

EXHIBIT G

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14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

17 DAVID A. COHEN, a minor, by and through
18 ROBIN S. COHEN as Guardian *ad Litem*;
SHELBY A. ORLAND, a minor, by and
19 through MARCIA J. ORLAND as Guardian
ad Litem; for all others similarly situated,

20 Plaintiffs,

21 v.


22 FACEBOOK, INC., a Delaware corporation,
23 and DOES 1 through 100, Inclusive,

24 Defendants.

25 _____
26 AND ALL CONSOLIDATED CASES
27 _____

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ORIGINAL FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

JUL 5 2011

John A. Clarke, Executive Officer/Clerk
BY  Deputy
Mary Flores

Case No. BC 444482
Consolidated with No. BC 454799

Complaint filed August 26, 2010

Assigned to Hon. Debre Katz Weintraub,
Dept. 47

**FIRST MASTER CLASS ACTION
COMPLAINT for Violation of:**

- (1) Civil Code sec. 3344;
- (2) Cal. Constitution Art. I, sec. 1
- (3) Unfair Competition Law (Bus. & Prof. Code sec. 17200)

DEMAND FOR TRIAL BY JURY

1 Plaintiffs DAVID A. COHEN, a minor, by and through ROBIN COHEN as Guardian *ad*
2 *Litem*, SHELBY A. ORLAND, a minor, by and through MARCIA J. ORLAND as Guardian *ad*
3 *Litem*, JULIET METH, a minor, by and through CANDACE BOYNE, as Guardian *ad Litem*, on
4 behalf of all persons similarly situated, and demanding jury trial, complain of defendants
5 FACEBOOK, INC. and DOES 1 through 100, allege as follows:
6

7 INTRODUCTION

8 1. This is an action for violation of minors' privacy rights in the operation of the
9 Facebook social networking website.
10

11 2. On June 28, 2011, this Court consolidated two cases, *Cohen v. Facebook*, No.
12 BC 444482, and *Meth v. Facebook*, No. BC 454799, designated *Cohen v. Facebook*, No. BC
13 444482, as the lead case, and ordered the filing of a Master Complaint.
14

15 3. Plaintiffs consist of minor citizens of California whose names or likenesses were
16 used for the purposes of advertising without prior consent.
17

18 JURISDICTION

19 4. This action is brought pursuant to California Civil Code, section 3344, and the
20 California Constitution, Article I, section 1. Plaintiffs' claims also arise and are brought
21 pursuant to California Business and Professions Code, sections 17203 and 17204 for full
22 restitution and/or disgorgement of all revenues, earnings, profits, compensation, and benefits
23 obtained by defendant Facebook, Inc., and possibly others, as a result of unlawful, unfair or
24 fraudulent business acts and practices prohibited by California Business and Professions Code
25 section 17200, *et seq.*, commonly known as the Unfair Competition Law ("UCL").
26
27
28

1 8. Plaintiff David A. Cohen is a minor residing in the County of Los Angeles, State
2 of California, and is a member of the Facebook social networking site where his name and
3 likeness has been appropriated by defendant Facebook for commercial advantage without the
4 consent of his parents. Robin S. Cohen is the parent and Guardian *ad Litem* of David A. Cohen,
5 and is a resident of the County of Los Angeles, State of California. Plaintiff Shelby A. Orland is
6 a minor residing in the County of Los Angeles, State of California, and is a member of the
7 Facebook social networking site where her name and likeness has been appropriated by
8 defendant Facebook for commercial advantage without the consent of her parents. Marcia J.
9 Orland is the parent and Guardian *ad Litem* of Shelby A. Orland, and is a resident of the County
10 of Los Angeles, State of California. Plaintiff Juliette Meth is a minor residing in the County of
11 Los Angeles, State of California, and is a member of the Facebook social networking site where
12 her name and likeness has been appropriated by defendant Facebook for commercial advantage
13 without the consent of her parents. Candace Boyne is the parent and guardian *ad Litem* of
14 Juliette Meth, and is a resident of the County of Los Angeles, State of California.

