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Case #23CV412521
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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

JANE DOE I and JANE DOE II, on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

BETTERHELP, INC., a Delaware corporation,
also d/b/a **COMPILE, INC.**, also d/b/a
MYTHERAPIST, also d/b/a **TEEN**
COUNSELING, also d/b/a **FAITHFUL**
COUNSELING, also d/b/a **PRIDE**
COUNSELING, also d/b/a **ICOUNSELING**,
also d/b/a **REGAIN**, also d/b/a **TERAPPEUTA**.

Defendant.

CASE NO. 23CV412521

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- (1) Invasion of Privacy—Intrusion into Private Matters;
- (2) Invasion of Privacy and Violation of California Constitution, Art. 1, § 1;
- (3) Violation of Confidentiality of Medical Information Act (CMIA), California Civil Code § 56.101;
- (4) Violation of CMIA, California Civil Code § 56.10;
- (5) Violation of California Invasion of Privacy Act (CIPA), Penal Code §§ 630, *et seq.*;
- (6) Breach of Contract;
- (7) Breach of Implied Contract (in the alternative); and
- (8) Violation of Business & Professions Code §§ 17200 *et seq.* (UCL)

DEMAND FOR JURY TRIAL

1 Plaintiffs Jane Doe I and Jane Doe II (“Plaintiffs”), on behalf of themselves and all others similarly
 2 situated, by and through their attorneys of record, HammondLaw, P.C., complain and allege the following,
 3 based upon personal knowledge, where applicable, information and belief, and the investigation of
 4 counsel:

5 INTRODUCTION

6 1. This is a privacy class action under California Code of Civil Procedure § 382 seeking
 7 damages (including but not limited to compensatory, statutory, and punitive damages), civil penalties,
 8 restitution, disgorgement of profits, declaratory relief, injunctive relief, and reasonable attorney’s fees and
 9 costs pursuant to California Business & Professions Code § 17203, Civil Code §§ 56.35, 56.36, Penal
 10 Code § 637.2, and Code of Civil Procedure § 1021.5 on behalf of Plaintiffs and all natural persons residing
 11 in the United States who used one of Defendant BetterHelp, Inc.’s (“BetterHelp” or “Defendant”) websites
 12 or apps to sign up for Defendant’s “Service” (as defined below) and whose Medical Information was
 13 disclosed or transmitted to Meta or any other unauthorized third party (hereinafter “Class Members”).

14 2. Defendant is a “market leading direct-to-consumer (“D2C”) mental health platform.”¹
 15 Defendant offers online counseling and therapy services (the “Service”) via its network of over 30,000
 16 licensed clinicians leveraging BetterHelp’s platform for web, mobile app, phone, and text-based
 17 interactions.² In the most recent reported year, fiscal 2022 (52 weeks ending Dec. 31, 2022), BetterHelp
 18 had sales of over \$1 billion.³ As of December 31, 2022, Defendant had 420,000 paying users.⁴

19 3. Defendant offers the Service under several names, each of which has or had its own website
 20 and app (collectively, the “Sites”). Defendant’s primary website and app, which is named “BetterHelp,”
 21 serves general audiences and has been in operation since in or about 2013. Faithful Counseling, in
 22 operation since in or about July 2017, is aimed at consumers of the Christian Faith. Pride Counseling, in
 23 operation since in or about August 2017, caters to the LGBTQ community. Teen Counseling, in operation
 24 since in or about January 2017, offers counseling to 13- to 18-year-olds with parental consent. And
 25 ReGain, in operation since in or about May 2016, offers couples counseling. Defendant also offered the
 26 Service through the iCounseling website and app from in or about February 2017 to November 2020, the

¹ Teladoc Health, Inc., Fiscal 2022 Annual Report, Form 10-K, p. 4 (2022).

² *Id.* at p. 4.

³ *Id.* at p. F-41.

⁴ *Id.* at p. 60.

1 Terrapeuta website and app from in or about March 2017 to March 2019, and the MyTherapist website
2 and app from in or about June 2017 to March 2019.

3 4. Each of the Sites operates, or operated when in existence, similarly and facilitates
4 counseling and/or therapy via the Service. Moreover, each of the Sites is subject to Defendant's policies,
practices, and procedures.

5 5. When Plaintiffs and Class Members used one of Defendant's Sites in order to sign up for
6 the Service and become a paying user (a "User"), they were required to fill out a questionnaire (the "Intake
7 Questionnaire"), answering detailed questions regarding their mental health.

8 6. Upon completing the Intake Questionnaire, Plaintiffs and Class Members were required to
9 create an account for the Service by entering their name, email address, phone number, and emergency
contact information.

10 7. Plaintiffs and Class Members were then required to enter their credit card information to
11 become a User.

12 8. Defendant then utilized the responses of Plaintiffs and other Class Members to the Intake
13 Questionnaire to match each Plaintiff or other Class Member with one of Defendant's more than 30,000
14 licensed therapists, who then provided the Plaintiff or other Class Member with mental health therapy or
counseling via video conferencing, text messaging, live chat, and audio calls.

15 9. Unbeknownst to Plaintiffs and Class Members, the answers they gave to the questions on
16 the Intake Questionnaire, along with their personal information and personal identifiers, were secretly
17 disclosed to Meta Platforms, Inc. (formerly known as Facebook) ("Meta" or "Facebook"), an unauthorized
third party.

18 10. Moreover, also unbeknownst to Plaintiffs and Class Members, their email addresses and/or
19 IP addresses were disclosed to Meta and other unauthorized third parties, including Snapchat, Criteo, and
20 Pinterest. The disclosure of Plaintiffs and Class Members email addresses and/or IP addresses by
21 Defendant implicitly identified them as individuals seeking and/or receiving mental health treatment via
the Service.

22 11. Thus, through its actions and practices, for Plaintiffs and other Class Members, Defendant
23 has disclosed and released individually identifying information and information regarding their medical
24 history, mental and physical condition, and treatment (hereinafter "Medical Information") to unauthorized
25 third parties, including Meta, Snapchat, Criteo, and Pinterest, all without Plaintiffs' and Class Members'
26 knowledge and/or consent. This massive breach of confidentiality and privacy has, on information and
belief, affected millions of Class Members throughout the United States.

12. Defendant's actions constitute an extreme invasion of Plaintiffs' and Class Members' privacy. Defendant's actions also violated common law, the California Constitution, and numerous state statutes.

