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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELAINE PELC on behalf of herself and all others
similarly situated,

Plaintiffs,

vs.

Facebook, Inc., Cambridge Analytica LLC and
SCL Group, Limited,

Defendants.

Case No.: Case #

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff Elaine Pelc, individually and on behalf of all others similarly situated, alleges the
 2 following against Defendants Facebook, Inc. (“Facebook”), Cambridge Analytica LLC (“CA” or
 3 “Cambridge Analytica”) and SCL Group, Limited (“SCL”) (“Defendants”), based on personal
 4 knowledge as to Plaintiff and Plaintiff’s own acts and on information and belief as to all other matters
 5 based upon, *inter alia*, the investigation conducted by and through Plaintiff’s undersigned counsel and
 6 publicly available information:

7 **SUMMARY OF THE CASE**

8 1. Facebook operates a social media company that facilitates the sharing of user’s personal
 9 photographs, information, uniform resource locator links, geolocation data, audio-visual media and
 10 other data with family, friends, coworkers and other private relations. Facebook maintains a web site
 11 and develops software applications that facilitate that sharing of information with its more than 2.2
 12 billion monthly users worldwide. Facebook users have the ability to share and restrict information
 13 based on their own specific criteria. The company’s stated mission is “to give people the power to
 14 build community and bring the world closer together.”¹

15 2. CA is a privately held company focused on data mining, data brokering, data analysis
 16 and strategic communication for use in the electoral process. The firm has been involved in dozens of
 17 state and federal races in the United States. In 2016 alone, CA assisted three major presidential
 18 campaigns in the primary and general elections, including the ultimately successful campaign of
 19 President Donald J. Trump.

20 3. SCL is a privately held behavioral research and strategic communications firm that
 21 owns and operates CA.

22 4. In order to create a Facebook account, a user must generate a personal profile using his
 23 or her email address or phone number, first name, last name, birthdate, and gender. Users also agree to
 24 the Facebook terms and conditions before they are allowed to complete their individual profile. Once
 25 a profile has been created, Facebook encourages the users to share significant amounts of personal
 26 information, including their name, birthdate, hometown, phone number, address, location, interests,
 27

28 ¹ <https://www.facebook.com/zuck/posts/10154944663901634>

relationships, email address, history of websites visited, geolocation data, photos, and videos, amongst others, referred to herein as “Personal Information.”

5. Despite statements to the contrary, Defendants have chosen to treat Plaintiff’s Personal Information with absolute disregard. While Plaintiff’s Personal Information was supposed to be protected, controlled solely by the Plaintiff, and used for only expressly disclosed and limited purposes, CA, and its parent company SCL, without authorization, or by exceeding whatever limited authorization it, or its agents, had, improperly collected the Personal Information of up to 87 million Facebook users, including Plaintiff. Facebook, for its part, knew this improper data aggregation was occurring and either failed to stop it, or actively avoided discovering such knowledge in order to profess ignorance. Plaintiff brings this suit to protect her privacy interests and those of the class.

PARTIES

A. Class Representatives

6. Plaintiff Elaine Pelc is a citizen and resident of Baltimore, Maryland. Plaintiff has held a Facebook account for approximately 15 years. She has continuously and actively used Facebook since then to connect with friends. Her account is linked to 687 other Facebook users. Plaintiff recalls that during the 2016 Presidential election, she was frequently, and inexplicably, targeted with political ads that she had not sought or requested while using Facebook. Upon checking whether her account was compromised by CA, Plaintiff was informed that though she is one of the 87 million people whose Personal Information was compromised by CA without their consent or authorization.² Plaintiff still maintains and uses a Facebook account to this day.

B. Defendants

7. Facebook is incorporated in Delaware, and the Company’s principal executive offices are located at 1601 Willow Road, Menlo Park, California 94025. Facebook’s registered agent for service of process is CSC-Lawyers Incorporating Service, 2710 Gateway Oaks Dr., Suite 150N, Sacramento, California 95833.

² Plaintiff verified that her account was compromised using a link provided by Facebook. That link would verify whether a Facebook user’s account had been compromised by CA. That link is found at: <https://www.facebook.com/help/1873665312923476?helpref=search&sr=1&query=cambridge/>

1 online, used the data of up to 87 million people obtained from Facebook without proper disclosures or
 2 permission.³ The article further stated, in part

3 **[T]he firm harvested private information from the Facebook profiles**
 4 **of more than 50 million users without their permission**, according to
 5 former Cambridge employees, associates and documents, making it one
 6 of the largest data leaks in the social network's history. The breach
 allowed the company to exploit the private social media activity of a huge
 swath of the American electorate, developing techniques that underpinned
 its work on President Trump's campaign in 2016.