15
16 9. Each Plaintiff is, or within the last four years has been, a minor residing in the
17 State of California, and was and/or is a member of the Facebook social networking site while a
18 minor, when his or her name and likeness was and is being appropriated by defendant Facebook
19 for commercial advantage without the consent of his or her parent or guardian. The named
20 plaintiffs in these consolidated cases are represented by Guardians *ad Litem* approved by the
21 Court, who are residents of the State of California. The amount in controversy as to each
22 plaintiff individually does not exceed \$75,000, however calculated.

23
24 10. The named plaintiffs in these consolidated cases bring these actions individually
25 and on behalf of all others similarly situated. The Plaintiffs Class and Sub-Classes are defined
26 hereinafter.

27
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1 DEFENDANTS

2 11. Defendant Facebook, Inc. is a corporation organized and existing under the laws
3 of the State of Delaware, and has its headquarters and principal place of business in the State of
4 California, operating under and by authority of the laws of the State of California. Facebook
5 privately owns and operates the Facebook social networking website.

6
7 12. The true names and/or capacities, whether individual, corporate, associate, or
8 otherwise, of the defendants Does 1 through 100, inclusive, are unknown to the plaintiffs, who
9 therefore sue said defendants by such fictitious names. The plaintiffs are informed and believe,
10 and upon such information and belief allege, that each of the defendants fictitiously named
11 herein as a Doe is legally responsible for the events and happenings hereinafter referred to, and
12 thereby legally caused the injuries and damages to the plaintiffs as hereinafter alleged. The
13 plaintiffs will ask leave of Court to amend the Complaint, if necessary, to insert the true names
14 and/or capacities of such fictitiously named defendants when the same have been ascertained.

15
16 **CLASS ACTION ALLEGATIONS**

17 13. Plaintiffs bring this action on behalf of themselves and all others similarly
18 situated, as a class action pursuant to section 382 of the California Code of Civil Procedure. The
19 class and subclasses which plaintiffs seek to represent is composed of and defined as follows:

20 A. **PLAINTIFFS' CLASS:**

21 All persons who, at any time within the last four years preceding the filing
22 of this lawsuit up through the date of entry of judgment: (1) were under the age of
23 18 years; (2) were California residents; and (3) were members of the Facebook
24 social networking site while under the age of 18;

25 B. **SUB-CLASS ONE:**

26 and a subclass that includes all persons in Plaintiff's Class who
27 additionally: (4) while under the age of 18 years, had their names or likenesses
28 used in an advertisement or solicitation that was sold, licensed or used by
Facebook, without the consent of their parent or guardian;

1 14. Specifically excluded from all proposed classes are: any Judge conducting
2 proceedings in this action, his or her children and any member of his or her family residing in the
3 judge's household; defendant, its officers, directors, agents, trustees, corporations, trusts,
4 representatives, employees, principals, servants, partners, joint venturers, or entities controlled
5 by the defendant; counsel of record in this action; and the legal representatives, heirs, successors
6 and assigns of any excluded person.

7
8 15. This action has been brought and may properly be maintained as a class action
9 pursuant to California Civil Code section 382 because there is a well-defined community of
10 interest in the litigation and the proposed class is easily ascertainable.

11
12 (a) Numerosity: The Plaintiff Class is so numerous that the individual joinder of
13 all members is impracticable under the circumstances of this case. While the exact number of
14 class members is unknown to plaintiffs at this time, plaintiffs are informed and believe that the
15 class exceeds more than one million minor California children. Given the size of the putative
16 class, joinder of all members of the Plaintiff Class is not practicable.

17
18 (b) Common Questions Predominate: Common questions of law and fact exist as
19 to all members of the Plaintiff Class and predominate over any questions which affect only
20 individual members of the class. These common questions of law and fact include, without
21 limitation:

- 22 (i) whether defendants violated Civil Code section 3344;
23 (ii) whether defendants violated the Unfair Competition Law;
24 (iii) whether defendants violated the California Constitution;
25 (iv) the amount of gross revenue and profit obtained by defendants attributable
26 to their violations of Civil Code section 3344; and
27 (vi) the appropriate nature of class-wide injunctive and equitable relief.

