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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DREW HUNTHAUSEN, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

SPINE MEDIA, LLC, a Delaware limited
liability company, and DOES 1 through
25, inclusive,

Defendants.

Case No. '22CV1970 BEN DDL

CLASS ACTION COMPLAINT

1 **I. INTRODUCTION**

2 Whenever someone clicks on a video link on www.yourbump.com (the
3 “Website”), Defendants secretly report all the details to Facebook: the visitor’s identity,
4 the titles, and more. Why? So Facebook can bombard the person with *more* ads urging
5 the person to buy products from Defendant’s advertising partners.

6 As shown below, Defendants’ actions violate the Video Privacy Protection Act
7 (“VPPA”). As such, Defendants are liable to each class member for \$2,500 and related
8 relief.

9 **II. JURISDICTION AND VENUE**

10 1. This Court has subject matter jurisdiction over this action pursuant to 28
11 U.S.C. § 1331 because it arises under the Video Privacy Protection Act (“VPPA”), a
12 federal law.

13 2. Venue is proper pursuant to 28 U.S.C. § 1391 because a substantial part of
14 the acts and events giving rise to the class claims occurred in this District.

15 3. Defendants are subject to personal jurisdiction because they have sufficient
16 minimum contacts with California and do business with California residents.

17 **III. PARTIES**

18 4. Plaintiff Drew Hunthausen (“Hunthausen”) is a resident and citizen of
19 California.

20 5. Defendant is a Delaware limited liability company that owns, operates,
21 and/or controls the Website.

22 6. The above-named Defendants, along with their affiliates and agents, are
23 collectively referred to as “Defendants.” The true names and capacities of the Defendants
24 sued herein as DOE DEFENDANTS 1 through 25, inclusive, are currently unknown to
25 Plaintiff, who therefore sues such Defendants by fictitious names. Each of the Defendants

1 designated herein as a DOE is legally responsible for the unlawful acts alleged herein.
2 Plaintiff will seek leave of Court to amend the Complaint to reflect the true names and
3 capacities of the DOE Defendants when such identities become known.

4 7. Plaintiff is informed and believes that at all relevant times, every Defendant
5 was acting as an agent and/or employee of each of the other Defendants and was acting
6 within the course and scope of said agency and/or employment with the full knowledge
7 and consent of each of the other Defendants, and that each of the acts and/or omissions
8 complained of herein was ratified by each of the other Defendants.

9 **IV. FACTUAL ALLEGATIONS**

10 **A. THE FACEBOOK TRACKING PIXEL**

11 8. Facebook is a social networking company where users are required to
12 identify themselves by “the name they go by in everyday life.”¹ To create a Facebook
13 account, a user must provide first name, last name, date of birth and gender.²

14 9. Facebook generates revenue by selling advertising space on its website
15 based upon its ability to identify user interests.³ Facebook can identify user interests by
16 monitoring “offsite” user activity, which allows Facebook to judge user interests beyond
17 what users freely disclose.⁴

18 10. Facebook enables advertisers to identify “people who have already shown
19 interest in [their] business”, which Facebook calls “Custom Audiences.”⁵ The Custom

21 ¹ FACEBOOK, COMMUNITY STANDARDS, PART IV INTEGRITY AND
22 AUTHENTICITY, https://www.facebook.com/communitystandards/integrity_authenticity (last visited
23 November 30, 2022).

24 ² FACEBOOK, SIGN UP, <https://www.facebook.com/> (last visited November 30,
2022).

25 ³ FACEBOOK, WHY ADVERTISE ON FACEBOOK,
<https://www.facebook.com/business/help/20502906038706> (last visited November 30,
2022).

26 ⁴ FACEBOOK, AD TARGETING: HELP YOUR ADS FIND THE PEOPLE WHO
27 WILL LOVE YOUR BUSINESS, <https://www.facebook.com/business/ads/ad-targeting> (last visited
November 30, 2022).

28 ⁵ FACEBOOK, ABOUT EVENTS CUSTOM AUDIENCE,
<https://www.facebook.com/business/help/366151833804507?id=300360584271273>
(last visited November 30, 2022).

1 Audiences tool requires advertisers to supply user data to Facebook, and most do so via
2 the Facebook Tracking Pixel.⁶

3 11. The Facebook Tracking Pixel is a device included programming code that
4 advertisers can integrate into their website. Once activated, the Facebook Tracking Pixel
5 “tracks the people and type of actions they take.”⁷ When the Facebook Tracking Pixel
6 captures an action, it sends a record to Facebook, which Facebook then assimilates into
7 the Custom Audiences dataset.