7 ***

8 **But the full scale of the data leak involving Americans has not been**
 9 **previously disclosed — and Facebook, until now, has not**
 10 **acknowledged it.** Interviews with a half-dozen former employees and
 contractors, and a review of the firm's emails and documents, have
 revealed that Cambridge not only relied on the private Facebook data but
 still possesses most or all of the trove.

11 (Emphases added.)⁴

12 14. CA harvested this data by hiring researcher Aleksandr Kogan to build a survey
 13 application titled "thisisyourdigitallife." The application promised to help users better understand their
 14 own personality traits – and it promised to use the information submitted only for academic purposes.⁵
 15 CA paid Kogan \$800,000 to build "thisisyourdigitallife" and allowed him to keep a copy of the source
 16 code for his own research. In 2014, CA then posted "thisisyourdigitallife" on Facebook and claimed,
 17 in fine print, that it "was collecting information for academic purposes."⁶ Facebook never verified this
 18 claim before posting the application on its platform.

19 15. Unbeknownst to the approximately 270,000 Facebook users who downloaded
 20 "thisisyourdigitallife", CA used the application to gain a backdoor to their data and, more importantly,
 21 that of all their Facebook contacts. That allowed CA to access the data of up to 87 million other
 22
 23

24 ³ The initial reports had stated that "more than 50 million users" had their Personal Information
 25 accessed as part of this scheme. Later reporting and admissions by Facebook showed that up to 87
 million users had their accounts compromised by this scheme.

26 <https://www.nytimes.com/2018/04/04/technology/mark-zuckerberg-testify-congress.html>

27 ⁴ <https://www.nytimes.com/2018/03/17/us/politics/cambridge-analytica-trump.campaign.html>

28 ⁵ <https://www.theguardian.com/news/2018/mar/17/cambridge-analytica-facebook-influence-us-election>

⁶ <https://www.nytimes.com/2018/03/17/us/politics/cambridge-analytica-trump.campaign.html>

1 people who, according to Facebook, “had their privacy settings set to allow it.”⁷ None of these
 2 additional Facebook users ever explicitly consented to having their Personal Information accessed by
 3 “thisisyourdigitallife,” Cambridge Analytica or SCL.

4 16. The Plaintiff had never downloaded “thisisyourdigitallife” or consented to having her
 5 Personal Information taken by CA.

6 17. Indeed, Facebook’s policies only allowed collection of a Facebook user’s contact’s data
 7 “to improve user experience.”⁸ Those policies barred the sale of such data or its use for advertising
 8 purposes.⁹ Facebook never monitored where the data accessed by CA or the “thisisyourdigitallife”
 9 went or how it was used. As a former manager at Facebook, Sandy Parakilas noted, Facebook
 10 exhibited “zero” or “absolutely [no control]” over the data accessed by third party developers like CA.
 11 As he noted, “Once the data left Facebook servers there was not any control, and there was no insight
 12 into what was going on.”¹⁰

13 18. Once the data left Facebook’s servers and was harvested by CA, user profiles, affinities
 14 and data were used to build psychological profiles that would allow for better advertisement targeting.
 15 A former contractor with Cambridge Analytica, Christopher Wylie, revealed how the data mining
 16 worked: “With their profiles, likes, even private messages, [Cambridge Analytica] could build a
 17 personality profile on each person and know how best to target them with messages.”¹¹

18 19. Mr. Wylie stated that he had receipts, invoices, emails, legal letters and records that
 19 “showed how, between June and August 2014, the profiles of more than 50 million Facebook users had
 20 been harvested.”¹² These profiles “contained enough information, including places of residence, that
 21

22 ⁷ <https://www.forbes.com/sites/parmyolson/2018/03/20/face-to-face-with-cambridge-analytica-alexander-nix-facebook-trump/#674008da535f>

23 ⁸ <https://www.theguardian.com/news/2018/mar/17/cambridge-analytica-facebook-influence-us-election>

24 ⁹ *Id.*

25 ¹⁰ <https://www.theguardian.com/news/2018/mar/20/facebook-data-cambridge-analytica-sandy-parakilas>

26 ¹¹ <https://www.theguardian.com/news/2018/mar/17/data-war-whistleblower-christopher-wylie-faceook-nix-bannon-trump>

27 ¹² <https://www.theguardian.com/news/2018/mar/17/data-war-whistleblower-christopher-wylie-faceook-nix-bannon-trump>

1 [CA] could match users to other records and build psychographic profiles.”¹³ As previously noted,
 2 Mr. Wylie’s estimate was likely low by approximately 37 million users – as up to 87 million Facebook
 3 users had their data compromised by CA.

