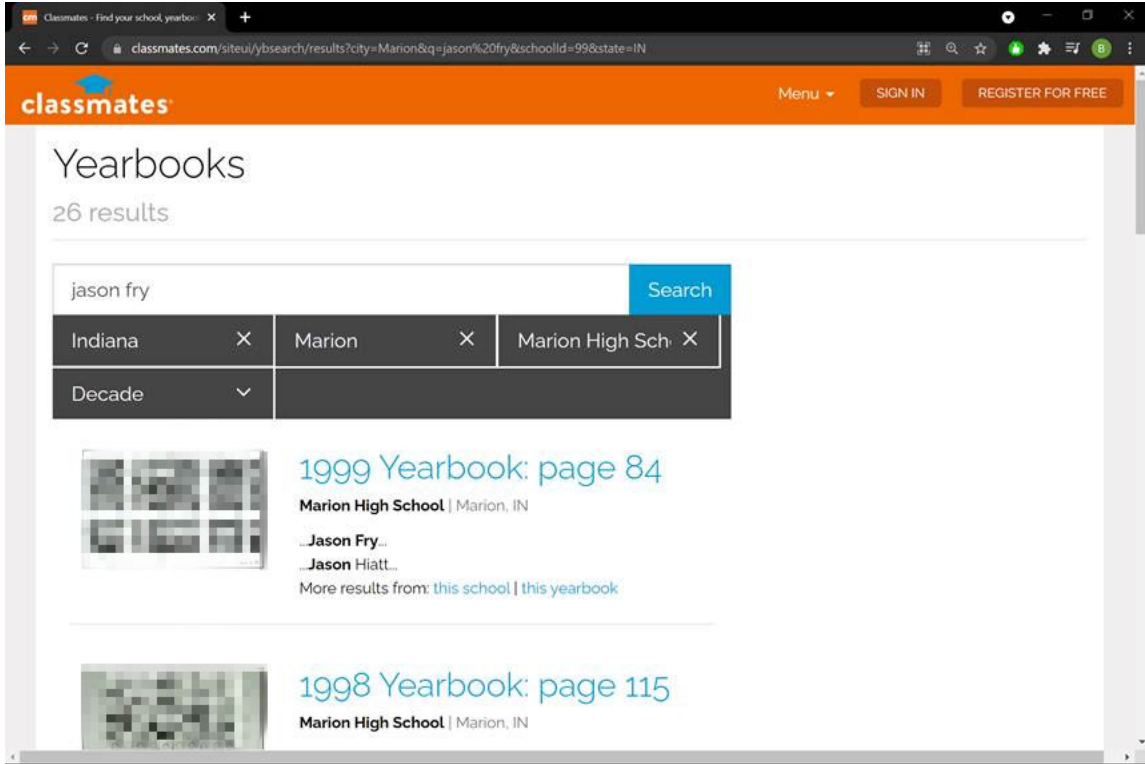
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 25 <sup>1</sup> All of the screenshots displayed in this Complaint were obtained by Plaintiff’s counsel using accounts for which  
 26 counsel opted out of the arbitration provision contained in the Classmates.com “Terms of Service.” Plaintiff’s  
 27 counsel created these accounts solely for the investigation of this and similar lawsuits. Plaintiff’s counsel received  
 no instructions from Plaintiff to create these accounts. Plaintiff’s counsel received no instructions from Plaintiff to  
 agree to arbitration, nor to otherwise sacrifice Plaintiff’s right to pursue relief in court.