8 12. Advertisers control what actions—or, as Facebook calls it, “events”— the
9 Facebook Tracking Pixel will collect, including the website’s metadata, along with what
10 pages a visitor views.⁸

11 13. Advertisers control how the Facebook Tracking Pixel identifies visitors. The
12 Facebook Tracking Pixel is configured to automatically collect “HTTP Headers” and
13 “Pixel-specific Data.”⁹ HTTP Headers collect “IP addresses, information about the web
14 browser, page location, document, referrer and persons using the website.”¹⁰ Pixel-
15 specific Data includes “the Pixel ID and cookie.”¹¹

16 **B. YOURBUMP.COM AND THE FACEBOOK PIXEL**

17 14. Defendants’ business plan involves persuading consumers to visit their
18 website via the use of entertaining videos. Defendants earn display advertising revenue
19 from digital advertisements placed alongside their video content. As such, Defendants
20

21 ⁶ FACEBOOK, CREATE A CUSTOMER LIST CUSTOM AUDIENCE,
22 <https://www.facebook.com/business/help/170456843145568?id=2469097533764> 94
(last visited November 30, 2022); FACEBOOK, CREATE A WEBSITE CUSTOM
23 AUDIENCE,
<https://www.facebook.com/business/help/1474662202748341?id=2469097953376494>

24 (last visited November 30, 2022).

25 ⁷ FACEBOOK, RETARGETING, [https://www.facebook.com/business/oals/reta getting](https://www.facebook.com/business/oals/reta%20getting).

26 ⁸ See FACEBOOK, FACEBOOK PIXEL, ACCURATE EVENT TRACKING,
ADVANCED, <https://developers.facebook.com/docs/facebook-pixel/advanced/>; see also
FACEBOOK, BEST PRACTICES FOR FACEBOOK PIXEL SETUP,
27 <https://www.facebook.com/business/help/218844828315224?id=1205376682832142>
(last visited November 30, 2022).

28 ⁹ FACEBOOK, FACEBOOK PIXEL, <https://developers.facebook.com/docs/facebook-pixel/> (last visited November 30, 2022).

¹⁰ *Id.*

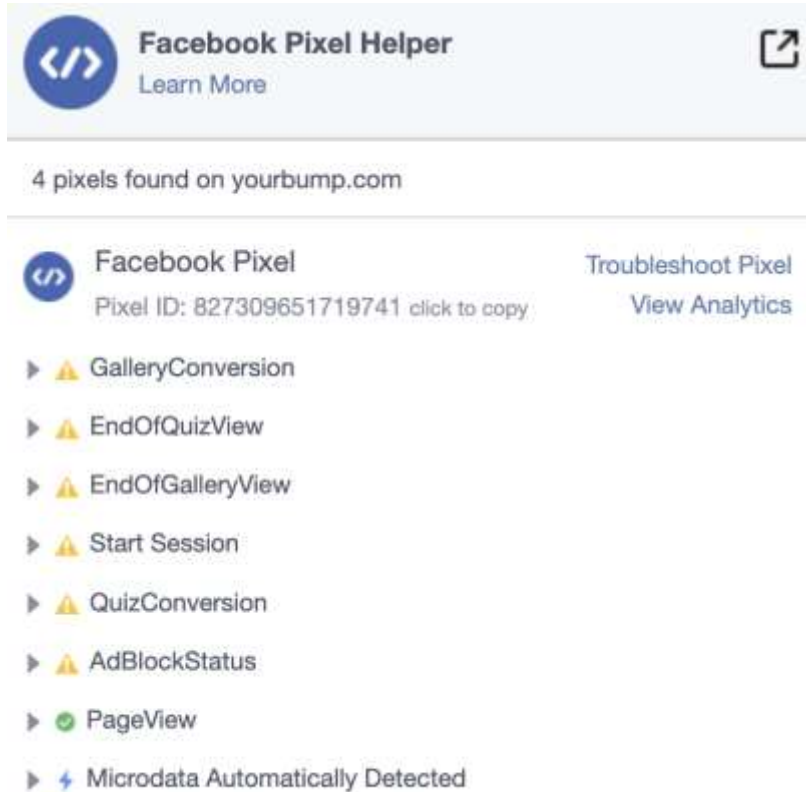
¹¹ *Id.*

1 are “video tape service providers” under the VPPA because, as part of their business,
2 they deliver “prerecorded video” content or other “similar audio visual materials.”