PARTIES

13. Plaintiff Jane Doe I, is a citizen of California, residing in Monterey County, California. Plaintiff Jane Doe I used one of Defendant's websites – www.betterhelp.com – to sign up for the Service in or about November 2020. As a result, her Medical Information was disclosed to Meta and other unauthorized third parties without her knowledge, consent, or authorization.

14. Plaintiff Jane Doe II, is a citizen of California, residing in Los Angeles, Los Angeles County, California. Plaintiff Jane Doe II used Defendant's website to sign up for Defendant's Service in or about October 2018. As a result, her Medical Information was disclosed to Meta without her knowledge, consent, or authorization.

15. Defendant BetterHelp, Inc. is a Delaware Corporation with its primary office and place of business located at 990 Villa St., Mountain View, CA 94041. BetterHelp's principal place of business, as listed with the California Secretary of State, is 1945 Lakepointe Drive, Lewisville, Texas 75057.

JURISDICTION

16. This Court has jurisdiction over Plaintiffs' and Class Members' claims for compensatory damages, disgorgement of profits, and punitive damages arising from Defendant's invasion of privacy and violation of Article 1, Section 1 of the California Constitution.

17. This Court has jurisdiction over Plaintiffs' and Class Members' claims for nominal damages, actual damages, statutory damages, punitive damages, and reasonable attorneys' fees and costs arising from Defendant's violation of the California Confidentiality of Medical Information Act, Cal. Civil Code §§ 56 *et seq.*

18. This Court has jurisdiction over Plaintiffs' and Class Members' claims for statutory damages of \$5,000 per violation, or three times the amount of actual damages, and injunctive relief arising from Defendant's violation of the California Invasion of Privacy Act, Penal Code §§ 630 *et seq.*

19. This Court has jurisdiction over Plaintiff's and Class Members' claims for breach of contract and, in the alternative, breach of implied contract.

20. This Court has jurisdiction over Plaintiffs' and Class Members' claims for restitution, injunctive relief, and declaratory relief arising from Defendant's unlawful, unfair, and fraudulent business practices under Cal. Bus. & Prof. Code §§ 17200 *et seq.*

21. This Court has jurisdiction over Plaintiffs' and Class Members' claims for reasonable attorneys' fees and costs pursuant to § 1021.5 of the California Code of Civil Procedure.

22. This Court has personal jurisdiction over the parties because Defendant has continuously and systematically conducted business in the State of California. Likewise, Plaintiffs are California residents whose rights were violated in the State of California as a result of their contact with Defendant from and within California.

VENUE

23. Venue is proper in this Court pursuant to California Code of Civil Procedure § 395. Defendant is a foreign corporation and has not designated with the California Secretary of State a principal place of business in California. Thus, venue is proper in any county within California.

FACTUAL BACKGROUND

In Order for Plaintiffs and Class Members to Sign up for the Service on Defendant's Sites, Defendant Required Them to Input Medical Information

24. To begin the process of signing up for the Service, when a Class Member visited one of Defendant's Sites, she would be asked if she was looking for "Individual," "Couples," or "Teen" therapy. Having made her selection, she would then be asked a series of questions regarding her mental health, including "Have you been in therapy before", "Rate your physical health", and "Are you experiencing depression."

25. Depending upon her answers to some of the questions in the Intake Questionnaire, the Class Member might be invited to move to another of Defendant's Sites. If, for example, the Class Member was on the website www.betterhelp.com and indicated that she was seeking couples counseling she might be re-directed to Defendant's ReGain website, if she indicated that she was a member of the LGBTQ community she might be re-directed to Defendant's Pride Counseling website. Regardless of the Site used by the Class Member, she would be required to complete the Intake Questionnaire in order to sign up for the Service. On information and belief, the Intake Questionnaire on each Site was identical or substantially similar in all material respects.

26. Upon completing the Intake Questionnaire, a Class Member would be prompted to create an account for the Service by entering her personal information, including her name, email address, phone number, and emergency contact information.

27. Finally, the Class Member would be required to provide her credit card information to become a paying user of the Service (a “User”).

1 28. On information and belief, throughout the Class Period, the process of signing-up for the
2 Service on each of Defendant's Sites has been substantially the same.

3 29. Thus, in order to use Defendant's Sites to obtain the Service, Plaintiffs and other Class
4 Members were required by Defendant to enter confidential, private, and sensitive personal and health
5 information into the respective website or app.

6 **Defendant Repeatedly Made Deceptive Statements and Representations about Privacy**

7 *In Displaying HIPAA Seals on its Sites, Defendant Signaled to Plaintiffs and Class Members that
8 Their Medical Information Would be Safeguarded and Not Disclosed to Unauthorized Third
9 Parties*

10 30. On information and belief, from September 2013 to December 2020, Defendant displayed
11 HIPAA seals on its Sites implying Defendant's purported compliance with HIPAA.

12 31. By displaying HIPAA seals on most pages of Defendant's Sites, Defendant signaled and
13 suggested to Plaintiffs and Class Members that a government agency or other third party had reviewed
14 Defendant's privacy and information security practices and determined that they met HIPAA's
15 requirements.

16 32. On information and belief, Defendant also represented to consumers that it was in fact
17 "HIPAA certified," with its customer service representatives informing consumers that Defendant was
18 HIPAA Certified.

19 33. On information and belief, no government agency or other third party reviewed
20 Defendant's information practices for compliance with HIPAA, let alone determined that the practices
21 met the requirements of HIPAA. Nor was Defendant ever "HIPAA certified."

22 34. In addition, on information and belief, hundreds of Defendant's therapists are not subject
23 to HIPAA and the identifiable health information of Users who engage with those therapists is therefore
24 not protected by HIPAA. Further, Defendant does not even know which of its therapists are, or are not,
25 subject to HIPAA, and it does not know which data are, or are not, protected by that law.

26 *Defendant Made Numerous Deceptive Statements Concerning the Treatment of Responses to
Intake Questionnaires*

 35. Defendant included numerous privacy assurances throughout its Intake Questionnaire.

 36. From a date unknown until November 2021, each of Defendant's Sites displayed a banner
at the top of each question in the Intake Questionnaire, explaining that Defendant was merely asking for
"some general and *anonymous* background information about you and the issues you'd like to deal with
in online therapy" (emphasis added) so that the individual completing the Questionnaire could be matched
"with the most suitable therapist for you."