1 Classmates.com provides a publicly accessible page on which users may search by name and  
2 location for Mr. Fry.



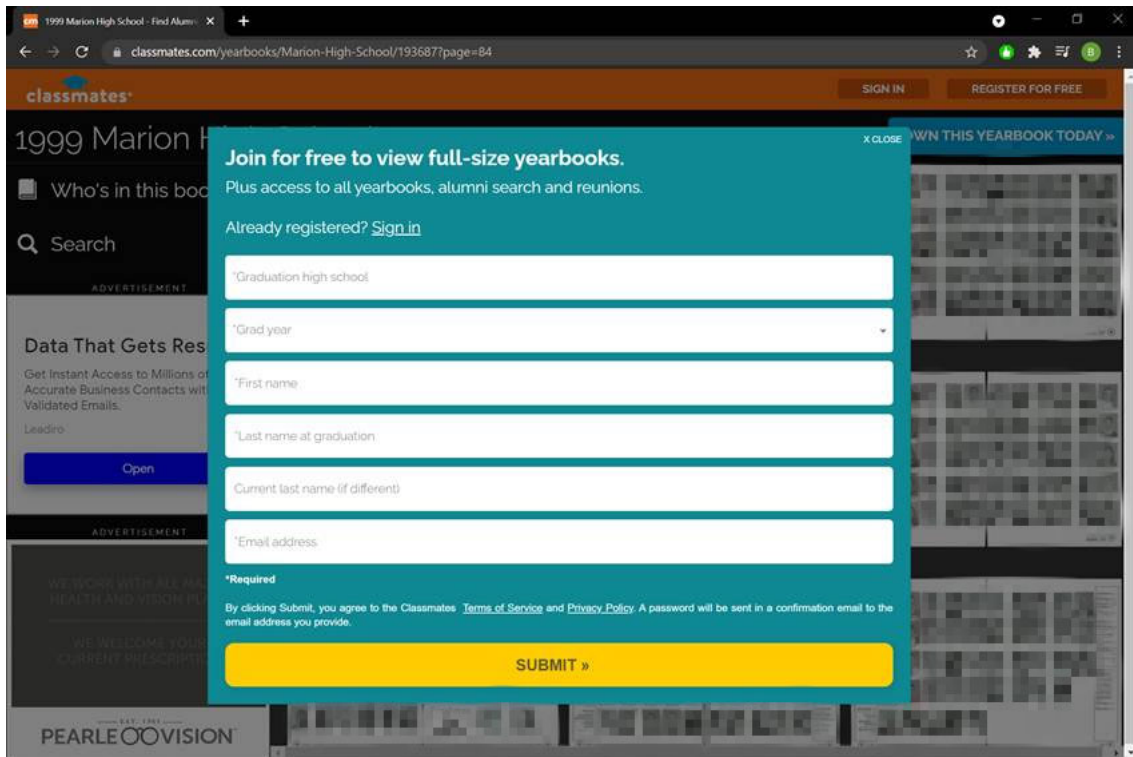


1           29. Users who search for Mr. Fry receive in response a list of results, which include  
2 the photographs depicting Mr. Fry as a minor.