3 15. Yourbump.com hosts and delivers content including videos.

4 16. Yourbump.com hosts four Facebook tracking Pixels and transmits
5 numerous distinct events to Facebook.¹²

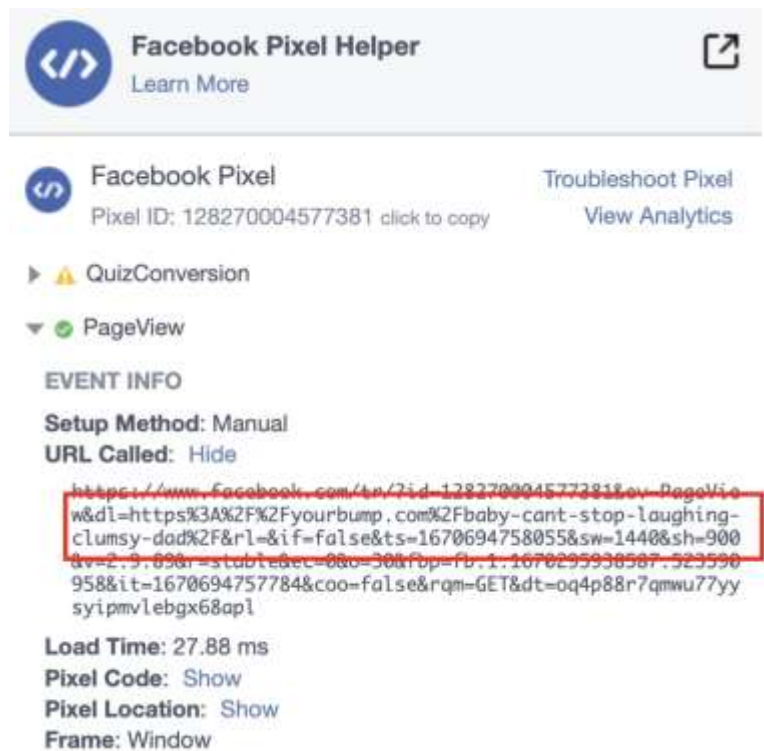
6 **Figure 1**



17. Defendants have configured the PageView event to transmit the URL and
the category of content selected.

¹² This data is derived from a tool created and offered by Facebook.

1 **Figure 2**



15 18. In the above figure, for example, Defendants disclose a webpage’s
16 Universal Resource Locator (“URL”).

17 19. Microdata discloses the video’s title and other descriptors.

1 **Figure 3**

17 20. The aggregate pixel events (Page View and Microdata Automatically Detected) permit an ordinary person to identify a video's content, title, and location.

18 21. When a visitor watches a video on Yourbump.com while logged into Facebook, Defendants compel a visitor's browser to transmit the c user cookie to Facebook. The c user cookie contains that visitor's unencrypted Facebook ID. When accessing the above video, for example, Defendants compelled the browser to send ten cookies:

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1 **Figure 4**

Name	Value	Domain
fr	0iLmxmGApZkrtQX6FAWVDqk-8PGt...	.facebook.com
xs	4%3AI3ZgZNYD9ILjxA%3A2%3A16...	.facebook.com
c_user	100087271304389	.facebook.com
dpr	2	.facebook.com
wd	1403x722	.facebook.com
datr	ErdeY8DwZw6OUY5T3qHVChfr	.facebook.com
presence	C%7B%22t3%22%3A%5B%5D%2...	.facebook.com
sb	Z7VeY5082dzpP0ecvF3j2thu	.facebook.com

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6
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8 22. When a visitor’s browser has recently logged out of Facebook, Defendants
9 will compel the browser to send a smaller set of cookies:

10 **Figure 5**

Name	Value	Domain
locale	en_US	.facebook.com
fr	0iLmxmGApZkrtQX6FAWUCUnLReD...	.facebook.com
dpr	2	.facebook.com
sb	Z7VeY5082dzpP0ecvF3j2thu	.facebook.com
datr	ErdeY8DwZw6OUY5T3qHVChfr	.facebook.com
wd	1403x722	.facebook.com

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18 23. The fr cookie contains an encrypted Facebook ID and browser identifier.¹³
19 The datr cookies also identifies a browser.¹⁴ Facebook, at a minimum, uses the fr cookie
20 to identify particular users.¹⁵

21 24. The _fbp cookie contains, at least, an unencrypted value that uniquely
22 identifies a browser.¹⁶ As with the fr cookie, Facebook uses the _fbp cookie to identify
23 users.