37. As Plaintiffs and other Class Members proceeded through the Intake Questionnaire, Defendant made additional periodic privacy assurances. From at least August 2017 to December 2020, when a Plaintiff or other Class Member reached the question as to whether they had taken medication, they were shown the statement: “Rest assured – any information provided in this questionnaire will stay private between you and your counselor.” In December 2020, Defendant changed the statement to read: “Rest assured – *this information* will stay private between you and your counselor.” (emphasis on alteration added). And in January 2021, Defendant changed it again to state: “Rest assured – *your health information* will stay private between you and your counselor. (emphasis on alteration added). This latter version of the representation remained in use until September 2021, when it was removed altogether.

38. After being presented with these repeated promises of privacy, Plaintiffs and Class Members filled out Defendant’s Intake Questionnaire and shared their Medical Information with Defendant.

39. However, on information and belief, contrary to Defendant’s statements concerning the treatment of responses to Intake Questionnaires, Defendant collected, and disclosed to third parties, Plaintiffs’ and Class Members’ responses to certain questions in the Intake Questionnaire (such as “Have you been in counseling or therapy before?”) as well as their email addresses and IP addresses.

Defendant’s Privacy Policies Falsely Claimed Limited Use and Disclosure of Consumers’ Information

40. In contrast to the prominent misrepresentations made by Defendant regarding the privacy of Plaintiffs’ and Class Members’ Medical Information, Defendant’s link to its Privacy Policy was in small, low-contrast writing, barely visible at the bottom of the pages of each of its Sites.

41. From August 2013 to November 2018, Defendant’s Privacy Policy represented that Defendant would use and disclose Users’ email addresses, IP addresses, enrollment in the Service, and Intake Questionnaire responses for certain purposes, including to connect them with therapists and operate the Service. Notably, the Privacy Policy made no mention of using or disclosing this information for advertising purposes, and it said nothing about permitting third parties to use this information for their own purposes.

42. In November 2018, Defendant updated the Privacy Policy to state affirmatively that it would use and disclose this information only for limited purposes, such as to operate and improve the Service. These limited purposes did not include using or disclosing the information for advertising or disclosing the information to third parties for their own purposes.

43. Defendant revised its Privacy Policy again in September 2019, stating that it might *use* this medical information for advertising. But the policy continued to say that defendant would only *disclose*

1 this medical information to third parties for certain stated limited purposes, which did not include
2 advertising or the third parties' own purposes.

3 44. In September 2020, Defendant revised the Privacy Policy yet again to state that it might
4 both use and disclose Users' information for advertising. But, the Privacy Policy continued to claim that
5 Defendant would disclose this information to third parties for only the stated limited purposes, which did
6 not include third parties' own purposes.

7 45. From August 2013 to June 2021, Defendant's privacy policies stated that it would use web
8 beacons (including pixels) and cookies for limited purposes. These limited purposes did not include the
9 use or disclosure of Users' medical information for advertising purposes, or the disclosure of this
10 information for third parties' own purposes. As discussed below, these tools permitted Defendant and
11 third parties, including Meta, to collect Plaintiffs' and Class Members' Medical Information, including
12 what pages they visited and what information they inputted into Defendant's website (including Plaintiffs'
13 or other Class Members' email addresses, IP addresses, and certain Intake Questionnaire responses).

**Defendant Secretly Disclosed, and/or Permitted Unauthorized Third Parties to Intercept, Plaintiffs'
and Class Members' Medical Information**

14 46. Completely unbeknownst to Plaintiffs and other Class Members, and continuing to the
15 present, Medical Information that they communicated to Defendant through Defendant's websites and
16 apps while signing up for the Service, including the fact that they signed up for the Service, was
17 intercepted by and/or disclosed to unauthorized third parties including Meta, Pinterest, Criteo, and
18 Snapchat.

Meta's Platform and the Meta Pixel

19 47. Meta operates the world's largest social media company.

20 48. Meta maintains profiles on users that include users' real names, locations, email addresses,
21 friends, likes, and communications that Meta associates with personal identifiers including IP addresses
22 and cookie identifiers.

23 49. Facebook users are allowed only one account and must share the name they go by in
24 everyday life.

25 50. Meta also tracks non-users across the web through its widespread Internet marketing
26 products and source code.

51. Meta's revenue is derived almost entirely from selling targeted advertising to Facebook
users on Facebook.com and to all internet users on non-Facebook sites that integrate Meta marketing
source code on their websites.

1 52. Meta sells advertising space by highlighting its ability to target users. Meta can target
2 users so effectively because it tracks Facebook’s users’ activity both on and off its site. This allows Meta
3 to draw inferences about users beyond what they explicitly disclose on their Facebook accounts. Meta
4 compiles this information into a generalized dataset called “Core Audiences,” to which advertisers can
5 apply specific filters and parameters in order to generate a target audience for their advertisements.

6 53. Advertisers are also able to build “Custom Audiences.” Advertisers can use “customer
7 lists, website or app traffic, or engagement across Facebook technologies, to create Custom Audiences of
8 people who already know [their] business.”⁵ Moreover, Advertisers are able to use their Custom Audience
9 to create a Lookalike Audience. To create a Lookalike Audience, Facebook “leverages information such
10 as demographics, interests and behaviors from [the advertiser’s source Custom Audience] to find new
11 people who share similar qualities.” Using a Lookalike Audience allows an advertiser to deliver its
12 advertisements to an “audience of people who are similar to (or ‘look like’) [its] existing customers.”⁶

13 54. One method by which an Advertiser can create a Custom Audience, and consequently a
14 Lookalike Audience, is from the Advertiser’s website. In order to create a “website Custom Audience”
15 an Advertiser’s website must have an active Meta Pixel.⁷

16 55. The Meta Pixel is offered to advertisers, like Defendant, to integrate into their websites.
17 Once installed on a website, “the [P]ixel will log when someone takes an action on [that] website.”⁸ As
18 Facebook explains, “[t]he Meta Pixel receives information about the actions, or events, that take place on
19 [an advertiser’s] website.”⁹ Automatic events are a category of actions that the Meta Pixel collects and
20

21 ⁵ Facebook, About Customer Audiences,
22 <https://www.facebook.com/business/help/744354708981227?id=2469097953376494> (last visited Jan.
23 18, 2023).