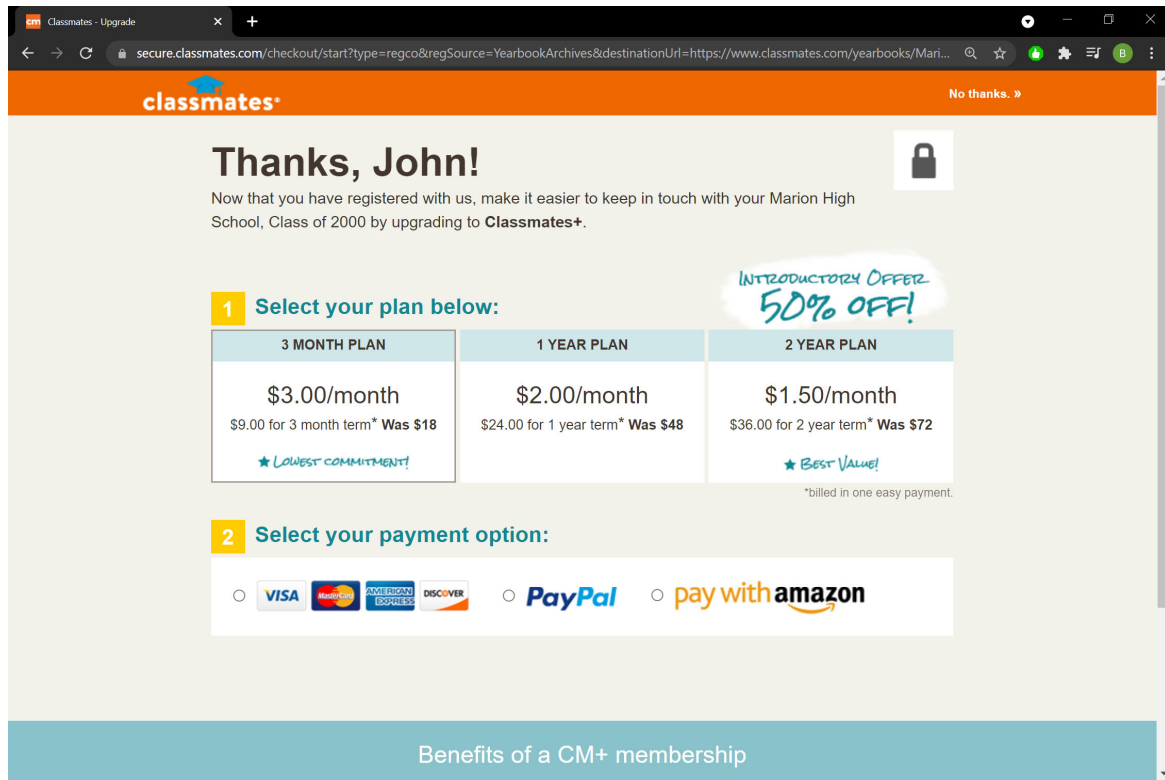


1           30.     Classmates uses Mr. Fry’s photographs in three advertising techniques designed  
2 to sell website subscriptions and yearbook reprints.

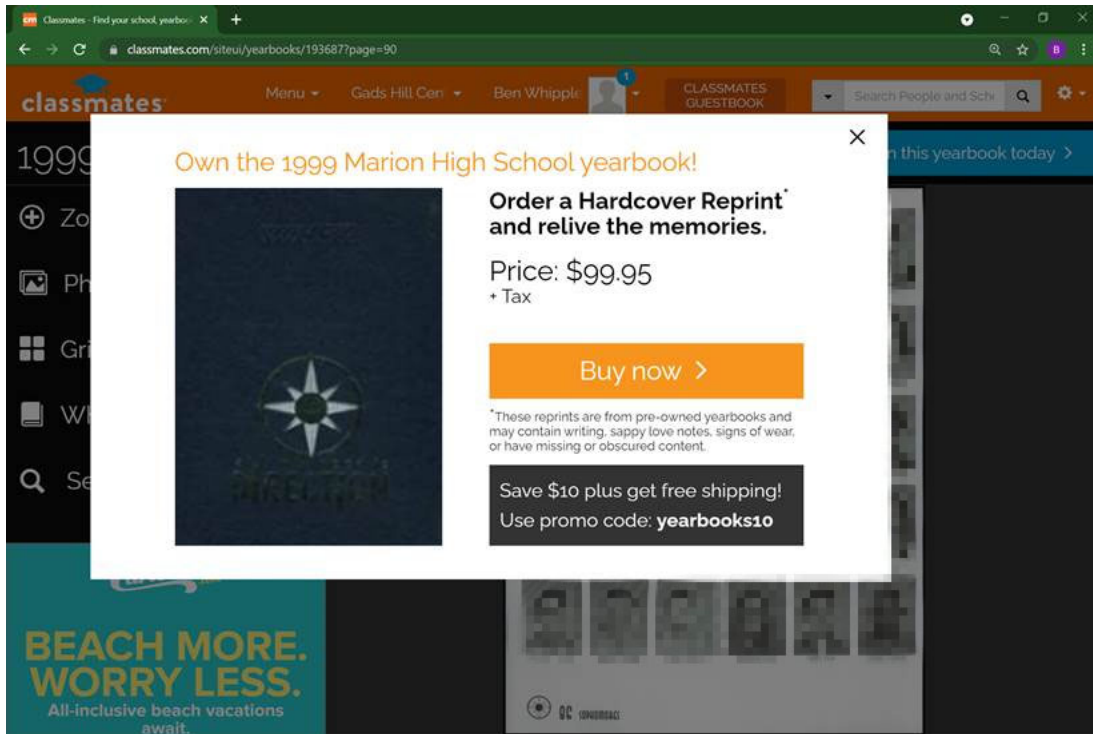
3           31.     In the first of Classmates’ advertising techniques, users who click on any of the  
4 photographs of Mr. Fry seeking higher-resolution versions receive a pop-up message asking  
5 the user to register with the site “to view full-size yearbooks.” The user must interact with the  
6 pop-up to continue viewing Mr. Fry’s photographs.