4 20. In effect, CA was mounting a campaign of psychological warfare on millions of hapless
 5 victims without their knowledge or consent. Indeed, of up to 87 million Facebook users victimized by
 6 this scheme, “only about 270,000 users – those who had participated in the [thisisyourdigitallife]
 7 survey”¹⁴ – had even consented to having their data harvested, and then only for academic research
 8 purposes, and without any authorization to having their data used to promote CA’s advertisements or
 9 political goals.

10 21. Furthermore, Facebook itself lies within the penumbra of blame.

11 22. As the former Facebook operations manager responsible for monitoring data breaches
 12 by third party developers in 2011 and 2012, Sandy Parakilas stated that potentially hundreds of
 13 millions of Facebook users are likely to have had their private information harvested by companies that
 14 exploited the same terms as the firm that collected data and passed it on to Cambridge Analytica.”¹⁵

15 23. Parakilas stated that he warned senior executives at the company that its lax approach to
 16 data protection risked a major breach: “[Parakilas’s] concerns were that all of the data that left
 17 Facebook servers to developers could not be monitored by Facebook, so [Facebook] had no idea what
 18 developers were doing with the data” and that the company did not use enforcement mechanisms,
 19 including audits of external developers, to ensure data was not being misused.¹⁶

20 24. Facebook’s “trust model” was rife with security vulnerabilities and a near total
 21 abnegation of its responsibility to audit its own rules limiting use of Facebook data by third parties.
 22 Or, in Parakilas’ own words, “[Facebook] felt that it was better not to know.”¹⁷ As he mentioned,
 23
 24

25 ¹³ <https://www.nytimes.com/2018/03/17/us/politics/cambridge-analytica-trump-campaign.html>

26 ¹⁴ *Id.*

27 ¹⁵ <https://www.theguardian.com/news/2018/mar/20/facebook-data-cambridge-analytica-sandy-parakilas>

28 ¹⁶ *Id.*

¹⁷ *Id.*

1 during the time he was at Facebook, he “didn’t see [Facebook] conduct a single audit of a [third party]
2 developer’s systems.”¹⁸

3 25. That company philosophy apparently has carried on since Mr. Parakilas’s departure
4 from Facebook, as amply evidenced by the hijacking of up to 87 million of the company’s profiles by
5 Cambridge Analytica. Facebook’s stated position—that “Protecting people’s information is at the heart
6 of everything we do”¹⁹—is a far cry from the truth: In fact, Facebook had known about this security
7 breach for two years, but did little or nothing to protect its users.²⁰

8 26. On March 19, 2018, *Bloomberg* published an article entitled “FTC Probing Facebook
9 For Use of Personal Data, Source Says,” disclosing that the U.S. Federal Trade Commission (“FTC”)
10 is “probing whether Facebook violated terms of a 2011 consent decree of its handling of user data that
11 was transferred to Cambridge Analytica without [user] knowledge.” Under the 2011 settlement with
12 the FTC, Facebook “agreed to get user consent for certain changes to privacy settings as part of a
13 settlement of federal charges that it deceived consumers and forced them to share more Personal
14 Information than they intended.” The article further stated that “if the FTC finds Facebook violated
15 terms of the consent decree, it has the power to fine the company more than \$40,000 a day per
16 violation.”

17 27. At all relevant times, Facebook has maintained a Data Use Policy on its website. At all
18 relevant times, the Data Use Policy advised Facebook users, in part:

19 Granting us permission to use your information not only allows us to
20 provide Facebook as it exists today, but it also allows us to provide you
21 with innovative features and services we develop in the future that use the
22 information we receive about you in new ways. While you are allowing us
23 to use the information we receive about you, you always own all of your
24 information. ***Your trust is important to us, which is why we don’t share
information we receive about you with others unless we have:***

- 23 • ***received your permission***
- 24 • given you notice, such as by telling you about it in this policy; or

26 ¹⁸ *Id.*

27 ¹⁹ <https://www.nytimes.com/2018/03/17/us/politics/cambridge-analytica-trump-campaign.html>

28 ²⁰ <https://www.nytimes.com/2018/03/17/us/politics/cambridge-analytica-trump-campaign.html>;
<https://www.theguardian.com/news/2018/mar/20/facebook-data-cambridge-analytica-sandy-parakilas>

- removed your name and any other personally identifying information from it.