28

1 (c) Typicality: Plaintiffs' claims are typical of claims of the members of the
2 Plaintiff Class. Plaintiffs and all members of the Plaintiff Class sustained injuries and damages
3 arising out of defendants' common course of conduct in violation of law as a complained of
4 herein. The injuries and damages of each member of the Plaintiff Class were caused directly by
5 defendants' wrongful conduct in violation of law as alleged herein.

6
7 (d) Adequacy: Plaintiffs will fairly and adequately protect the interests of the
8 members of the Plaintiff Class. Plaintiffs are persons who are or were minors who reside in
9 California and members of the Facebook social networking site. Plaintiffs are adequate
10 representatives of the Plaintiff Class as they have no interests which are adverse to the interests
11 of absent class members. Plaintiffs have retained counsel who have substantial experience and
12 success in the prosecution of complex cases involving privacy issues, modern technology issues,
13 and financial gain from novel or unorthodox activities.

14
15 (e) Superiority: A class action is superior to other available means for the fair and
16 efficient adjudication of this controversy because the individual joinder of all members of the
17 class is impracticable. Class action treatment will permit a large number of similarly situated
18 persons to prosecute their common claims in a single forum simultaneously, efficiently, and
19 without the unnecessary duplication of effort and expense that numerous individual actions
20 would engender. Furthermore, as the damages suffered by each individual member of the class
21 may be relatively small, the expenses and burden of individual litigation would make it difficult
22 or impossible for individual members of the class to redress the wrongs done to them, while an
23 important public interest will be served by addressing the matter as a class action. The cost to
24 the court system of adjudication of such individualized litigation would be substantial.
25 Individualized litigation would also present the potential for inconsistent or contradictory
26 judgments.

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1 years who are active on Facebook is believed to be equal to or greater than their proportionate
2 share of the population at large.

3
4 21. One of the primary reasons people use Facebook is to communicate and share
5 information with friends. Examples include uploading photographs or videos to share with
6 others, sharing links to other web sites, creating an event or a group with a specific interest,
7 sharing comments, or sending messages.

8
9 22. An important aspect of the success of the Facebook social network was to create
10 the sense of an "authentic experience" in sharing personal information with friends, even though
11 participants were constrained to utilize the structure imposed by Facebook that was often
12 invisible to users.

13
14 **THE FACEBOOK SOCIAL NETWORKING SITE**
15 **AS A REVENUE GENERATING SYSTEM**

16 23. The Facebook social networking site generates a stream of income through the
17 utilization of information captured from the social networking activities of its members. Social
18 networking activity on the Facebook web site generates detailed information about the interests,
19 preferences and other demographics of the members. This is extremely valuable information for
20 marketing purposes.

21
22 24. Facebook has been able to use, sell or license advertising and solicitations
23 directed to very specific markets that are indicated by the information disclosed in the social
24 networking activities of Facebook members. This is a marketing technique common on the
25 internet. However, Facebook's use of demographic and marketing information to develop and
26 create advertisements for licensed use by or sale to marketers has been unique. Unlike other
27 internet service providers, social networking sites, bulletin boards, listservs, or internet
28

1 discussion platform providers, Facebook does not share personal demographic and marketing
2 information with advertisers. Nor does it sell space on its web site for exclusive and independent
3 use by other advertisers. Instead, Facebook keeps all personal, demographic and marketing
4 information about its members to itself, and then develops and creates advertisements for use by
5 advertisers who must pay fees to Facebook for such development, creation and careful targeting
6 of the advertisements. Facebook does not reproduce or publish advertisements solely created by
7 advertisers. Rather, it permits advertisers to submit certain limited text and images to Facebook
8 for its own use in developing and creating templated the advertisements to be used within its web
9 site.

10
11 25. One way in which Facebook works to increase its user-base and response rate and
12 thus its advertising revenues is by using the names and likenesses of its users to advertise its
13 services and other products and services for which it is paid to promote.

14
15 25. Facebook accomplishes this by collecting personal information from its users,
16 (name, picture, friends, brand preferences), combining that information with additional
17 information provided by its paid advertisers and applying that data in Facebook-designed
18 templates to produce its "targeted" or "enhanced" advertisements.