24 ⁶ Facebook, About Lookalike Audiences,
25 <https://www.facebook.com/business/help/164749007013531?id=401668390442328> (last visited Jan. 18,
26 2023).

⁷ Facebook, Create a Website Custom Audience,
<https://www.facebook.com/business/help/1474662202748341?id=2469097953376494> (last visited Jan.
18, 2023).

⁸ Facebook, About Meta Pixel,
<https://www.facebook.com/business/help/742478679120153?id=1205376682832142> (last visited Jan.
18, 2023).

⁹ Facebook, About Automatic Events,
<https://www.facebook.com/business/help/1292598407460746?id=1205376682832142> (last visited Jan.
18, 2023).

transmits from the website where it is installed without the advertiser being required to add any additional code.¹⁰ The collection and transmission of automatic events is sufficient for an Advertiser to create a Custom Audience and, consequently, a Lookalike Audience. Advertisers are also able to select from a set of Standard events, predefined by Facebook, which can also be collected and transmitted by the Meta Pixel, including, for example, what content a visitor views, subscribes to, or purchases.¹¹ Finally, Advertisers are able to create their own “custom events” to be tracked and transmitted to Facebook by the Meta Pixel.¹²

56. When a user accesses a website hosting a Meta Pixel, Facebook’s software script surreptitiously directs the user’s computing device to send a separate message to Facebook’s servers. This second transmission, completely invisible and unknown to the user, contains the content of the original request sent to the host website (“GET request”), along with the data that the Meta Pixel was configured to collect (“POST request”). GET and POST requests are communications that contain contents from both the user and from servers associated with the website they are visiting. These transmissions are initiated by Meta code and concurrent with the communications to and from the host website.

57. The Meta Pixel acts as a conduit of information, sending the information it collects to Meta through scripts running in the user’s web browser. The information is sent in data packets labelled with personally identifiable information, including the user’s IP address.

58. Meta associates the information it obtains via Meta Pixel with other information regarding the user, using additional personal identifiers that are transmitted concurrently with other personal information the Pixel is configured to collect. If the user has a Facebook account, these identifiers include the “c_user” IDs, which allow Meta to link data to a particular Facebook account, and “xs” cookies associated with a browsing session. For both Facebook account-holders and users who do not have a Facebook account, these identifiers also include cookies that Meta ties to their browser, such as “datr” and “fr” cookies.¹³

¹⁰ *Id.*

¹¹ Facebook, Specifications for Meta Pixel Standard Events, <https://www.facebook.com/business/help/402791146561655?id=1205376682832142> (last visited Jan. 18, 2023).

¹² Facebook, About Standard and Custom Website Events, <https://www.facebook.com/business/help/964258670337005?id=1205376682832142> (last visited Jan. 18, 2023).

¹³ Meta, *Cookies Policy* (Oct. 5, 2022), <https://www.facebook.com/policy/cookies>.

1 59. The c-user cookie is a means of identification for Facebook users. The c_user cookie value
2 is the Facebook equivalent of a user identification number. Each Facebook user account has a unique
3 c_user cookie. Facebook uses the c_user cookie to record user activities and communications.

4 60. Any computer user can find the Facebook account associated with a particular c-user
5 cookie. One simply needs to log-in to Facebook, then type [www.facebook.com/\[c-user cookie\]](http://www.facebook.com/[c-user cookie]). For
6 example, the c-user cookie for Mark Zuckerberg is 4. Logging in to Facebook and typing
7 www.facebook.com/4 in the web browser will retrieve Mark Zuckerberg's Facebook page.

8 61. The _datr cookie identifies the patient's specific web browser from which the patient is
9 sending the communication. It is an identifier that is unique to the patient's specific web browser and is
10 therefore a means of identification for Facebook users and non-users. Facebook keeps a record of every
11 _datr cookie identifier associated with each of its users.

12 62. The _fr cookie is a Facebook identifier that is an encrypted combination of the c_user and
13 _datr cookies.

14 63. Meta warns developers and those who incorporate the Meta Pixel into their website that
15 the Meta Pixel is a personal identifier because it "relies on Facebook cookies, which enable us to match
16 your website visitors to their respective Facebook User accounts."¹⁴

17 64. The Meta Pixel also automatically captures and discloses the IP address of the user. IP
18 addresses are used to identify and route communications on the Internet. IP addresses of individual
19 Internet users are used by websites and tracking companies to facilitate and track Internet
20 communications. Individual homes and their occupants can be, and are, tracked and targeted with
21 advertising using IP addresses. Thus, IP addresses are personally identifiable, particularly in combination
22 with other information disclosed through the Meta Pixel.

23 *Defendant Disclosed Plaintiffs' and Class Members' Medical Information to Meta*

24 65. Starting on date unknown and continuing to the present, on information and belief,
25 Defendant embedded the Meta Pixel and other tracking tools throughout its Sites and transmitted Medical
26 Information shared by Plaintiffs and Class Members, without their consent, to Meta in accordance with
the Meta Pixel's configuration.

 66. Defendant installed the Meta Pixel and other Meta tracking tools on its Sites. On
information and belief, when a Plaintiff or another Class Member visited one of Defendant's Sites and

¹⁴ Facebook, Get Started, <https://developers.facebook.com/docs/meta-pixel/get-started> (last visited Jan. 18, 2023).

1 completed the steps necessary to obtain Defendant's Service, the Meta Pixel or other Meta tracking tool
2 automatically caused the Plaintiff's or Class Member's personal identifiers, including email addresses, IP
3 addresses and the c_user, _fr, _datr, and _fbp cookies, to be transmitted to Meta, attached to the fact that
4 the Plaintiff or Class Member had visited the Site and the titles of the pages the Plaintiff or Class Member
visited.

5 67. Because Defendant only collected email addresses from individuals seeking mental health
6 therapy via the Service, disclosure of Plaintiff's or a Class Member's email address implicitly identified
7 Plaintiffs or the respective Class Member as one seeking and/or receiving mental health treatment via the
Service. Thus, each such disclosure constituted a disclosure of Medical Information.

8 68. Similarly, because Defendant disclosed Plaintiffs' and Class Members' IP addresses and
9 other personal identifiers, including their Facebook user IDs, in conjunction with other data about their
10 enrolment in the Service and/or their Intake Questionnaire responses, each such disclosure constituted a
disclosure of Medical Information.

