

JS 44 CAND (Rev. 12/11)

CIVIL COVER SHEET

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

Daniel Jacobs, Individually and on behalf of a class of persons similarly situated

DEFENDANTS

Craigslist, Inc., a Delaware Corporation

(b) County of Residence of First Listed Plaintiff Los Angeles, CA

County of Residence of First Listed Defendant San Francisco, CA

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Edwin C. Schreiber/Eric A. Schreiber 16501 Ventura Blvd., Suite 401 Encino, CA 91436; tel: (818) 789-2577

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)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

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

Table with multiple columns for categories of suits: Insurance, Personal Injury, Real Property, Labor, Social Security, etc.

V. ORIGIN

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district
6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 USC 1332(d) (CAFA)

Brief description of cause: Lawsuit under California Civil Code 1747.08

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 25,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA

DATE 03/16/2012

SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature of attorney



1 EDWIN C. SCHREIBER, SBN 41066
ERIC A. SCHREIBER, SBN 194851
2 SCHREIBER & SCHREIBER, INC.
16501 Ventura Boulevard Suite 401
3 Encino, California 91436-2068
Tel: (818) 789-2577
4 Fax: (818) 789-3391
Ed@Schreiberlawfirm.com
5 Eric@Schreiberlawfirm.com

6 KATHRYN DIEMER SBN 133977
JUDITH WHITMAN SBN 103385
7 DIEMER, WHITMAN & CARDOSI, LLP
75 East Santa Clara Street, Suite 290
8 San Jose, California 95113
Tel: (408) 971-6270
9 Fax: (408) 971-6271
Kdiemer@Diemerwhitman.com
10 Jwhitman@Diemerwhitman.com

E-filing

11 Attorneys for Plaintiff, Daniel Jacobs

12 UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14
15 DANIEL JACOBS, individually
16 and on behalf of a class of persons similarly
situated
17 Plaintiff,
18 vs.
19 CRAIGSLIST, INC.,
a Delaware corporation;
20
21 Defendants

Case No. **CV 12-1898**
CLASS ACTION

COMPLAINT FOR:
1. VIOLATION OF CIVIL CODE § 1747.08

FILED
2012 APR 17 P 1:35
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

h
① IS

JSC

BY FAX

COPY

1 DANIEL JACOBS ("PLAINTIFF"), on behalf of himself and all others similarly-situated, for
2 this complaint, alleges as follows:

3 **STATEMENT OF FEDERAL COURT JURISDICTION**

4 PLAINTIFF contends jurisdiction is proper in Federal Court under 28 U.S.C. § 1332 (d), CAFA
5 in that: 1. Numerous class members and DEFENDANTS are residents, citizens and domiciles of
6 different states (DEFENDANT is a Delaware and California citizen, domicile and resident); 2. This
7 is a class action wherein there are in excess of 100 class members; 3. This is a class action wherein
8 more than two thirds (2/3) of the class members are citizens, domiciles and residents of states other
9 than the DEFENDANT; 4. This is a class action which seeks in excess of five million dollars
10 (\$5,000,000.00) in damages

11 **NATURE OF THE CASE**

12 1. This is a class action brought on behalf of all natural persons nationwide who purchased
13 advertising services through the posting of classified for-pay advertisements (collectively
14 "ADVERTISEMENTS"), from CRAIGSLIST by and through CRAIGSLIST's Internet web site
15 (www.CRAIGSLIST.com) The basic nature of CRAIGSLIST's ADVERTISEMENTS are that
16 CRAIGSLIST offers a variety of free-to-post classified advertisements, as well as certain paid for
17 advertisements. PLAINTIFF is informed and believes and therefore alleges that CRAIGSLIST only
18 charges a fee for employment listings on their specific Atlanta, Austin, Boston, Chicago, Dallas,
19 Denver, Houston, Los Angeles, New York, Orange County, Philadelphia, Phoenix, Portland,
20 Sacramento, San Diego, Seattle, South Florida Washington DC and San Francisco web pages (\$25 for
21 all areas listed except the price is \$75 for San Francisco), and that all other postings on CRAIGSLIST
22 are free. In line with any ADVERTISEMENTS purchase by credit card, CRAIGSLIST requires a
23 customer to provide personal information, including but not limited to a home address and telephone
24 number. CRAIGSLIST lists telephone number and home address as required information page and a
25 transaction cannot be completed without first providing this information to CRAIGSLIST. That is,
26 CRAIGSLIST requires, as a condition of purchase, that a consumer provide it with a telephone number
27 and home address prior to allowing the customer to make a credit card purchase. This request is also
28 made by and through the use of a pre-printed form, which requires a consumer to fill in his or her