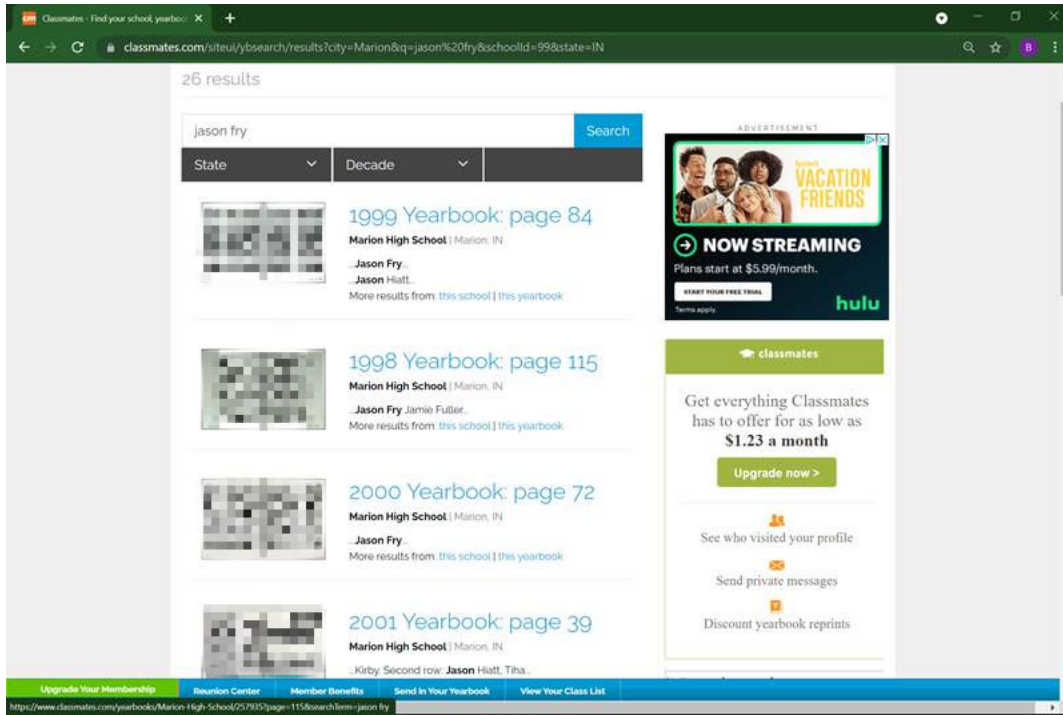
1           32.     Once users have clicked “Submit,” Classmates displays a screen soliciting the  
2 purchase of a paid subscription to Classmates.com for \$3 per month.



1           33. In the second of Classmates' advertising techniques, users who attempt to view  
2 more than two of Mr. Fry's photographs receive a pop-up message soliciting the purchase of a  
3 yearbook reprint for \$99.95. The user must interact with the pop-up to continue viewing Mr.  
4 Fry's photographs.



1           34. In the third of Classmates' advertising techniques, Classmates displays banner  
2 ads adjacent to the search results containing Mr. Fry's photographs. The banner ads solicit the  
3 purchase of a subscription to Classmates for "as low as \$1.23 a month."



1           35.     Classmates' sole purpose in using Mr. Fry's photograph, name, and personal  
2 information on its website is to solicit the purchase of paid subscriptions and yearbook reprints.

3           36.     Mr. Fry does not know how Classmates obtained his photographs as a minor  
4 child between the ages of fifteen and eighteen. The photographs appear to have been stolen  
5 from the yearbooks Mr. Fry's high school produced for students and family in the years 1998,  
6 1999, 2000, and 2001.

7           37.     Classmates misappropriated Mr. Fry's photographs without permission from  
8 Mr. Fry, the photographer who took his pictures, the authors who created his high school  
9 yearbooks, or the publishers of his high school yearbooks. Classmates does not hold a  
10 copyright in yearbooks from Mr. Fry's high school (Marion High School in Marion, Indiana),  
11 nor does it have permission from the copyright holder to republish or distribute the yearbooks  
12 or the photographs contained therein.

13           38.     Mr. Fry has intellectual property and privacy interests in his photograph, name,  
14 likeness, and personality recognized by Indiana statutory and common law. He has the right to  
15 exclude anyone from making commercial use of his likeness without his permission.

16           39.     Classmates has injured Mr. Fry by taking his intellectual property without  
17 compensation; by invading his privacy rights protected by statute and by common law; and by  
18 unlawfully profiting from its exploitation of his personal information.