11 69. On information and belief, in addition to the "automatic events" that the Meta Pixel
12 automatically collects and transmits from a website without the website owner or developer being required
13 to add any additional code, Defendant intentionally configured the Meta Pixel on its website to track,
14 collect, and disclose "custom events" such as a User's response to certain questions in the Intake
Questionnaire such as: "Have you been in counseling or therapy before?"

15 70. On information and belief, Defendant disclosed to Meta details of over 1.5 million visitors'
16 and Users' previous therapy – gathered through their affirmative responses to the Intake Questionnaire
17 question: "Have you been in counseling or therapy before?"

18 71. In addition, on information and belief, between January and December 2020, Defendant
19 shared with Meta the fact that over 180,000 visitors had become paying Users. This information was
20 disclosed through an Event noting that the Users had entered credit card information after completing the
Intake Questionnaire.

21 72. Thus, put simply, when Plaintiffs or other Class Members used Defendant's Sites to obtain
22 the Service from Defendant, their identities, personal identifiers, and health information (together their
23 Medical Information) was disclosed to Meta.

24 73. On information and belief, Defendant disclosed Plaintiffs' and Class Members' Medical
25 Information to Meta in order to permit Defendant to improve its marketing and advertising and to increase
26 Defendant's revenues and profits. Thus, Defendant used Plaintiffs' and Class Members' Medical
Information for its own marketing and advertising purposes and to increase its revenues and profits.

74. Moreover, on information and belief, Meta, and other third parties, used the Medical Information disclosed to them for their own purposes. Defendant did not contractually limit how Meta and other third parties could use and disclose the Medical Information they received from Defendant about Plaintiffs and Class Members other than merely agreeing to those third parties' general terms of service, which either placed no restrictions on the third parties' use and disclosure of the information or specifically permitted the third parties to use the information for their own purposes.

75. On information and belief, on several occasions during the Class Period, Defendant also uploaded Class Members' email addresses to Meta. For example: between January 2017 and October 2018, Defendant uploaded 170,000 visitors' and Users' email address to Meta, re-targeting these individuals and targeting potential new Users with advertisements for the Service; between January 2018 and October 2018, Defendant uploaded 15,000 Users' email addresses to Meta to find and target new potential Users with advertisements for the Service; and, in October 2017 Defendant uploaded the email addresses of all of their current and former Users – nearly 2 million in total – to Meta, targeting them all with advertisements to refer their Facebook friends to the Service.

76. On information and belief, Defendant also used Medical Information obtained from Class Members who signed up for the Service through Pride Counseling in order to optimize Defendant's future advertisements for the Service. From November 2017 to October 2020, Defendant gathered information concerning Class Members' mental health statuses and their connection with Class Members' LGBTQ identities. Defendant gathered this information through the Intake Questionnaire whenever a Pride Counseling User revealed that the User's "LGBTQ identity is contributing to your mental health concerns." Defendant used Meta to identify characteristics and interests common among these Users and then to target future advertisements for the Service on Facebook to individuals with similar characteristics and interests.

Defendant Disclosed Plaintiffs' and Class Members' Medical Information to Unauthorized Third Parties Other than Meta

77. During the Class Period, Defendant has also disclosed Class Members' Medical Information to unauthorized third parties other than Meta.

78. For example, on information and belief, in January 2019, Defendant disclosed the IP addresses and email addresses of approximately 5.6 million Site visitors (including Class Members) to Snapchat in order to re-target them with advertisements for the Service.

1 79. Similarly, on information and belief, from July 2018 to January 2019, Defendant disclosed
2 the email addresses of over 70,000 visitors (including Class Members) to Criteo in order to re-target them
3 with advertisements.

4 80. And, on information and belief, from August 2019 to September 2020, Defendant
5 disclosed the email addresses of visitors (including Class Members) to Pinterest for advertising purposes.

6 **Defendant Used and Disclosed Plaintiffs' and Class Members' Medical Information Without**
7 **Plaintiffs' or Class Members' Knowledge, Consent, Authorization, or Further Action**

8 81. The tracking tools incorporated into, embedded in, or otherwise permitted on Defendant's
9 Sites were invisible to Plaintiffs and Class Members while using those Sites. For example, the Meta Pixels
10 on Defendant's websites were seamlessly integrated into the websites such that there was no reason for
11 Plaintiffs or any Class Member to be aware of or to discover their presence.

12 82. Plaintiffs and Class Members were shown no disclaimer or warning that their Medical
13 Information would be collected and disclosed by a Pixel or other tracking tool.

14 83. Plaintiffs and Class Members were shown no disclaimer or warning that their Medical
15 Information would be disclosed to any unauthorized third party without their express consent.

16 84. Plaintiffs and Class Members had no idea that their Medical Information was being
17 collected and transmitted to an unauthorized third party.

18 85. Plaintiffs and Class Members also had no idea that their Medical Information, in the form
19 of their email addresses and/or IP addresses connected to their use of the Service or their desire to use the
20 Service, would be disclosed to Meta, Snapchat, Criteo, Pinterest, or any other unauthorized third party.

21 86. Because Plaintiffs and Class Members had no idea of the presence of Meta Pixels or other
22 tracking tools on Defendant's Sites, or that their Medical Information would be collected and transmitted
23 to Meta and/or other unauthorized third parties, they could not and did not consent to Defendant's conduct.

24 87. Plaintiffs and Class Members did not give consent or authorization for Defendant to
25 disclose their Medical Information to Meta or to any third party for the third party's use or purposes.

26 **Plaintiffs and Class Members Had a Reasonable Expectation of Privacy in the Medical Information**
they Provided to Defendant

 88. Plaintiffs and Class Members had a reasonable expectation of privacy in their Medical
Information.

 89. Information such as the Medical Information provided by Plaintiffs and other Class
Members to Defendant is protected by California law under the Confidentiality of Medical Information
Act (CMIA). Cal. Civ. Code §§ 56, *et seq.*

1 90. Pursuant to Cal. Civ. Code § 56.05(i), “medical information,” for the purposes of the
 2 CMIA is defined as “any individually identifiable information, in electronic or physical form, in
 3 possession of or derived from a provider of health care, health care service plan, pharmaceutical company,
 4 or contractor regarding a patient’s medical history, mental health application information, mental or
 5 physical condition, or treatment.” Section 56.06(i) further provides: “‘Individually identifiable’ means
 6 that the medical information includes or contains any element of personal identifying information
 7 sufficient to allow identification of the individual, such as the patient’s name, address, electronic mail
 8 address, telephone number, or social security number, or other information that, alone or in combination
 9 with other publicly available information, reveals the identity of the individual.”