1 phone number and address. Furthermore, CRAIGSLIST does not use a phone number for credit card
2 verification, as CRAIGSLIST's form only requires a contact phone number as opposed to a billing
3 address phone number, meaning that while CRAIGSLIST requests and requires a telephone number
4 from a consumer as a condition of paying via credit card (the only method of payment CRAIGSLIST
5 accepts), it does not need the phone number for verification of the credit card or to otherwise process
6 the credit card transaction. Requesting or requiring a telephone number and/or home address in line
7 with a credit card transaction, and using a pre-printed form to require a consumer to write this
8 information violates the Song-Beverly Credit Card Act (Civil Code § 1747.08).

9 I.

10 **THE PARTIES**

11 2. PLAINTIFF alleges that: Defendant CRAIGSLIST, INC. ("CRAIGSLIST") is now, and
12 at all times relevant hereto was an is a Delaware corporation, and is the owner and operator of the
13 website www.CRAIGSLIST.com. CRAIGSLIST's principal place of business is located in San
14 Francisco, California. All DEFENDANTS, are collectively referred to as "DEFENDANTS."

15 3. At all times herein mentioned, PLAINTIFF was and is a resident of Los Angeles County,
16 California. On or about March 8, 2012, PLAINTIFF visited CRAIGSLIST's website because he
17 desired to purchase an ADVERTISEMENT by paying with a credit card. PLAINTIFF was required
18 to fill in various information on Defendant's pre-printed form in line with his purchase, including his
19 name, home address, contact (as opposed to billing) phone number, e-mail address, credit card number,
20 credit card expiration date and the credit security code or CCID (credit card identification number).
21 The CRAIGSLIST website, would not progress to the next page to complete the purchase until
22 PLAINTIFF provided his telephone number and other required information. That is, providing a
23 telephone number and address was a requirement of completing the credit card purchase. Thereafter,
24 PLAINTIFF provided CRAIGSLIST with all the information it required, and completed the
25 transaction, paying for the ADVERTISEMENT by and through his credit card. .

26
27 4. PLAINTIFF is informed and believes and therefore alleges that CRAIGSLIST captured and
28 retained all of the information PLAINTIFF provided to CRAIGSLIST in line with the transaction .

1 CRAIGSLIST's website, as a condition of paying by credit card. Excluded
2 from the Class are the Court and any Court staff assigned to this matter,
3 DEFENDANTS, their directors and officers and any member of their
4 immediate families. Also excluded from the class are all free advertisements,
5 as the class is only for those persons who purchased ADVERTISEMENTS
6 from CRAIGSLIST with a credit card.

7 PLAINTIFF seeks to certify a class consisting of all said persons as follows:
8 for the first cause of action, all natural persons who within one year prior to
9 the filing of this action and up through the date of class certification in this
10 action, were required to provide their telephone number and/or address to
11 CRAIGSLIST as a condition of using their credit card for the purchase of
12 ADVERTISEMENTS from CRAIGSLIST, including having to write this
13 information on a pre-printed form.

14 10. Numerosity of the Class

15 The members of the Class are so numerous that separate joinder of each member is
16 impractical. PLAINTIFF believes there are in excess of hundreds of thousands, if not millions of
17 current and former CRAIGSLIST customers that would be members of the Class. Although the exact
18 number and identities of the Class members are presently unknown to the PLAINTIFF, their number
19 and identities can be readily ascertained from the DEFENDANTS' records.

20 11. Existence and Predominance of Common Questions of Law or Fact

21 Common questions of law and fact exist as to all members of the Class which predominate over
22 any questions affecting only individual Class members. These common legal and factual questions
23 include, but are not limited to, the following:

- 24 a. Whether all persons who are current and former members of CRAIGSLIST are bound
25 by CRAIGSLIST's Terms and Conditions which contains a California choice of law
26 clause as well as a San Francisco California venue clause. That all class members
27 regardless of their state of citizenship are required to litigate in California, using
28 California law;
- b. Whether all persons who are current and former customers of CRAIGSLIST are
required to provide their telephone number and/or address as a condition of paying for
CRAIGSLIST's ADVERTISEMENTS by credit card, including having to write this
information on a pre-printed form;
- c. Whether each and every member of the class is entitled to statutory damages as a matter

1 of law;

2 d. Whether each and every transaction between CRAIGSLIST and class members is
3 virtually identical;

4 e. Whether each and every member of the class is a victim of CRAIGSLIST's unlawful
5 conduct in violation of the Song-Beverly Credit Card Act.