24 ¹³ DATA PROTECTION COMMISSIONER, FACEBOOK IRELAND LTD, REPORT
25 OF RE-AUDIT (Sept. 21, 2012), http://www.europe-v.facebook.org/ODPC_Review.pdf
(last visited November 30, 2022).

26 ¹⁴ FACEBOOK, COOKIES & OTHER STORAGE TECHNOLOGIES,
<https://www.facebook.com/policy/cookies/> (last visited November 30, 2022).

27 ¹⁵ FACEBOOK, COOKIES & OTHER STORAGE TECHNOLOGIES,
<https://www.facebook.com/policy/cookies/> (last visited November 30, 2022).

28 ¹⁶ FACEBOOK, CONVERSION API,
<https://developers.facebook.com/docs/marketingapi/conversions-api/parameters/fbp-and-fbc/> (last visited November 30, 2022).

1 **Figure 6**

2

Name	Value	Domain
_fbp	fb.1.1670695815646.2056106024	.yourbump.com

3

4

5 25. The Facebook Tracking Pixel uses both first- and third-party cookies. A
 6 first-party cookie is “created by the website the user is visiting”—i.e., Yourbump.com.¹⁷
 7 A third-party cookie is “created by a website with a domain name other than the one the
 8 user is currently visiting”—i.e., Facebook.¹⁸ The _fbp cookie is always transmitted as a
 9 first-party cookie. A duplicate _fbp cookie is sometimes sent as a third-party cookie,
 10 depending on whether the browser has recently logged into Facebook.

11 26. Facebook, at a minimum, uses the fr, _fbp, and c_user cookies to link to
 12 Facebook IDs and corresponding Facebook profiles.

13 27. A Facebook ID is personally identifiable information. Anyone can identify
 14 a Facebook profile—and all personal information publicly listed on that profile—by
 15 appending the Facebook ID to the end of Facebook.com.

16 28. Through the Facebook Tracking Pixel’s code, these cookies combine the
 17 identifiers with the event data, allowing Facebook to know, among other things, what
 18 Yourbump.com videos a user has watched.¹⁹

19 29. By compelling a visitor’s browser to disclose the c_user cookie alongside
 20 event data for videos, Defendants knowingly disclose information sufficiently permitting
 21 an ordinary person to identify a specific individual’s video viewing behavior.

22

23

24

25 ¹⁷ PC MAG, FIRST-PARTY COOKIES, <https://www.pcmag.com/encyclopedia/term/first-party-cookie> (last visited November 30, 2022). This is confirmable by using developer tools to inspect a website’s cookies and track network activity.

26 ¹⁸ PC MAG, THIRD-PARTY COOKIES, <https://www.pcmag.com/encyclopedia/term/third-party-cookie> (last visited November 30, 2022). This is also confirmable by tracking network activity.

27 ¹⁹ FACEBOOK, GET STARTED, <https://developers.facebook.com/docs/meta-pixel/get-started> (last visited November 30, 2022).

1 30. By compelling a visitor’s browser to disclose the fr and _fbp cookies
2 alongside event data for videos, Defendants knowingly disclose information sufficient to
3 permit an ordinary person to identify a specific individual’s video viewing behavior.

4 31. By compelling a visitor’s browser to disclose the fr cookie and other browser
5 identifiers alongside event data for videos, Defendants knowingly disclose information
6 sufficiently permitting an ordinary person to identify a specific individual’s video
7 viewing behavior.

8 32. Facebook confirms that it matches activity on Yourbump.com with a user’s
9 profile. Facebook allows users to download their “off-site activity,” which is a “summary
10 of activity that businesses and organizations share with us about your interactions, such
11 as visiting their apps or websites.”²⁰ The off-site activity report confirms Defendants
12 identify an individual’s video viewing activities.

13 **C. EXPERIENCE OF PLAINTIFF**

14 33. Plaintiff is a consumer privacy advocate with dual motivations for watching
15 a video on Defendants’ Website. First, Plaintiff was genuinely interested in learning
16 more about the goods and services offered by Defendants. Second, Plaintiff is a “tester”
17 who works to ensure that companies abide by the privacy obligations imposed by federal
18 law. As someone who advances important public interests at the risk of vile personal
19 attacks, Plaintiff should be “praised rather than vilified.” *Murray v. GMAC Mortgage*
20 *Corp.*, 434 F.3d 948, 954 (7th Cir. 2006).