19
20 26. Facebook promotes the ability to use its use this personal data to market products
21 and services by stating:

22 "Friends of connections" targeting allows you to target the friends of users
23 already connected to your onsite content. Connections are fans of your Page,
24 users who have RSVP'd "Yes" or "Maybe" to your Event, members of your
25 Group, and users who have interacted with your Application.

26 "When people see ads for Pages, Events and Apps their friends have
27 already connected with, the ads will be personalized with the names of those
28 friends. This generates powerful word of mouth for your business or brand.

"In addition to harnessing the social graph by targeting your connections'
friends, every "Friends of connection" targeted ad promoting a Page or Event
includes social content about a friend's interaction with your business, amplifying

1 the relevancy of your ad. Let's take a look at an example. Annie likes the Etsy
2 Page. When Etsy wants to promote their Facebook Page, they can choose to
3 target an ad to Annie's friends by selecting the "Friends of connection" filter.
4 Annie's friends will receive the Etsy ad with the following sentence: "Annie likes
5 this Page." Annie's friends are naturally more interested because Annie's
6 interaction with Etsy is showcased directly in the ad."

7 28. Facebook explains the appearance of their friends in advertisements by stating:

8 "With Facebook Ads for Pages, Events and Apps, you may see stories about
9 actions your friends have taken on Facebook attached to ads you see. For
10 example, you might see a story about a friend who already likes a Page that you're
11 seeing advertised. Similarly, your friends might see stories about you that relate to
12 the ads they're seeing."

13 29. However, state law prohibits the unauthorized use of a person's name or likeness
14 for commercial purposes. *See e.g.*, Cal.Civ.Code § 3344 ("any person who knowingly uses
15 another's name . . . photograph or likeness in any manner . . . for the purposes of advertising or
16 selling or soliciting purchases of products, merchandise, goods or services, without such
17 person's prior consent, or, in the case of a minor, the prior consent of his parent or legal
18 guardian, shall be liable for any damages sustained by the person or persons injured as a result
19 thereof. In addition, in any action brought under this section, the person who violated this section
20 shall be liable to the injured party or parties in an amount equal to the greater of . . . \$750.00 or
21 the actual damages suffered by him or her as a result of the unauthorized use.").

22 30. Facebook's non-negotiable terms of membership provide that its users consent to
23 use of their names and likenesses in advertising by agreeing that: "Your name and profile picture
24 may be associated with commercial, sponsored, or related content (such as a brand you like)
25 served or enhanced by us. You give us permission to use your name and profile picture in
26 connection with that content, subject to the limits you place."

27 31. However, at all times relevant hereto, Plaintiffs were minor children and as such
28 lack the capacity to consent to the use of their name and photographs for the purpose of
marketing, advertising, selling and soliciting the purchase of goods and services.

1 32. The Facebook-developed, designed and created advertisements that are then
2 licensed or sold to merchants for display on the Facebook social network site, are enhanced by
3 inclusion within the advertisements of the names and frequently the likenesses of Facebook
4 members, determined by Facebook from its collection of personal information about such
5 members, who “like” a particular web site, person, product or service. Information that a person
6 “likes” a product, a person, an advertisement, or a web site is developed by Facebook having a
7 “Like button” that it encourages the member to click. This seemingly trivial and innocuous
8 expression that the member ‘likes’ something is encouraged by Facebook as a contribution to
9 the social nature of communication within the network. Facebook has placed “Like buttons”
10 throughout thousands of pages and advertisements within the Facebook network, and has
11 distributed the “Like button” feature to web site owners across the internet, effectively collecting
12 personal information from millions of individuals who have no idea their personal preferences
13 are being collected by Facebook. Indeed, while the clicking of the Facebook “Like button” may
14 seem innocuous to the ordinary Facebook member, especially a child, because of the lines of
15 Facebook computer code underlying the button, and completely unbeknownst to the individual
16 clicking it, the click sends valuable personal information about the individual to Facebook for
17 ultimate development and use by Facebook in the creation of Facebook endorsement
18 advertisements. Possessed of highly specific information useful for marketing, and maintaining
19 that information within its exclusive control, Facebook is able to sell the ability to develop
20 targeted marketing of endorsement ads to the effect that “[your friend] Billy Smith likes “[name
21 of product].” In the forgoing example, Billy Smith is a Facebook member and a child whose
22 name (and often likeness) is being used to sell targeted advertisements without legal consent.
23 Moreover, Billy Smith did not write the words, “Billy Smith likes [name of product],” –
24 Facebook did. It was not Billy Smith’s intention to consent to being used to advertise the product
25 or service, but rather to register, if only to himself, a transient whim. Most importantly, Billy
26 Smith’s parent was never asked if he/she consented to the use of Billy’s name and likeness to
27 sell the product or service.