19           40.     Classmates' illegal actions caused Mr. Fry mental injury and disturbed his peace  
20 of mind. Upon learning about Classmates' actions, Mr. Fry was upset and disturbed by  
21 Classmates' use of his name and photograph without his consent. Mr. Fry believes his likeness  
22 is rightly his to control. Classmates' illegal use has left him worried and uncertain about his  
23 inability to control how his name and personality is used. Mr. Fry feels that Classmates' use of  
24 his photograph and name is an alarming invasion of his privacy. Mr. Fry is deeply  
25 uncomfortable in the knowledge that Classmates is distributing his name and photographs as a  
26 minor child publicly on the Internet for a commercial purpose to a worldwide audience.

1 **V. CLASS ACTION ALLEGATIONS**

2 41. Plaintiff asserts claims on behalf of himself and a class of Indiana residents who  
3 are not subscribers of Classmates.com and whose names, photographs, and/or personal  
4 information Classmates extracted from yearbooks and incorporated into the yearbook database  
5 Classmates uses to promote its products. Excluded from the proposed class are: Plaintiff’s  
6 counsel; Classmates, its officers and directors, counsel, successors, and assigns; any entity in  
7 which Classmates has a controlling interest; and the judge to whom this case is assigned and  
8 the judge’s immediate family.

9 42. The members of the proposed class are so numerous that joinder of individual  
10 claims is impracticable. Classmates represents that its Yearbook Collection contains records  
11 from over 400,000 yearbooks in the United States. Each yearbook contains the names and  
12 likeness of hundreds of individuals. Even accounting for the fact that only a portion of the  
13 photographs depict Indiana residents, and that the class excludes current Classmates  
14 subscribers, the class likely numbers in the millions.

15 43. There are significant questions of fact and law common to the members of the  
16 class. These issues include:

17 a. Whether Classmates’ extraction and aggregation of personal  
18 information about Plaintiff and the Class members, including names, yearbook photographs,  
19 yearbook years, cities of residence, schools attended, and interests and hobbies, and use of  
20 that information in the advertising techniques described in this Complaint, constitutes the use  
21 of individuals’ personalities for commercial purposes without previous written consent within  
22 the meaning of Ind. Code § 32-36-1-8;

23 b. Whether Plaintiff and the Class gave written consent to the use of their  
24 names, photographs, images, likenesses, and personalities to promote Classmates’ products as  
25 required by Ind. Code § 32-36-1-8;

26 c. Whether Classmates is a news reporting or entertainment medium, *see*  
27

1 Ind. Code § 32-36-1-4;

2 d. Whether Classmates' commercial use of the names, photographs,  
3 images, likenesses, and personalities of Plaintiff and the Class was knowing, willful, or  
4 intentional such that Plaintiff and the Class are entitled to treble and punitive damages under  
5 Ind. Code § 32-36-1-10;

6 e. Whether Classmates' conduct as described in this Complaint violates  
7 Indiana common law prohibiting misappropriation of a name or likeness; and

8 f. Whether Plaintiff and Class members are entitled to the injunctive,  
9 declaratory monetary, and other relief requested in this Complaint.

10 44. Plaintiff's claims are typical of those of the proposed Class. Plaintiff and all  
11 members of the proposed Class have been harmed by Classmates' misappropriation and misuse  
12 of their identifies, names, photographs, images, likenesses, personalities, and other personal  
13 information.

14 45. The proposed class representative will fairly and adequately represent the  
15 proposed Class. The class representative's claims are co-extensive with those of the rest of the  
16 Class. Plaintiff is represented by qualified counsel experienced in class action litigation of this  
17 nature.

18 46. A class action is superior to other available methods for the fair and efficient  
19 adjudication of these claims because individual joinder of the claims of all members of the  
20 proposed Class is impracticable. Many members of the Class do not have the financial  
21 resources necessary to pursue this claim, and even if they did, the size of their interest in the  
22 case may not be large enough to merit the cost of pursuing the case. Individual litigation of  
23 these claims would be unduly burdensome on the courts in which individualized cases would  
24 proceed. Individual litigation would greatly increase the time and expense needed to resolve a  
25 dispute concerning Classmates' common actions towards an entire group. Class action  
26  
27



1 procedures allow for the benefits of unitary adjudication, economy of scale, and  
2 comprehensive supervision of the controversy by a single court.