6 12. Typicality

7 PLAINTIFF's claims are typical of the claims of the Class members, since he purchased
8 ADVERTISEMENTS from CRAIGSLIST and was required to provide his address and telephone
9 number as a condition of and prior to using his credit card to obtain ADVERTISEMENTS from
10 CRAIGSLIST, which is the same or substantially similar to what all other members of CRAIGSLIST
11 who wished to pay by credit card were required to do, including having to write this information on
12 a pre-printed form. Furthermore because this lawsuit seeks to effect a change in conduct of the
13 Defendants, and each of them, and seeks to confer a significant benefit on, and the enforcement of a
14 significant right upon the public, because of the necessity of private enforcement and in the interests
15 of justice, Plaintiff seeks to recover attorney's fees under Code of Civil Procedure § 1021.5.

16 13. Adequacy of Representation

17 PLAINTIFF will fairly and adequately represent and protect the interests of the Class.
18 PLAINTIFF's interests do not conflict with the interests of the Class members he seeks to represent.
19 PLAINTIFF has retained competent counsel experienced in complex class action litigation, including
20 deceptive trade practices. PLAINTIFF intends to vigorously prosecute this action.

21 14. Superiority

22 A class action is superior to other available methods for the fair and efficient adjudication of
23 this controversy. The damages suffered by each individual Class member are too small to justify the
24 burden and expense of individual prosecution, so that it would be virtually impossible for the members
25 of the Class to individually redress the wrongs done to them. Even if the members of the Class
26 themselves could afford such litigation, the court system could not. Individual litigation of the issues
27 raised by the DEFENDANT's conduct would increase the delay and expense to all parties and to the
28 court system. Therefore, this case is ideally suited for class treatment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IV.

SUBSTANTIVE ALLEGATIONS

15. PLAINTIFF purchased an ADVERTISEMENT from CRAIGSLIST on March 8, 2012. As a condition of posting his ADVERTISEMENT on CRAIGSLIST, PLAINTIFF was required both to provide his telephone number and address in order to complete his credit card purchase. PLAINTIFF could not complete his credit card transaction without providing CRAIGSLIST with his telephone number and address on CRAIGSLIST's pre-printed form. That is, providing a telephone number and address was a condition of paying by credit card, as CRAIGSLIST's website would not permit PLAINTIFF to obtain ADVERTISEMENTS from CRAIGSLIST by credit card unless he first provided his telephone number and address to CRAIGSLIST. The request for telephone number and address immediately precedes the credit card payment and CRAIGSLIST will not permit a customer to purchase their ADVERTISEMENTS by credit card unless they first provide CRAIGSLIST with all of the requested information including telephone number and address.

16. CRAIGSLIST both requests and requires customers to provide CRAIGSLIST with personal information including, but not limited to the customer's telephone number and address as a condition of accepting a credit card as payment for CRAIGSLIST's ADVERTISEMENTS, this information is also requested by and through the use of a pre-printed form which requires a consumer to provide his or her personal information to CRAIGSLIST.

17. PLAINTIFF is informed and believes, and therefore alleges that CRAIGSLIST records each consumer's personal information, including, but not limited to a telephone number and address, in line with each credit card transaction, and keeps records of such personal information.

18. PLAINTIFF is informed and believes, and therefore alleges that CRAIGSLIST is not contractually obligated to provide a consumer's telephone number and/or address in order to complete the credit card transaction, nor is CRAIGSLIST required to record a consumer's telephone number or address by federal law or regulation. PLAINTIFF is informed and believes that because CRAIGSLIST obtains the CCID or credit card identification number, the credit card transaction would be permitted to proceed without any further information. Furthermore PLAINTIFF is informed and believes that even if the credit card processing company or companies required a valid billing address and CCID,

1 under no circumstance would PLAINTIFF's telephone number be required to complete his transaction,
2 that is, under no circumstance does CRAIGSLIST need PLAINTIFF's telephone number in order to
3 complete an ADVERTISEMENT transaction conducted completely over the Internet, because
4 telephone numbers are not used to verify credit cards.

5 19. CRAIGSLIST does not require a consumer's telephone number or address for a special
6 purpose incidental, but related to the individual credit card transaction, as a telephone number and
7 address is unnecessary to complete the transaction which involves the providing of
8 ADVERTISEMENTS over the Internet. All elements of the transaction can be and are accomplished
9 over the Internet.

10 20. Pursuant Civil Code § 1747.08, the Court is required to award statutory penalties in the
11 event it determines that the Song-Beverly Credit Card has been violated. Such damages range from
12 one cent (\$.01) to up to two hundred fifty dollars (\$250) for the first violation and from one cent (\$.01)
13 to one thousand dollars (\$1,000) for each violation thereafter.