21 34. In enacting the VPAA, Congress intentionally chose to extend its
22 protections to all persons who watch videos, not simply those who purchase them or
23 claim pecuniary loss. As such, statutes like the VPPA are largely enforced by civic-
24 minded “testers” such as Plaintiff. *See Tourgeman v. Collins Fin. Servs., Inc.*, 755 F.3d
25 1109 (9th Cir. 2014) (explaining why testers have Article III standing and generally
26

27 ²⁰ See <https://www.facebook.com/help/2207256696182627> (Off-Facebook Activity is
28 only a “summary” and Facebook acknowledges “receiv[ing] more details and activity
than what appears in your Facebook activity.” What is more, it omits “information we’ve
received when you’re not logged into Facebook, or when we can’t confirm that you’ve
previously used Facebook on that device.”) (last visited November 30, 2022).

1 discussing value and importance of testers in enforcement of consumer protection and
2 civil rights statutes).²¹

3 35. During the relevant time period, Plaintiff visited Yourbump.com and
4 watched a video.

5 36. When Plaintiff clicked on videos on Yourbump.com, Defendants disclosed
6 event data, which recorded and disclosed the video's title, description, and URL.
7 Alongside this event data, Defendants also disclosed identifiers for Plaintiff, including
8 the c_user and fr cookies. In other words, Defendants did exactly what the VPPA
9 prohibits: they disclosed Plaintiff's video viewing habits to a third party.

10 37. Visitors would be offended to know that Defendants secretly disclose to
11 Facebook all of key data regarding a visitors' viewing habits.

12 38. Defendants' conduct is illegal, offensive, and contrary to visitor
13 expectations: indeed, a recent study conducted by the Electronic Privacy Information
14 Center, a respected thought leader regarding digital privacy, found that: (1) nearly 9 in
15 10 adults are "very concerned" about data privacy, and (2) 75% of adults are unaware of
16 the extent to which companies gather, store, and exploit their personal data.

17 39. By disclosing his event data and identifiers, Defendant disclosed Plaintiff's
18 personally identifiable information ("PII") to a third-party.

19 40. Plaintiff discovered that Defendants surreptitiously collected and
20 transmitted his personally identifiable information in December 2022.

21 **CLASS ALLEGATIONS**

22 41. Plaintiff brings this action individually and on behalf of all others similarly
23 situated (the "Class") defined as follows:

24 ²¹ Civil rights icon Rosa Parks was acting as a "tester" when she initiated the Montgomery
25 Bus Boycott in 1955, as she voluntarily subjected herself to an illegal practice to obtain
26 standing to challenge the practice in Court. See [https://www.naacpldf.org/press-
27 release/ldf-pays-tribute-to-rosa-parks-on-the-sixtieth-anniversary-of-her-courageous-
28 stand-against-segregation/](https://www.naacpldf.org/press-release/ldf-pays-tribute-to-rosa-parks-on-the-sixtieth-anniversary-of-her-courageous-stand-against-segregation/) "(Contrary to popular myth, Rosa Parks was not just a tired
seamstress who merely wanted to sit down on a bus seat that afternoon. She refused to
give up her seat on principle. Parks had long served as the secretary of the Montgomery
branch of the NAACP [and] challenging segregation in Montgomery's transportation
system was on the local civil rights agenda for some time.") (last downloaded November
2022).

1 **All persons in the United States who watched video content on a website**
2 **owned, operated, or controlled by Defendants and whose PII was**
3 **disclosed by Defendants to Facebook during the Class Period.**

4 42. **Numerosity (Fed. R. Civ. P. 23(a)(1)):** At this time, Plaintiff does not know
5 the exact number of members of the aforementioned Class. However, given the
6 popularity of Defendant’s website, the number of persons within the Class is believed to
7 be so numerous that joinder of all members is impractical.