(Emphases added) (https://www.facebook.com/full_data_use_policy).

28. The depth of the data that Facebook collects from its users only magnifies the gravity of the breach of faith and data that CA's pilfering of user Personal Information represents. As has been noted multiple times, Facebook keeps track of every message a user sends or receives, every file a user sends or receives, all of a user's contacts (including mobile phone contacts), all audio files a user sends or receives, the location of every user sign-in, the time of every user sign-in, the device of every user sign in and much more. In addition, Facebook can even access user webcams and microphones without their knowledge.²¹

29. Given the magnitude of the breach and the sensitivity of the Personal Information stolen, users may be at higher risk of identity theft and severe financial consequences. Any data that could potentially identify a specific individual is personally identifiable information ("PII"). PII is at the heart of financial fraud and identity theft. The vast troves of Personal Information provided by Facebook users includes their names, locations, birthdates, genders and, depending on the information uploaded by users, other information that would allow identity thieves to steal Facebook user identities. All of this highlights the egregious dereliction of duty behind Facebook's inexplicable refusal to monitor third party use of its users' data. Plaintiff and other Facebook users whose information has been taken by CA will have to monitor credit reports, pay for credit monitoring and/or restoration services and maintain a heightened level of vigilance as a result of Facebook's and CA's behavior.

30. The incident has violated the privacy of millions of people in every state. The personal, sensitive information of up to 87 million people is now at high risk for identity theft and compromise, and will continue to be at risk as a direct result of the acts of Defendants.

²¹ See e.g. <https://www.theguardian.com/commentisfree/2018/mar/28/all-the-data-facebook-google-has-on-you-privacy>.

CLASS ACTION ALLEGATIONS

31. Plaintiff seeks relief in her individual capacity and as a representative of other similarly situated individuals. Pursuant to Federal Rules of Civil Procedure 23(a), (b)(2), (b)(3) and (c)(4), Plaintiff, individually and on behalf of all others similarly situated, brings this lawsuit on behalf of themselves and as a class action on behalf of the following class:

All persons who registered for Facebook accounts in the United States and whose Personal Information was obtained from Facebook by Cambridge Analytica without authorization or in excess of authorization.

32. Excluded from the Class are Defendants and any entities in which any Defendant or their subsidiaries or affiliates have a controlling interest, is a parent or subsidiary, or which is controlled by any Defendant, as well as the officers, directors, affiliates, legal representatives, heirs, predecessors, successors, assigns agents, and employees of any Defendant. Also excluded from the Class are Plaintiffs' counsel and employees of their firms, the judge and court personnel assigned to this action, and any member of the judge's immediate family.

33. **Numerosity:** The members of each Class are so numerous that joinder of all members of any Class would be impracticable. Plaintiff reasonably believes that Class members number approximately eighty-seven (87) million people in the aggregate and well over 1,000 in the smallest of the classes. The names and addresses of Class members are identifiable through documents maintained by Defendants.

34. **Commonality and Predominance:** This action involves common questions of law or fact, which predominate over any questions affecting individual Class members. These questions include:

- a. Whether Facebook represented that it would safeguard Plaintiff's and Class members' Personal Information and not disclose it without consent;
- b. Whether CA improperly obtained Plaintiff's and Class members' Personal Information without authorization or in excess of any authorization;
- c. Whether Facebook was aware of CA's improper collection of Plaintiff's and Class members' Personal Information;

- d. Whether Defendants owed a legal duty to Plaintiff and the Class to exercise due care in collecting, storing, safeguarding, and/or obtaining their Personal Information;
- e. Whether Defendants breached a legal duty to Plaintiff and the Class to exercise due care in collecting, storing, safeguarding, and/or obtaining their Personal Information;
- f. Whether Defendants breached the terms of one or more contracts with Plaintiff and the Class;
- g. Whether Class members' Personal Information was obtained by CA;
- h. Whether Defendants had a reasonable expectation of privacy in their Personal Information that was intentionally intruded upon by one or more of the Defendants;
- i. Whether any intrusion on Plaintiff's or Class member's reasonable expectation of privacy was highly offensive to a reasonable person, caused harm, and was a substantial factor in causing that harm;
- j. Whether Defendants' conduct was an unlawful or unfair business practice under Cal. Bus. & Prof. Code § 17200, *et seq.*;
- k. Whether Defendants' conduct violated § 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, *et seq.*,
- l. Whether Plaintiff and the Class are entitled to equitable relief, including, but not limited to, injunctive relief and restitution; and
- m. Whether Plaintiff and the other Class members are entitled to actual, statutory, or other forms of damages, and other monetary relief.