3 47. The proposed class action may be certified pursuant to Rule 23(b)(2) of the  
4 Federal Rules of Civil Procedure. Classmates has acted on grounds generally applicable to the  
5 proposed Class, such that final injunctive and declaratory relief is appropriate with respect to  
6 the Class as a whole.

7 48. The proposed class action may be certified pursuant to Rule 23(b)(3). Questions  
8 of law and fact common to Class members predominate over questions affecting individual  
9 members, and a class action is superior to other available methods for fairly and efficiency  
10 adjudicating the controversy.

11 **FIRST CAUSE OF ACTION**  
12 **Violation of Indiana’s Right of Publicity Statute**  
13 **(Ind. Code. § 32-36-1-8)**

14 49. Plaintiff incorporates by reference the allegations contained in all preceding  
15 paragraphs of this complaint.

16 50. Indiana’s right of publicity statute prohibits the use of any “aspect of a  
17 personality’s right of publicity for a commercial purpose . . . without having obtained previous  
18 written consent.” Ind. Code. § 32-36-1-8.

19 51. By engaging in the forgoing acts and omissions, Classmates used aspects of  
20 Plaintiff’s and Class members’ personalities, including their names, photographs, images,  
21 likenesses, and distinctive appearances, for commercial purposes without consent. These  
22 aspects of Plaintiff’s and Class members’ personalities have commercial value.

23 52. Each use of a Class members’ photograph and personality is a separate and  
24 distinct violation of Ind. Code. § 32-36-1-8.

25 53. The following facts and events occurred within Indiana: Classmates’  
26 misappropriation of Plaintiff’s and Class members’ photographs from Indiana school  
27 yearbooks; Classmates’ failure to obtain the required consent from Plaintiff and Class members

1 in Indiana; Classmates' display of Plaintiff's and Class members' photographs in  
 2 advertisements displayed on Classmates' website to users in Indiana; and the injury to  
 3 Plaintiff's and Class members' intellectual property and privacy rights, which are harms felt in  
 4 Indiana. *See* Ind. Code § 32-36-1-1(a).

5 54. Ind. Code § 32-36-1-10 provides that a person who violates the statute is liable  
 6 for (1) statutory damages in the amount of \$1,000; (b) "actual damages, including profits  
 7 derived from unauthorized use," if this amount is greater than \$1,000; and (c) "[t]reble or  
 8 punitive damages, as the injured party may elect, if the violation . . . is knowing, willful, or  
 9 intentional."

10 55. As a result of Classmates' violation of Ind. Code. § 32-36-1-8, Plaintiff and the  
 11 Class have suffered injury to their privacy rights and actual damages both economic and  
 12 emotional. Plaintiff and Class members have been denied the economic value of their  
 13 personalities, which Classmates misappropriated without compensation to Plaintiff and the  
 14 Class. Plaintiff and the Class members were denied their statutorily protected right to refuse  
 15 consent and protect their privacy. Plaintiff and the Class members suffered emotional  
 16 disturbance from the misappropriation and misuse of their personalities.

17 56. Plaintiff on behalf of the Class seeks: actual damages, including Classmates'  
 18 profits from its misuse; statutory damages; compensatory damages for the royalties Classmates  
 19 failed to pay; treble and punitive damages in light of Classmates' knowing, willful, and  
 20 intentional misuse; nominal damages; the award of attorneys' fees and costs; the entry of an  
 21 injunction prohibiting Classmates' illegal conduct; and declaratory relief.

## **SECOND CAUSE OF ACTION**

### **Violation of Indiana Common Law Tort – Misappropriation of Name and Likeness**

23 57. Plaintiff incorporates by reference the allegations contained in all preceding  
 24 paragraphs of this complaint.

25 58. Indiana common law recognizes the tort of appropriation of a name or likeness.  
 26 The tort creates a cause of action for the appropriation of a likeness by a defendant for the  
 27

1 defendant’s “own use or benefit.” *See, e.g., Felsher v. University of Evansville*, 755 N.E.2d 589  
2 (Ind. 2001).

3 59. By engaging in the forgoing acts and omissions, Classmates misappropriated  
4 Plaintiff’s and Class members’ names and likenesses for its own commercial benefit.

5 60. As provided for under Indiana common law, Plaintiff on behalf of the Class  
6 seeks monetary recovery in the amount of the commercial benefit Classmates derived from its  
7 misuse of their likeness, as well as the entry of an injunction prohibiting Classmates’ tortious  
8 acts.