28

1 33. The revenue for defendant Facebook associated with its social networking site has
2 been reported to be close to or approximately \$800 million in the year 2009. Defendant
3 Facebook, Inc. is not a publically held or traded company so its income figures are not generally
4 available to the public.

5
6 34. Defendant Facebook, Inc., appears to be continually seeking new ways to use the
7 names and likenesses of its members, including children, for its own marketing purposes.
8 Facebook is currently using the names and likenesses of its members on advertising segments
9 that solicit other members to supply Facebook with the e-mail lists of the member. The
10 acquisition of the e-mail list of a member, by an advertisement or solification using the names
11 and likenesses of other members who have supplied their own e-mail lists, is for the purpose of
12 acquiring more members for Facebook, which increases the size of its advertising market, and
13 generates significantly more revenue for Facebook. This is a further commercial use of the
14 names and often likenesses of children without legal consent.

15
16 35. The business model of Facebook indicates that using the names and likenesses of
17 its members, including children, in advertisements and solicitations for marketing and revenue
18 generating purposes is an important part of its business model and will continue and likely
19 increase in the future without legal intervention.

20
21 **FACEBOOK DOES NOT OBTAIN THE CONSENT OF ITS MEMBERS**
22 **TO USE THEIR NAMES AND/OR LIKENESSES FOR MARKETING**
23 **PURPOSES.**

24 36. The current Statement of Rights and Responsibilities posted by Facebook on its
25 social networking site includes the following representations about Facebook advertising:

26 **"10. About Advertisements on Facebook**
27 **"Our goal is to deliver ads that are not only valuable to advertisers, but**
28 **also valuable to you. In order to do that, you agree to the following:**

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“1. You can use your privacy settings to limit how your name and profile picture may be associated with commercial or sponsored content served by us. You give us permission to use your name and profile picture in connection with that content, subject to the limits you place.

“2. We do not give your content or information to advertisers without your consent.

“3. You understand that we may not always identify paid services and communications as such.”

37. The foregoing section 10 of the Statement of Rights and Responsibilities, once agreed to by a Facebook member, does not amount to “consent” by that member for the use of the name and likeness of the member for Facebook’s own commercial and marketing activities.

38. The foregoing section 10 of the Statement of Rights and Responsibilities, once agreed to by a Facebook member, does not amount to consent by that member for Facebook to license or sell to other merchants, persons or entities Facebook-developed and created endorsement advertisements utilizing the member’s name and likeness.

**FACEBOOK, INC. DOES NOT OBTAIN CONSENT TO
USE THE NAMES AND LIKENESSES OF MINORS FOR
COMMERCIAL AND MARKETING PURPOSES.**

39. Facebook does not obtain consent to use the names and likenesses of minors for commercial and marketing purposes. At no time, does Facebook seek to or obtain the consent of any parent or guardian of the minor child to use the name and likeness of the child for commercial purpose.

**FIRST CAUSE OF ACTION
FOR VIOLATION OF CIVIL CODE §3344**

For a First Cause of Action against defendant Facebook, Inc. and Does 1 through 100, and each of them, for violation of Civil Code section 3344, Plaintiffs and Plaintiffs Sub-Class One allege as follows:

1 40. Plaintiffs hereby incorporate and reallege by reference the preceding paragraphs 1
2 through 39, inclusive, of this complaint as if each were here separately set forth in full.