10 91. Information such as the Medical Information provided by Plaintiffs and other Class
 11 Members to Defendant is also protected by the HIPAA Privacy Rule.

12 92. The Health Insurance Portability and Accountability Act’s Privacy Rule (HIPAA), 45
 13 C.F.R. 160.103 *et seq.*, protects patient health information. HIPAA sets national standards for
 14 safeguarding “protected health information.” For example, HIPAA limits the permissible uses of
 15 protected health information and prohibits disclosure of this information without explicit authorization.
 16 *See* 45 C.F.R. § 164.502. HIPAA also requires that covered entities, such as Defendant, implement
 17 appropriate safeguards to protect this information. *See* 45 C.F.R. § 164.530(c)(1).

18 93. Recent HHS guidance on the technologies at issue here also states that online tracking
 19 technologies (including the Meta Pixel) that disclose protected health information (PHI) violate HIPAA.
 20 The guidance states that covered entities, such as BetterHelp, “**are not permitted to use tracking
 21 technologies in a manner that would result in impermissible disclosures of PHI to tracking
 22 technology vendors or any other violations of the HIPAA Rules.**” For example, disclosures of PHI to
 23 tracking technology vendors for marketing purposes, without individuals’ HIPAA-compliant
 24 authorizations, would constitute impermissible disclosures.”¹⁵

25 94. Thus, state and federal laws reinforce the social norms and general expectation that
 26 individually-identifiable health information is to be kept private and confidential.

 95. Accordingly, Plaintiffs and Class Members had a reasonable expectation of privacy
 regarding their Medical Information.

¹⁵ U.S. Department of Health and Human Services, Office of Civil Rights, Use of Online Tracking Technologies by HIPAA Covered Entities and Business Associates (content last reviewed Dec. 1, 2022) (emphasis in the original), <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/hipaa-online-tracking/index.html#ftnref9> (last visited, Mar. 23, 2023).

1 96. Defendant acknowledged that Plaintiffs’ and Class Members’ Medical Information is
 2 sensitive. On information and belief, Defendant’s customer service representatives have told and continue
 3 to tell consumers that their “name, age, address, *email*, *medical history*, [and] conversations between you
 4 and your counselor” are “PHI” or “Protected Health Information.” (emphasis added).

5 97. Privacy polls and studies also uniformly show that the overwhelming majority of
 6 Americans consider one of the most important privacy rights to be the need for an individual’s affirmative
 7 consent before a company collects and shares that individual’s data.

8 98. For example, a recent study by *Consumer Reports* shows that 92% of Americans believe
 9 that internet companies and websites should be required to obtain consent before selling or sharing
 10 consumers’ data, and the same percentage believe internet companies and websites should be required to
 11 provide consumers with a complete list of the data that has been collected about them.¹⁶ Moreover,
 12 according to a study by *Pew Research Center*, a majority of Americans, approximately 79%, are
 13 concerned about how data is collected about them by companies.¹⁷

14 99. And privacy law experts have expressed concerns about the disclosure to third parties of a
 15 user’s sensitive medical information, in particular. For example, Dena Mendelsohn – the former Senior
 16 Policy Counsel at Consumer Reports and current Director of Health Policy and Data Governance at
 17 Elektra Labs – explained that having one’s personal health information disseminated in ways one is
 18 unaware of could have serious repercussions, including affecting one’s ability to obtain life insurance and
 19 how much one pay for that coverage, increasing the rate one is charged on loans, and leaving one
 20 vulnerable to workplace discrimination.¹⁸

21 ///

22 ///

23 ¹⁶ Consumers Less Confident About Healthcare, Data Privacy, and Car Safety, New Survey Finds,
 24 CONSUMER REPORTS (May 11, 2017), [https://www.consumerreports.org/consumerreports/consumers-](https://www.consumerreports.org/consumerreports/consumers-less-confident-about-healthcare-data-privacy-and-car-safety/)
 25 [less-confident-about-healthcare-data-privacy-and-car-safety/](https://www.consumerreports.org/consumerreports/consumers-less-confident-about-healthcare-data-privacy-and-car-safety/).

26 ¹⁷ Americans and Privacy: Concerned, Confused, and Feeling Lack of Control Over Their Personal
 Information, PEW RESEARCH CENTER, (Nov. 15, 2019),
[https://www.pewresearch.org/internet/2019/11/15/americans-and-privacy-concerned-confusedand-](https://www.pewresearch.org/internet/2019/11/15/americans-and-privacy-concerned-confusedand-feeling-lack-of-control-over-their-personal-information/)
[feeling-lack-of-control-over-their-personal-information/](https://www.pewresearch.org/internet/2019/11/15/americans-and-privacy-concerned-confusedand-feeling-lack-of-control-over-their-personal-information/).

¹⁸ Donna Rosato, *What Your Period Tracker App Knows About You*, CONSUMER REPORTS (Jan. 28,
 2020), [https://www.consumerreports.org/health-privacy/what-your-period-tracker-app-knows-about-](https://www.consumerreports.org/health-privacy/what-your-period-tracker-app-knows-about-you/)
[you/](https://www.consumerreports.org/health-privacy/what-your-period-tracker-app-knows-about-you/).

The Medical Information that Defendant Disclosed to Meta is Plaintiffs' and Class Members' Property, Has Economic Value, and its Unauthorized Disclosure Caused Economic Harm

100. It is common knowledge that there is an economic market for consumers' personal data – including the Medical Information that was disclosed by Defendant to Meta and other third parties.