### 9 VI. PRAYER FOR RELIEF

10 **WHEREFORE**, Plaintiff, individually and on behalf of the Class, prays for the  
11 following relief:

12 A. For an order certifying the proposed Class and appointing Plaintiff and his  
13 counsel to represent the Class;

14 B. For a declaration that Classmates’ acts and omissions constitute a knowing,  
15 willful, and intentional misappropriation of names, likeness, photographs, images, and other  
16 personal information, and infringe on protected privacy rights, in violation of Indiana law;

17 C. For nominal damages awarded in recognition of Classmates’ violation of the  
18 statutorily protected property and privacy rights of Plaintiff and the Class;

19 D. For preliminary and permanent injunctive relief enjoining and preventing  
20 Classmates from continuing to operate its Classmates.com website without appropriate  
21 safeguards to ensure people’s personal information is not used illegally without their consent;

22 E. For an order enjoining Classmates from continuing the unlawful and unfair  
23 conduct described in this complaint;

24 F. For restitution for Plaintiff and members the class for the value that Defendants  
25 derived from misappropriating aspects of their personalities;

1 G. For an award of damages, including without limitation damages for actual harm,  
2 profits earned by Classmates in using misappropriated photographs to sell subscriptions and  
3 yearbook reprints, reasonable royalties for the infringement of Plaintiff and Class members'  
4 intellectual property rights; and statutory damages;

5 H. For an award of reasonable attorneys' fees and costs incurred by Plaintiff and  
6 the Class members; and

7 I. Orders granting such other and further relief as the Court deems necessary, just,  
8 and proper.

9 **VII. DEMAND FOR JURY TRIAL**

10 Plaintiff hereby demands a trial by jury.

11 RESPECTFULLY SUBMITTED AND DATED this 7th day of September, 2021.

12 TURKE & STRAUSS LLP

13 By: /s/ Samuel J. Strauss, WSBA #46971  
14 Samuel J. Strauss, WSBA #46971  
15 Email: sam@turkestrauss.com  
16 613 Williamson St., Suite 201  
17 Madison, Wisconsin 53703  
18 Telephone: (608) 237-1775  
19 Facsimile: (608) 509-4423

20 *Attorneys for Plaintiff*

**CIVIL COVER SHEET**

JS 44 (Rev. 02/19)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

JASON FRY, on behalf of himself and all others similarly situated,

(b) County of Residence of First Listed Plaintiff Wabash County, IN  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Samuel J. Strauss, Turke & Strauss, LLP, 613 Williamson St., Suite 201,  
Madison, WI 53703, (608) 237-1775 (also maintains an office in Seattle,  
Washington)

**DEFENDANTS**

PEOPLECONNECT, INC.,

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1            | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

| CONTRACT  | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES   |
|---|--|--|---|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other   | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 485 Telephone Consumer Protection Act<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input checked="" type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY   | CIVIL RIGHTS   | PRISONER PETITIONS   | LABOR   | FEDERAL TAX SUITS  |
| <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education  | <b>Habeas Corpus:</b><br><input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><b>Other:</b><br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | <input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act  | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609   |
| IMMIGRATION   |  |  |   |  |
| <input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions   |  |  |   |  |

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. § 1332(d)

Brief description of cause:  
Violations of Indiana's Right of Publicity Statute & Common Law Tort - Misappropriation of Name and Likeness

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ \_\_\_\_\_ CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions): JUDGE Marsha J. Pechman DOCKET NUMBER 2:21-cv-00262-MJP

DATE 09/07/2021 SIGNATURE OF ATTORNEY OF RECORD /s/ Samuel J. Strauss, WSBA #46971

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Washington

JASON FRY, on behalf of himself and all others
similarly situated,

Plaintiff(s)

v.

PEOPLECONNECT, INC.,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) PeopleConnect, Inc.
c/o Corporation Service Company
Registered Agent
300 Deschutes Way SW, Suite 208, MC-CSC1
Tumwater, WA 98501

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

Samuel J. Strauss
Turke & Strauss LLP
613 Williamson St., Suite 201
Madison, WI 53703
Email: sam@turkestrauss.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Classmates.com Uses Indiana Residents' Photos, Info Without Consent, Class Action Alleges](#)

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