3
4 41. From November 2007, previous thereto, and continuing to the present, defendants
5 Facebook and Does 1 through 100, and each of them, have regularly and repeatedly used and
6 continue to use the names and/or likenesses of the named plaintiffs and the members of the
7 Plaintiff Class and Sub-Class for the commercial purpose of marketing, advertising, selling, and
8 soliciting the purchase of goods and services, in violation of the provisions of California Civil
9 Code, section 3344(a), which in pertinent part provides:

10
11 “Any person who knowingly uses another's name, voice, signature, photograph,
12 or likeness, in any manner, on or in products, merchandise, or goods, or for
13 purposes of advertising or selling, or soliciting purchases of, products,
14 merchandise, goods or services, without such person's prior consent, or, in the
15 case of a minor, the prior consent of his parent or legal guardian, shall be liable
16 for any damages sustained by the person or persons injured as a result thereof.”

17
18 42. Defendants Facebook and Does 1 through 100, and each of them, did not first
19 obtain the consent of the named plaintiffs or the members of the Plaintiff Class and Sub-Class, or
20 any of them, before using their names or likenesses for commercial and marketing purposes in
21 advertisements or solicitations.

22
23 43. Defendants Facebook and Does 1 through 100, and each of them, did not first
24 obtain the prior consent of the parents or legal guardians of the named plaintiffs or of the
25 members of the Plaintiff Class, or any of them, before using their names or likenesses for
26 commercial and marketing purposes in advertisements or solicitations.

1 44. Plaintiffs have sustained and will continue to sustain economic damages for loss
2 of advertising revenue as a result of the unauthorized, commercial use of their names and
3 likenesses, in an amount to be determined in accordance with proof at the time of trial.
4

5 45. Plaintiffs have sustained and will continue to sustain non-economic damages as a
6 result of the unauthorized, commercial use of their names and likenesses, including loss of
7 privacy, emotional harm, and the non-consensual commercial appropriation of Plaintiffs' names
8 and likenesses. The amount of such damages will be stated according to proof at the time of
9 trial.
10

11 46. California Civil Code section 3344 provides statutory damages in the sum of \$750
12 per person for the violation of its provisions, or actual damages, whichever is greater, and
13 plaintiffs assert their right to such damages legally caused by the defendants and each of them.
14

15 47. Defendant Facebook has received profits from and attributable to its unauthorized
16 use of the names and likenesses of the Plaintiff Class. Defendant Facebook is liable under
17 California Civil Code section 3344 to the Plaintiff Class for all these profits, in addition to the
18 economic and non-economic damages stated above.
19

20 48. Plaintiffs have incurred attorneys fees and costs which are recoverable under
21 Civil Code section 3344, in an amount to be determined according to proof at the time of trial.
22

23 **SECOND CAUSE OF ACTION FOR VIOLATION OF**
24 **CALIFORNIA CONSTITUTION, ARTICLE I, SECTION 1**

25 For a Second Cause of Action against defendants Facebook, Inc., and Does 1 through
26 100, and each of them, for violation of the California Constitution, Article I, section 1, Plaintiffs
27 and Plaintiffs' Sub-Class One allege as follows:
28

1 49. Plaintiffs here incorporate and reallege by reference the preceding paragraphs 1
2 through 48 of this complaint as if each were here separately set forth in full.

3
4 50. The California Constitution, Article I, section 1, provides an actionable and
5 inalienable right of privacy, as follows:

6
7 “All people are by nature free and independent and have inalienable
8 rights. Among these are enjoying and defending life and liberty, acquiring,
9 possessing, and protecting property, and pursuing and obtaining safety, happiness,
10 and privacy.”

11
12 51. The inalienable right to privacy under the California Constitution includes the
13 right to be free from “. . . the improper use of information properly obtained . . . [and] the use of
14 it for another purpose or the disclosure of it to some third party.” *White v. Davis*, 13 Cal.3d 757,
15 775 (1975). The State Constitutional right of privacy “. . . is self-executing and confers a
16 judicial right of action on all Californians.” *Id.* Privacy is protected not merely against state
17 action; it may not be violated by anyone. *Porten v. University of San Francisco*, 64 Cal. App. 3d
18 825, 829 (1976).