35. Defendants engaged in a common course of conduct giving rise to the legal rights sought to be enforced by Plaintiff individually and on behalf of the members of the class. Similar or identical statutory and common law violations, business practices, and injuries are involved. Individual questions, if any, pale by comparison, in both quantity and quality, to the numerous common questions that dominate this action.

1 36. **Typicality:** Plaintiff's claims are typical of the claims of the other members of their
2 respective classes because, among other things, Plaintiff and the other class members were injured
3 through the substantially uniform misconduct of Defendants. Plaintiff is advancing the same claims
4 and legal theories on behalf of herself and all other Class members, and there are no defenses that are
5 unique to Plaintiff. The claims of Plaintiff and those of other Class members arise from the same
6 operative facts and are based on the same legal theories.

7 37. **Adequacy of Representation:** Plaintiff is an adequate representative of the class
8 because her interests do not conflict with the interests of the other Class members she seeks to
9 represent; she has retained counsel competent and experienced in complex class action litigation and
10 Plaintiff and her counsel will prosecute this action vigorously. The Class members' interests will be
11 fairly and adequately protected by Plaintiff and her counsel.

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

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

26 40. Likewise, particular issues under Rule 23(c)(4) are appropriate for certification because
27 such claims present only particular, common issues, the resolution of which would advance the
28

1 disposition of this matter and the parties' interests therein. Such particular issues include, but are not
 2 limited to:

- 3 a. Whether Facebook represented that it would safeguard Plaintiff's and Class
 4 members' Personal Information and not disclose it without consent;
- 5 b. Whether CA improperly obtained Plaintiff's and Class members' Personal
 6 Information without authorization or in excess of any authorization;
- 7 c. Whether Facebook was aware of CA's improper collection of Plaintiff's and
 8 Class members' Personal Information;
- 9 d. Whether Defendants owed a legal duty to Plaintiff and the Class to exercise due
 10 care in collecting, storing, safeguarding, and/or obtaining their Personal
 11 Information;
- 12 e. Whether Defendants breached a legal duty to Plaintiff and the Class to exercise
 13 due care in collecting, storing, safeguarding, and/or obtaining their Personal
 14 Information;
- 15 f. Whether Defendants breached the terms of one or more contracts with Plaintiff
 16 and the Class;
- 17 g. Whether Class members' Personal Information was obtained by CA;
- 18 h. Whether Defendants had a reasonable expectation of privacy in their Personal
 19 Information that was intentionally intruded upon by one or more of the
 20 Defendants;
- 21 i. Whether any intrusion on Plaintiff's or Class member's reasonable expectation
 22 of privacy was highly offensive to a reasonable person, caused harm, and was a
 23 substantial factor in causing that harm;
- 24 j. Whether Defendants' conduct was an unlawful or unfair business practice under
 25 Cal. Bus. & Prof. Code § 17200, *et seq.*;
- 26 k. Whether Defendants' conduct violated § 5 of the Federal Trade Commission
 27 Act, 15 U.S.C. § 45, *et seq.*,
 28

- 1 l. Whether Plaintiff and the Class are entitled to equitable relief, including, but not
- 2 limited to, injunctive relief and restitution; and
- 3 m. Whether Plaintiff and the other Class members are entitled to actual, statutory,
- 4 or other forms of damages, and other monetary relief.

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

6 **First Claim for Relief**

7 **Violation of California’s Unfair Competition Law (“UCL”) – Unlawful Business Practice**
8 **(Cal. Bus. & Prof. Code § 17200, *et seq.*)**
9 **(Against Facebook)**

10 41. Plaintiff repeats, re-alleges, and incorporates by reference the allegations contained in
11 preceding and superseding paragraphs as though fully stated herein.

12 42. Plaintiff brings this count on behalf of herself and the proposed class.

13 43. California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof Code § 17200, *et seq.*
14 prohibits “any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or
15 misleading advertising.” The conduct alleged herein is both a “business practice” and is unlawful
16 within the meaning of the UCL.

17 44. Facebook represented that it would not disclosure user’s Personal Information without
18 consent and/or notice. It also required application developers, like CA, to obtain and utilize users’
19 Personal Information in specified, limited ways.