101. In 2013, the *Financial Times* reported that the data-broker industry profits from the trade of thousands of details about individuals, and that within that context, “age, gender, and location” information are sold for about “\$0.50 per 1,000 people.”¹⁹ This estimate was based upon “industry pricing data viewed by the Financial Times,” at the time.²⁰

102. In 2015, *TechCrunch* reported that “to obtain a list containing the names of individuals suffering from a particular disease,” a market participant would have to spend about “\$0.30 per name.”²¹ That same report noted that “Data has become a strategic asset that allows companies to acquire or maintain a competitive edge” and that the value of a single user's data (within the corporate acquisition context) can vary from \$15 to more than \$40 per user.²²

103. In 2021, a report from *Invisibly* found that personal medical information is one of the *most valuable pieces of data* within the data-market. “It's worth acknowledging that because health care records often feature a more complete collection of the patient's identity, background, and personal identifying information (PII), health care records have proven to be of particular value for data thieves. While a single social security number might go for \$0.53, a complete health care records sells for \$250 on average. For criminals, the more complete a dataset, the more potential value they can get out of it. As a result, health care breaches increased by 55% in 2020.”²³

104. Moreover, health information has value to consumers. According to the annual Financial Trust Index Survey, conducted by the University of Chicago's Booth School of Business and Northwestern University's Kellogg School of Management, which interviewed more than 1,000 Americans, 93 percent would not share their health data with a digital platform for free. Half of the survey

¹⁹ Emily Steel, et al., *How much is your personal data worth?*, FIN. TIMES (June 12, 2013), <https://ig.ft.com/how-much-is-your-personal-data-worth/#axzz3myQiw6u>.

²⁰ *Id.*

²¹ Pauline Glickman and Nicholas Gladly, *What's the Value of Your Data?*, TECHCRUNCH (Oct. 13, 2015), <https://techcrunch.com/2015/10/13/whats-the-value-of-your-data/>.

²² *Id.*

²³ *How Much is Your Data Worth? The Complete Breakdown for 2021*, INVISIBLY.COM (July 13, 2021), <https://www.invisibly.com/learn-blog/how-much-is-data-worth/>.

1 respondents would only share their data for \$100,000 or more, and 22 percent would only share their data
2 if they received between \$1,000 and \$100,000.²⁴

3 105. Given the existence of a market for the Medical Information disclosed by Defendant,
4 Defendant has deprived Plaintiffs and Class Members of the economic value of their Medical Information
5 by disclosing such data without authorization and without providing proper consideration for Plaintiffs'
6 and other Class Members' property.

7 **TOLLING, CONCEALMENT, AND ESTOPPEL**

8 106. Any applicable statutes of limitation have been tolled by Defendant's knowing and active
9 concealment of its incorporation of the Meta Pixel and other tracking tools into its Sites.

10 107. The Meta Pixel and other tracking tools on Defendant's websites were and are entirely
11 invisible to a website visitor.

12 108. Moreover, any applicable statutes of limitation have been tolled by Defendant's knowing,
13 active, and secret disclosure of Plaintiffs' and Class Members' email addresses and/or IP addresses to
14 unauthorized third parties.

15 109. Through no fault or lack of diligence, Plaintiffs and Class Members were deceived and
16 could not reasonably discover Defendant's deception and unlawful conduct.

17 110. Plaintiffs were ignorant of the information essential to pursue their claims, without any
18 fault or lack of diligence on their part.

19 111. Defendant had exclusive knowledge that its Sites incorporated the Meta Pixel and other
20 tracking tools and yet failed to disclose to customers, including Plaintiffs and Class Members, that by
21 signing up for Defendant's Service through Defendant's Sites, Plaintiffs' and other Class Members'
22 Medical Information would be disclosed or released to Meta and other unauthorized third parties through
23 the Pixel or other tracking tools.

24 112. Defendant also had exclusive knowledge that it was disclosing Plaintiffs' and Class
25 Members' email addresses and/or IP addresses to unauthorized third parties, and failed to disclose to its
26 customers, including Plaintiffs and Class Members, that those individual identifiers, along with the fact
that they were seeking and/or receiving mental health treatment via the Service would be disclosed or
released to unauthorized third parties.

²⁴ Andrea Park, *How much should health data cost? \$100K or more, according to patients*, Becker's Hosp. Rev. (Feb. 12, 2020), <https://www.beckershospitalreview.com/healthcare-information-technology/how-much-should-health-data-cost-100k-or-more-according-to-patients.html>.

1 113. Under the circumstances, Defendant was under a duty to disclose the nature, significance,
2 and consequences of its collection and treatment of its customers' Medical Information. Accordingly,
3 Defendant is estopped from relying on any statute of limitations.

4 114. Instead, on information and belief, Defendant has actively sought to conceal and falsely
5 deny that any of its customers' Medical Information was disclosed to Facebook and other unauthorized
6 third parties. On information and belief, after the February 2020 publication of news reports alleging that
7 Defendant was sharing its customers' health information with third parties, including Meta, numerous of
8 Defendant's customers complained. Part of Defendant's response was to script false responses for its
9 customer service representatives under which they were to tell Defendant's customers: (1) "At BetterHelp,
10 we are fully committed to protected data and will not pass any P[ersonally] I[dentifiable] I[nformation]
11 and/or P[rotected] H[ealth] I[nformation] to external entities including our third party partners;" and (2)
12 "your P[rotected] H[ealth] I[nformation] and P[ersonally] I[dentifiable] I[nformation] is protected and not
13 exposed" to Meta. In addition, also on information and belief, when several health insurance and patient-
14 advocacy companies representing tens of thousands of Defendant's customers contacted defendant,
15 looking for assurances that Defendant's customers' Medical Information had not been shared with any
16 third parties, Defendant again falsely asserted that Defendant had not shared any Medical Information
17 with any third parties.

18 115. Under the circumstances, Defendant was under a duty to disclose the nature, significance,
19 and consequences of its collection and treatment of its customers' Medical Information. To the contrary,
20 it has actively sought to conceal its disclosure of its customers' Medical Information and has made
21 inaccurate representations to those seeking to determine whether its customers' Medical Information has
22 been shared with unauthorized third parties. Accordingly, Defendant is estopped from relying on any
23 statute of limitations.

24 116. Moreover, all applicable statutes of limitation have also been tolled pursuant to the
25 discovery rule.

26 117. The earliest that Plaintiffs or Class Members, acting with due diligence, could have
reasonably discovered Defendant's conduct would have been shortly before the filing of this Complaint.

ALLEGATIONS SPECIFIC TO PLAINTIFFS

 118. In or about November 2020, Plaintiff Jane Doe I visited BetterHelp's website
www.betterhelp.com, while in California, and signed up for the Service. She used the Service from
approximately November 2020 to November 2021, and she paid for the Service throughout that time.