19
20 52. The conduct of defendants Facebook and Does 1 through 100 and each of them as
21 hereinbefore alleged constitutes a violation of the right of privacy of plaintiffs and of the
22 Plaintiff Class and Sub-Classes as guaranteed by the California Constitution, Article I, Section 1.

23
24 53. As a direct and legal result of the Constitutional violation herein alleged,
25 plaintiffs and the Plaintiffs Class and Sub-Class have sustained economic and non-economic
26 damages, including, among other things, loss of privacy, emotional harm, commercial

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1 appropriation of their names and likenesses, all in an amount to be determined according to proof
2 at trial.

3
4 54. As a direct and legal result of the Constitutional violation herein alleged,
5 Defendant Facebook and Does 1 through 100 and each of them have received profits from and
6 attributable to their unauthorized use of the names and likenesses of the Plaintiff Class and Sub-
7 Classes. Defendants are liable under California Constitution to the Plaintiff Class and Sub-
8 Classes for those profits.

9
10 **THIRD CAUSE OF ACTION FOR VIOLATION OF**
11 **THE UNFAIR COMPETITION LAW**

12 For the Third Cause of Action against defendants Facebook, Inc. and Does 1 through
13 100, and each of them, for violation of the Unfair Competition Law, Plaintiffs and Plaintiffs'
14 Class allege as follows:

15
16 55. Plaintiffs here incorporate and reallege by reference the preceding paragraphs 1
17 through 54 of this complaint as if each were here separately set forth in full.

18
19 56. Plaintiffs bring this Third Cause of Action under sections 17203 and 17204 of the
20 California Business and Professions Code, to obtain restitution, disgorgement, and other
21 remedies from defendants for acts and business practices carried out in violation of section
22 17200 of the California Business and Professions Code, commonly known as the "Unfair
23 Competition Law."

24
25 57. The conduct herein above alleged in this complaint, *i.e.*, the encouragement of
26 children to join the Facebook social networking site to engage in communication and exchanges
27 with their friends as an authentic social experience, while defendant Facebook and Does 1
28

1 through 100 were and are using their names and likenesses for commercial, advertising and
2 solicitation purposes without their parents' consent, constituted and constitutes a common,
3 continuous, and continuing course of conduct of unfair competition by means of unlawful and/or
4 fraudulent business acts or practices, within the meaning of California Business and Professions
5 Code section 17200, *et seq.*, including and in no way limited to the following:

- 6 (a) violations of the California Civil Code section 3344;
- 7 (b) violations of the California Constitution, Article I, section 1;
- 8 (c) defendants' acts and practices are unfair to consumers in the State of California
9 within the meaning of California Business and Professions Code section 17200.

10
11 58. Plaintiffs and the Plaintiff Class and Sub-Classes are each entitled to full
12 restitution and/or disgorgement of all revenues, earnings, profits, compensation, and benefits
13 which may have been obtained by defendants as a result of their unlawful business acts or
14 practices.

15
16 59. The illegal conduct of defendants alleged herein is continuing, and there is no
17 indication that defendants will cease such conduct in the future.

18
19 **PRAYER FOR RELIEF**

20 WHEREFORE, plaintiffs, on behalf of themselves and the members of the Plaintiff Class
21 and Sub-Class, pray for the Court to enter judgment as follows:

- 22 (a) for a determination that this action may be maintained as a class action;
- 23 (b) for economic damages for defendants' commercial misappropriation of names
24 and likenesses without appropriate consent;
- 25 (c) for statutory penalties under Civil Code section 3344;
- 26 (d) for non-economic damages for misappropriation of the name and likeness without
27 consent;

28

1 (e) for all profits received by defendants from the unauthorized commercial use of
2 the names and/or likenesses of plaintiffs and Plaintiffs Class and Sub-Classes in California;

3 (f) for the disgorgement of all profits and revenues received by defendants from the
4 unauthorized use of the names and/or likenesses of plaintiffs and the members of the Plaintiff
5 Class and Sub-Classes in California;

6 (g) for an injunction against the further commercial use in advertisements or
7 solicitations by defendants of the names and likenesses of minors in California without the
8 consent of the parents or guardians of each of such minor;

9 (h) for attorneys fees under Civil Code section 3344 and/or Code of Civil Procedure
10 section 1021.5; and

11 (i) for such other and further relief that the Court may deem just and proper.