8 43. **Commonality and Predominance (Fed.R.Civ.P. 23(a)(2), 23(b)(3)):**
9 There is a well-defined community of interest in the questions of law and fact involved
10 in this case. Questions of law and fact common to the members of the Class that
11 predominate over questions that may affect individual members of the Class include:

- 12 a) whether Defendants collected Plaintiff’s and the Class’s PII;
- 13 b) whether Defendants unlawfully disclosed and continues to disclose their
14 users’ PII in violation of the VPPA;
- 15 c) whether Defendants’ disclosures were committed knowingly; and
- 16 d) whether Defendants disclosed Plaintiff’s and the Class’s PII without
17 consent.
18

19 44. **Typicality (Fed. R. Civ. P. 23(a)(3)):** Plaintiff’s claims are typical of those
20 of the Class because Plaintiff, like all members of the Class, had PII collected and
21 disclosed by Defendants.

22 45. **Adequacy (Fed. R. Civ. P. 23(a)(4)):** Plaintiff has retained and is
23 represented by qualified and competent counsel who are highly experienced in complex
24 consumer class action litigation. Moreover, Plaintiff is able to fairly and adequately
25 represent and protect the interests of the Class.

26 46. **Superiority (Fed. R. Civ. P. 23(b)(3)):** A class action is superior to other
27 available methods for the fair and efficient adjudication of this controversy because
28 individual litigation of the claims of all members of the Class is impracticable. Even if

1 every member of the Class could afford to pursue individual litigation, the court system
2 could not. It would be unduly burdensome to the courts in which individual litigation of
3 numerous cases would proceed. Individualized litigation would also present the potential
4 for varying, inconsistent, or contradictory judgments, and would magnify the delay and
5 expense to all parties and to the court system resulting from multiple trials of the same
6 factual issues. By contrast, the maintenance of this action as a class action, with respect
7 to some or all of the issues presented herein, presents few management difficulties,
8 conserves the resources of the parties and of the court system and protects the rights of
9 each member of the Class. Plaintiff anticipates no difficulty in the management of this
10 action as a class action.

11 **CAUSE OF ACTION**

12 **VIOLATION OF THE VIDEO PRIVACY PROTECTION ACT**

13 **18 U.S.C. § 2710, *et seq.***

14 47. Defendants are a “video tape service provider” because they create, host,
15 and deliver videos on the website, thereby “engag[ing] in the business, in or affecting
16 interstate or foreign commerce, of rental, sale, or delivery of prerecorded video cassette
17 tapes or similar audio visual materials.” 18 U.S.C. § 2710(a)(4). Defendants also use the
18 videos to collect and disclose viewers’ PII so it can later retarget them for advertisements.

19 48. Plaintiff and members of the Class are “consumers” because they have
20 watched videos on Yourbump.com. 18 U.S.C. § 2710(a)(1).

21 49. Defendants disclosed to a third party, Facebook, Plaintiff’s and the Class
22 members’ personally identifiable information. Defendants utilized the Facebook
23 Tracking Pixel to compel Plaintiff’s web browser to transfer Plaintiff’s identifying
24 information, like his Facebook ID, along with Plaintiff’s event data, like the title of the
25 videos he viewed.

26 50. Plaintiff and the Class members clicked on videos on the website.

27 51. Defendants knowingly disclosed Plaintiff’s PII because it used that data to
28 build audiences on Facebook and retarget them for its advertising campaigns.

1 52. Plaintiff and Class members did not provide Defendants with any form of
2 consent—either written or otherwise—to disclose their PII to third parties.

3 53. Defendant’s disclosures were not made in the “ordinary course of business”
4 as the term is defined by the VPPA because they were not necessary for “debt collection
5 activities, order fulfillment, request processing, [or] transfer of ownership.” 18 U.S.C. §
6 2710(a)(2).

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff seeks judgment against Defendant, individually and on
9 behalf of all others similarly situated, as follows:

- 10 a. For an order certifying the Class under Rule 23 of the Federal Rules of Civil
11 Procedure, naming Plaintiff as representative of the Class;
12 b. For an order declaring that Defendant’s conduct violates the VPPA;
13 c. For an order finding in favor of Plaintiff and the Class on all counts asserted
14 herein;
15 d. An award of statutory damages under the VPAA;
16 e. An award of punitive damages;
17 f. For prejudgment interest on all amounts awarded;
18 g. For injunctive relief to stop the illegal conduct; and
19 h. For an order awarding Plaintiff and the Class their reasonable attorneys’
20 fees, expenses and costs of suit.

21 Dated: December 13, 2022

PACIFIC TRIAL ATTORNEYS, APC

22
23 By: 
24 Scott. J. Ferrell
25 Attorneys for Plaintiff
26
27
28

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Yourbump.com Visitors' Personal Data Secretly Handed to Facebook, Class Action Claims](#)