14 V.

15 FIRST CAUSE OF ACTION

16 VIOLETION OF CIVIL CODE § 1747.08 et seq.

17 (Against all DEFENDANTS, and Each of Them)

18 As and for a first cause of action against the DEFENDANTS, PLAINTIFF alleges as follows:

19 21. PLAINTIFF hereby repeats and realleges Paragraphs 1-20 of this complaint as though
20 fully set forth herein.

21 22. PLAINTIFF purchased an ADVERTISEMENT from CRAIGSLIST's website on
22 March 8, 2012 with his credit card. In line with the transaction, and immediately prior to making
23 payment, PLAINTIFF was required to provide CRAIGSLIST with his home address and telephone
24 number, which PLAINTIFF is informed and believes and therefore alleges that CRAIGSLIST
25 electronically recorded.

26 23. CRAIGSLIST both requests and requires customers to provide CRAIGSLIST with
27 personal information including home address and telephone number as a condition of accepting a credit
28 card as payment for CRAIGSLIST's ADVERTISEMENTS. This request is also made by and through

1 the use of a pre-printed form which requires the consumer to provide the personal information to
2 CRAIGSLIST before the transaction can proceed.

3 24. PLAINTIFF is informed and believes and therefore alleges that CRAIGSLIST records
4 each consumer's personal information, in line with each credit card transaction, and keeps records of
5 such personal information.

6 25. PLAINTIFF is informed and believes, and therefore alleges that CRAIGSLIST is not
7 contractually obligated to obtain a customer's home address or telephone number in order to complete
8 the credit card transaction, nor is CRAIGSLIST required to record a consumer's telephone number by
9 federal law or regulation.

10 26. PLAINTIFF is informed and believes, and therefore alleges that CRAIGSLIST is not
11 required to obtain a consumer's telephone number or address for a special purpose incidental, but
12 related to the individual credit card transaction with respect to ADVERTISEMENTS. Furthermore
13 Plaintiff is informed and believes and therefore alleges that CRAIGSLIST does not use a contact phone
14 number or any other telephone number to verify credit cards are authentic or otherwise prevent identity
15 theft or fraud because telephone numbers are not used by any credit card providers or processors to
16 verify credit cards.

17 27. Pursuant Civil Code § 1747.08, the Court is required to award statutory penalties in the
18 event it determines that the Song-Beverly Credit Card Act has been violated.

19 28. Pursuant Civil Code § 1747.08, the Court has discretion to award damages/penalties of
20 between one cent (\$.01) and two hundred fifty dollars (\$250.00) for the first violation, per violation
21 and between one cent (\$.01) and one thousand dollars (\$1,000.00) for each subsequent violation, per
22 violation, of the Song-Beverly Credit Card Act. PLAINTIFF seeks an award up to two hundred fifty
23 dollars (\$250.00) for the first violation and up to one thousand dollars (\$1,000.00) for each subsequent
24 violation of law, per class member. PLAINTIFF contends this amount is likely in excess of
25 \$250,000,000 depending on the amount of the penalty actually awarded.

26 29. Therefore, PLAINTIFF and the class seek civil penalties up to the maximum penalty
27 of \$250.00 for the first violation and \$1,000.00 per violation within the Court's discretion as provided
28 for under Civil Code § 1747.08.

1 30. PLAINTIFF also requests that he and the class be awarded attorney fees under Code of
2 Civil Procedure § 1021.5, within the discretion of the Court.

3 **PRAYER FOR RELIEF**

4 **WHEREFORE**, PLAINTIFF prays judgment against DEFENDANTS and each of them, as
5 follows:

6 **On All Causes of Action**

7 1. An order certifying that this action may be maintained as a class action appointing
8 PLAINTIFF as designated the representative of the Class, and appointing PLAINTIFF's undersigned
9 counsel as designated counsel for the Class.

10 2. That PLAINTIFF and all members of the Class be awarded civil penalties up to the
11 legal maximum pursuant to Civil Code § 1747.08

12 2. That PLAINTIFF and members of the Class be awarded costs of suit herein;

13 3. That PLAINTIFF and members of Class be awarded such other relief as this Court
14 deems just and proper.

15 4. That PLAINTIFF and all members of the Class attorney's fees pursuant to Civil Code §
16 1021.5.

17
18 DATED: March 16, 2012

SCHREIBER & SCHREIBER, INC.

19
20 /s/ Edwin C. Schreiber

21 EDWIN C. SCHREIBER, Attorneys for
22 PLAINTIFF DANIEL JACOBS individually,
23 and on behalf of a class of persons similarly
24 situated