12 DATED: July 5, 2011


13 JOHN C. TORJESEN & ASSOCIATES
14 STUART LAW FIRM

15
16 By 
17 John C. Torjesen

18 Antony Stuart
19 Attorneys for Plaintiffs
20 DAVID A. COHEN, a minor, by and
21 through ROBIN COHEN as
22 Guardian ad Litem; SHELBY A.
23 ORLAND, a minor, by and through
24 MARCIA J. ORLAND as Guardian
25 ad Litem; for themselves and all
26 others similarly situated.

23 DATED: July 5, 2011

24 WEXLER WALLACE LLP

25
26 By 
27 Mark Tamblin
28 Ian J. Barlow
Attorneys for Plaintiffs

JOHN C. TORJESEN & ASSOCIATES, PC

812 N. SEPULVEDA BLVD., 2ND FLOOR
LOS ANGELES, CALIFORNIA 90048
(310) 440-0005

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JULIET METH, a minor, by and through ROBERT METH, as Guardian ad Litem, individually and on behalf of all other similarly situated.

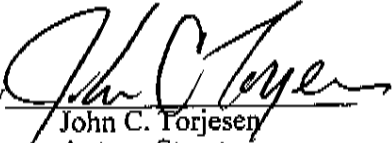
JOHN C. TORJESEN & ASSOCIATES, PC
612 N. SEPULVEDA BLVD., 2ND FLOOR
LOS ANGELES, CALIFORNIA 90049
(310) 440-0005

1 DEMAND FOR JURY TRIAL

2 Plaintiffs hereby demand a trial of this action by jury.

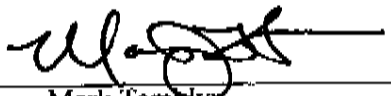
3 Dated: June 30, 2011

4 JOHN C. TORJESEN & ASSOCIATES
5 STUART LAW FIRM

6
7 By 
8 John C. Torjesen
9 Antony Stuart
10 Attorneys for Plaintiffs
11 DAVID A. COHEN, a minor, by and
12 through ROBIN COHEN as
13 Guardian ad Litem; SHELBY A.
14 ORLAND, a minor, by and through
15 MARCIA J. ORLAND as Guardian
16 ad Litem; for themselves and all
17 others similarly situated.

13 DATED: July 5, 2011

14 WEXLER WALLACE LLP

15
16 By 
17 Mark Tamblyn
18 Ian J. Barlow
19 Attorneys for Plaintiffs
20 JULIET METH, a minor, by and
21 through ROBERT METH, as
22 Guardian ad Litem, individually and
23 on behalf of all other similarly
24 situated.

21 Lee Squitieri
22 Garry T. Stevens Jr.
23 SQUITIERI & FEARON, LLP
24 32 E. 57th Street, 12th Floor
25 New York, New York 10022
26 (212) 421-6492

24 Joseph R. Santoli
25 LAW OFFICES OF JOSEPH R. SANTOLI
26 340 Devon Court
27 Ridgewood, New Jersey 07450
28 (201) 926-9200

27 Additional Counsel for Meth Plaintiffs

JOHN C. TORJESEN & ASSOCIATES, PC
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PROOF OF SERVICE

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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 11601 Wilshire Blvd., Suite 2000, Los Angeles, CA 90025.

On July 5, 2011, I served the foregoing document described as **FIRST MASTER CLASS ACTION COMPLAINT** the interested parties in this action.

SEE MAILING LIST ATTACHED

XX by placing it/them in a sealed envelope with postage prepaid in the United States mail at Los Angeles, California, to the address(es) shown above:

_____ by causing it/them to be hand-delivered, in a sealed envelope, to the address(es) shown above:

XX by transmitting it/them via facsimile or email to the parties as shown above:

_____ by Certified Mail, Return Receipt Requested, to the address(es) shown above:

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing an affidavit.

Executed on July 5, 2011, in Los Angeles, California.

XX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

_____ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


Arnie Salinas

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MAILING LIST

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