20 45. Plaintiff and Class members were persuaded to give consideration (their Personal
21 Information and data) to Facebook pursuant to various terms and conditions, including Facebook’s
22 commitment to never share their Personal Information and data except under those terms and
23 conditions. Facebook violated those terms and conditions by failing to uphold the promise of the
24 privacy protections in those terms and conditions.

25 46. Facebook’s conduct was unlawful under the UCL in that it:

- 26 a. Induced Plaintiff and Class members to share their Personal Information and
- 27 data pursuant to specific privacy terms promulgated by Facebook, and
- 28 b. Facebook violated these terms unlawfully and in the regular course of its
- business.

47. Facebook failed to abide by these representations. Facebook did not prevent improper disclosure of Plaintiff's and the Class's Personal Information.

48. Facebook's acts and omissions as alleged herein were unlawful and in violation of, *inter alia*,

- a. Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), in that it engaged in unfair or deceptive acts or practices affecting interstate commerce and
- b. Cal. Bus. & Prof. Code § 22576, in that Facebook operates an online service that collects personally identifiable information from individual consumers who use Facebook, and Facebook failed to comply with the provisions of its posted privacy policy either (i) knowingly and willfully, or (ii) negligently and materially.
- c. Federal Stored Communications Act, 18 U.S.C. § 2701, *et seq.*, in that it knowingly divulged to a person or entity the contents of electronic communications held in electronic storage by Facebook.

49. Plaintiff and the Class members suffered injury in fact and lost money or property as the result of Defendants' unlawful business practices. In particular, Plaintiff and Class members' Personal Information was taken and is in the hands of those who will use it for their own advantage, or is being sold for value, making it clear that the information is of tangible value.

50. As a result of Facebook's unlawful business practices, Plaintiff and the class are entitled to restitution, disgorgement of wrongfully obtained profits and injunctive relief.

Second Claim for Relief
Violation of California's Unfair Competition Law ("UCL") – Unfair Business Practice
(Cal. Bus. & Prof. Code § 17200, *et seq.*)
(Against Facebook)

51. Plaintiff repeats, re-alleges, and incorporates by reference the allegations contained in preceding and superseding paragraphs as though fully stated herein.

1 52. By reason of the conduct alleged herein, Facebook engaged in unfair “business
2 practices” within the meaning of the UCL.

3 53. Defendant Facebook represented to its users, including Plaintiff and Class members,
4 that it would not disclose their Personal Information without consent and/or notice. It also asked third
5 party software application developers, like CA, to obtain and utilize users’ Personal Information in
6 circumscribed ways.

7 54. Defendant Facebook stored the Personal Information of Plaintiff and members of the
8 Class in its electronic and consumer information databases. Defendants represented to Plaintiff and
9 members of the classes that their Personal Information would remain private. Defendants engaged in
10 unfair acts and business practices by representing that they would not disclose this Personal
11 Information without authorization, and/or by obtaining that Personal Information without
12 authorization, and then facilitating the disclosure of that Personal Information.

13 55. Facebook’s conduct was unfair under the UCL in that Facebook:

- 14 a. Routinely and systematically breached the terms and conditions that are part of
- 15 the contract between Facebook and Plaintiffs and Class members;
- 16 b. Induced users to enter into agreements whose data privacy terms Facebook did
- 17 not enforce and did not intend to enforce;
- 18 c. Intentionally failed to monitor third party software developers to assure
- 19 compliance with Facebook’s privacy policies; and
- 20 d. Facebook violated these terms (a) knowingly and willfully, (b) negligently and
- 21 materially, or (c) both.

22 This unfair conduct originated in California, caused harm to the Plaintiff and Class members
23 and defeated the expectation created in the Plaintiff and Class members by Facebook’s terms and
24 conditions.

25 56. Plaintiff and the Class members suffered injury in fact and lost money or property as the
26 result of Defendant’s unfair business practices. In particular, Plaintiff and Class members’ Personal
27 Information was taken and is in the hands of those who will use it for their own advantage, or is being
28 sold for value, making it clear that the hacked information is of tangible value.

64. Plaintiff and the Class members suffered injury in fact and lost money or property as the result of Defendant's fraudulent business practices. In particular, Plaintiff and Class members' Personal Information was taken and is in the hands of those who will use it for their own advantage, or is being sold for value, making it clear that the hacked information is of tangible value.

65. As a result of Defendant Facebook's fraudulent business practices, Plaintiff and the Class are entitled to restitution, disgorgement of wrongfully obtained profits and injunctive relief pursuant to the UCL.

Fourth Claim for Relief
Negligence
(Against All Defendants)

66. Plaintiff repeats, re-alleges, and incorporates by reference the allegations contained in preceding and superseding paragraphs as though fully stated herein.

67. Defendants owed a duty to Plaintiff and the Class to exercise reasonable care in obtaining and protecting their Personal Information, and keeping it from being compromised, lost, stolen, misused, and or/disclosed to unauthorized parties.

68. Defendants knew that the Personal Information of Plaintiff and the Class was personal and sensitive information that is valuable.

69. By being entrusted by Plaintiff and the Class to safeguard their Personal Information, Facebook had a special relationship with Plaintiff and the Class. Plaintiff and the Class signed up for Facebook's services and agreed to provide their Personal Information with the understanding that Facebook would take appropriate measures to protect it, and would inform Plaintiff and the Class of any breaches or other security concerns that might call for action by Plaintiff and the Class. But, Facebook did not. Facebook failed to prevent CA's improper obtaining of Plaintiff's and the Class's Personal Information.

70. CA had a duty to refrain from obtaining Plaintiff's and the Class's Personal Information in without their consent or authorization.

71. Defendants breached their duties by failing to adopt, implement, and maintain adequate security measures to safeguard the Personal Information, or by obtaining that Personal Information without authorization.

1 81. As an inducement to submit their Personal Information to Facebook, Plaintiff and Class
 2 members were promised by Facebook that their Personal Information would be safeguarded and never
 3 shared without their consent. In addition, Facebook promised the Plaintiff and Class members that it
 4 would only use their Personal Information pursuant to the specific means and circumstances identified
 5 in the User Agreements.

6 82. Facebook breached the User Agreements in sharing the Plaintiff's and Class members'
 7 Personal Information with third parties without their consent. As a result, the Plaintiff and Class
 8 members suffered damages.

9 83. The actual and appreciable damages of the Plaintiff and the Class are equivalent to the
 10 value of the Personal Information that Facebook improperly shared with CA and SCL through
 11 Facebook's knowing, reckless or willful breach of the User Agreements.

12 84. Facebook's breach of the User Agreements is even more notable because it involved the
 13 valuable and sensitive Personal Information related to the Plaintiff's and the Class members'
 14 individual voting preferences, political opinions and personal views.

15 85. Facebook's breach of the User Agreements has caused significant damages to the
 16 Plaintiff and the Class.

17 86. Plaintiff and the Class are entitled to legal damages, injunctive relief and equitable relief
 18 as a result of Facebook's breach of the User Agreements.

19 **Sixth Claim for Relief**
 20 **Intrusion Upon Seclusion**
 (Against All Defendants)

21 87. Plaintiff repeats, re-alleges, and incorporates by reference the allegations contained in
 22 preceding and superseding paragraphs as though fully stated herein.

23 88. Plaintiff and the Class put Personal Information in their Facebook profiles that included
 24 sensitive Personal Information, including birthdays, personal photographs, family photographs,
 25 personal relationship status, religious beliefs, political views, their home towns, their personal
 26 interests, their current locations, their education and work history and their interests, activities and
 27 preferences. Given the profoundly intimate nature of the Personal Information shared, Plaintiff and
 28 Class members had an expectation of privacy in that information.

1 89. Plaintiff and the Class members were led to believe by Facebook that they had control
2 over who could access that information using Facebook's privacy settings. In exchange for that
3 promise in the User Agreements, Plaintiff and Class members put their Personal Information on
4 Facebook's servers. Their expectation was that their Personal Information would remain private, as
5 was promised by the User Agreements.

6 90. By taking the Plaintiff's and Class members' Personal Information from their Facebook
7 accounts, SCL and CA intentionally intruded upon their private information.

8 91. Facebook aided and abetted SCL's and CA's intrusion upon the Plaintiff's and Class
9 members' seclusion because it knew or should have known about this intrusion, and because it gave
10 substantial assistance to SCL and CA by allowing their software applications to access Plaintiff's
11 and/or Class members' information without their consent.

12 92. Facebook's actions or failure to act caused substantial damage to Plaintiff and Class
13 members.

14 93. Defendants' intrusion and theft of Plaintiff's and Class members' Personal Information
15 from their Facebook accounts was highly offensive to a reasonable person in that it: 1) included the
16 taking of very detailed and penetrating Personal Information, 2) that intrusion and theft were motivated
17 by a desire for profit and political influence, and 3) that intrusion occurred in a setting where the
18 Plaintiff and Class members expected to control access to their most personal and private Personal
19 Information.

20 94. The Plaintiff and Class members were harmed by the Defendants' intrusion into their
21 Personal Information. Not only was that Personal Information used without authorization and for
22 purposes that may have been contrary to the Plaintiff's and Class members' wishes, the Defendants'
23 intrusion also created a real risk of identity theft for the Plaintiff and Class members – and has imposed
24 upon them the burden of monitoring their personal data to limit the risk of injury from identity theft
25 and any costs associated with paying for credit monitoring and accessing credit reports.

26 95. The harm to the Plaintiff and the Class was made evident by the fact that CA paid
27 Facebook \$7 million to acquire the Personal Information of the Plaintiff and Class members.
28

1 105. Facebook knowingly allowed CA to intentionally exceed any authorization it may have
2 had to Plaintiff and Class members' Personal Information and stored electronic communications.

3 106. As a result of Defendants' violations of the SCA, Plaintiffs and Class members are
4 entitled to statutory damages, actual damages, and reasonable attorney's fees and costs, as well as
5 declaratory and injunctive relief.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff, individually and on behalf of the other Class members, respectfully
8 requests that this Court enter an Order:

9 A. Certifying the Class and appointing Plaintiff as Class Representative;

10 B. Finding that Defendants' conduct was negligent, deceptive, unfair, unlawful and
11 fraudulent as alleged herein;

12 C. Enjoining Defendants from engaging in further negligent, deceptive, unfair, unlawful
13 and fraudulent business practices alleged herein;

14 D. Finding that Facebook breached its contract with Plaintiff and Class members;

15 E. Awarding Plaintiff and the Class members nominal, actual, compensatory,
16 consequential and punitive damages;

17 F. Awarding Plaintiff and the Class members statutory damages and penalties, as allowed
18 by law;

19 G. Awarding Plaintiff and the Class members restitution and disgorgement of Defendants'
20 illicit profits;

21 H. Awarding Plaintiff and the Class members pre-judgment and post-judgment interest;

22 I. Awarding Plaintiff and the Class members reasonable attorneys' fees, costs and
23 expenses, and;

24 J. Granting such other relief as the Court deems just and proper.

25 **JURY TRIAL DEMANDED**

26 Plaintiff demands a trial by jury of all claims in this Class Action Complaint so triable.
27
28

1 Dated: May 18, 2018

Respectfully submitted,

2 GOLDSTEIN, BORGEN, DARDARIAN & HO

3 /s/ Linda M. Dardarian

4 Linda M. Dardarian

5 Attorneys for Plaintiff and the Putative Class

CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Elaine Pelc, on behalf of herself and all others simiarly situated,

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Linda M. Dardarian; Goldstein Borgen Dardarian & Ho
300 Lakeside Drive, Suite 1000; Oakland, CA 94612; (510) 763-9800

DEFENDANTS

Facebook, Inc.; Cambridge Analytica LLC, and SCL Group, Ltd.

County of Residence of First Listed Defendant San Mateo County, CA
(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 ☒ 3 Federal Question *(U.S. Government Not a Party)*

☐ 2 U.S. Government Defendant ☐ 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 <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> 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)*

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|---|---|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment Of Veteran's Benefits <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury -Medical Malpractice CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities-- Employment <input type="checkbox"/> 446 Amer. w/Disabilities--Other <input type="checkbox"/> 448 Education | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury -- Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS HABEAS CORPUS <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty OTHER <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee-- Conditions of Confinement | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC § 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC § 158 <input type="checkbox"/> 423 Withdrawal 28 USC § 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent--Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS--Third Party 26 USC § 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC § 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |

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):*
18 U.S.C. section 2701, et seq.
Brief description of cause:
Divulging consumers' private electronically stored information.

VII. REQUESTED IN COMPLAINT: ☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S), IF ANY *(See instructions):* JUDGE Mag. Judge Howard R. Lloyd DOCKET NUMBER 3:18-cv-01732-VC

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)
(Place an "X" in One Box Only) ☐ SAN FRANCISCO/OAKLAND ☒ SAN JOSE ☐ EUREKA-MCKINLEYVILLE

DATE 05/18/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Linda M. Dardarian

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate 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 Federal Rule of Civil Procedure 8(a), 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.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 - (3) Federal question. This refers to suits under 28 USC § 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.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 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-CAND 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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket.
- Please note that there is no 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 Federal Rule of Civil Procedure 23.
- 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-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: "the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated."
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Another Proposed Class Action Filed Over Facebook, Cambridge Analytica Data Sharing](#)