119. In or about October 2018, Plaintiff Jane Doe II visited BetterHelp's website, while in California, and signed-up for the Service. She used the Service from approximately October 2018 to February 2019, and she paid for the Service throughout that time.

120. Plaintiffs' Medical Information was disclosed to Meta and other unauthorized parties.

121. Plaintiffs would not have used one of Defendant's Sites to obtain the Service had they known that their Medical Information would be disclosed to unauthorized third parties.

122. Plaintiffs believed that because they were on a Site of a healthcare provider, their Medical Information would be protected and kept confidential.

123. Plaintiffs did not see anything on Defendant's website that suggested to them that their Medical Information would be disclosed or released to an unauthorized third party.

124. Plaintiff Jane Doe I did not authorize, consent to, or otherwise encourage or permit the release of her Medical Information to Meta or any other third party.

125. Plaintiff Jane Doe II did not authorize, consent to, or otherwise encourage or permit the release of her Medical Information to Meta or any other third party.

CLASS ACTION ALLEGATIONS

126. Plaintiffs bring this action, on behalf of themselves and all others similarly situated, as a class action pursuant to Code of Civil Procedure § 382. Plaintiffs seek to represent a Class (whose members are "Class Members") composed of and defined as:

"All natural persons residing in the United States who used one of Defendant's websites or apps to sign up for Defendant's Service and whose Medical Information was disclosed or transmitted to Meta or any other unauthorized third party."

127. Plaintiffs reserve the right to revise or amend the above Class definition and to add subclasses based on facts learned in discovery.

128. This action has been brought and may be properly maintained as a class action under the Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation, the proposed Class is easily ascertainable, and Plaintiffs are proper representatives of the Class.

129. Numerosity. The potential members of the proposed Class, as defined, are more than one hundred thousand, and so numerous that joinder of all members of the Class is impracticable.

130. Typicality. Plaintiffs' claims are typical of the claims of the Class. Plaintiff Jane Doe I and Plaintiff Jane Doe II used one of Defendant's Sites to sign-up for Defendant's Service and their Medical Information was disclosed or transmitted to Meta and/or other unauthorized third parties.

1 131. Commonality. Common questions of fact and law exist as to all members of the Class and
 2 predominate over the questions affecting only individual members of the Class. These common questions
 3 include but are not limited to:

- 4 a. Whether Defendant's acts and practices violated Plaintiffs' and Class Members' privacy
- 5 rights;
- 6 b. Whether Defendant's acts and practices violated California's Constitution, Art. 1, § 1;
- 7 c. Whether Plaintiffs and Class Members had a reasonable expectation that their Medical
- 8 Information would not be disclosed to third parties without authorization;
- 9 d. Whether Defendant's acts and practices violated the California Confidentiality of Medical
- 10 Information Act, Civil Code §§ 56 *et seq.*;
- 11 e. Whether the Medical Information disclosed by Defendant constitutes "medical
- 12 information" within the meaning of Civil Code § 56.05(i);
- 13 f. Whether Defendant obtained written consent to or permission for its conduct;
- 14 g. Whether Defendant's acts and practices violated the California Invasion of Privacy Act,
- 15 Penal Code §§ 630, *et seq.*;
- 16 h. Whether Defendant obtained express consent to or authorization for its conduct;
- 17 i. Whether Defendant's acts and practices violated Business and Professions Code §§ 17200,
- 18 *et seq.*;
- 19 j. Whether Defendant's acts and practices harmed Plaintiffs and Class Members;
- 20 k. Whether Plaintiffs and other Class Members are entitled to equitable relief, including but
- 21 not limited to, restitution and disgorgement;
- 22 l. Whether Plaintiffs and other Class Members are entitled to injunctive relief;
- 23 m. Whether Plaintiffs and other Class Members are entitled to damages and other monetary
- 24 relief; and
- 25 n. Whether Plaintiffs and Class Members are entitled to reasonable attorneys' fees and costs.

26 132. Adequacy of Representation. Plaintiffs are members of the Class and will fairly and
 adequately represent and protect the interests of the Class. Plaintiffs' interests do not conflict with those
 of Class Members, they have no conflicts of interest with other Class Members, are not subject to any
 unique defenses, and have retained competent and experienced counsel.

 133. Superiority of Class Action. Class action treatment is superior to any alternative to ensure
 the fair and efficient adjudication of the controversy alleged herein. Such treatment will permit a large
 number of similarly situated persons to prosecute their common claims in a single form simultaneously,

efficiently, and without the duplication of effort and expense that numerous individual actions would entail. If this action is not certified as a class action, it will be impossible as a practical matter for many or most Class Members to bring individual actions to recover money from Defendant, due to the relatively small amounts of such individual recoveries relative to the costs and burdens of litigation. Moreover, individual Class Members do not have a significant interest in controlling the prosecution of separate actions. Plaintiffs anticipate no difficulty in the management of this action which would preclude its maintenance as a class action.

134. Plaintiffs reserve the right to add representatives for the Class, provided Defendant is afforded an opportunity to conduct discovery as to those representatives.

CALIFORNIA LAW APPLIES TO THE ENTIRE CLASS

135. California substantive laws apply to every member of the Class. California's substantive laws may be constitutionally applied to the claims of Plaintiffs and the Class under the Due Process Clause, 14th Amend. § 1, and the Full Faith and Credit Clause, Art. IV, § 1 of the U.S. Constitution.

136. California has significant contact, or a significant aggregation of contacts, to the claims asserted by Plaintiffs and Class members, thereby creating state interests to ensure that the choice of California state law is not arbitrary or unfair.

137. BetterHelp's primary place of business is in Mountain View, California. As BetterHelp explains on its website: "Our office is located in the heart of Silicon Valley, where world-changing technologies are being created. We are proud neighbours [sic] of iconic companies like Google, Apple, and Facebook."²⁵ BetterHelp's decision to reside in California and avail itself of California's laws, renders the application of California to the claims asserted herein constitutionally permissible.

138. On information and belief, the conduct at issue also originated in and emanated from California as that is where the decisions to incorporate the tracking tools and process at issue were made, and where the illegal data interceptions and/or transfers and/or disclosures took place.

139. Moreover, the third parties, such as meta and the other third parties identified herein, to whom Defendant disclosed Class Members' Medical Information and/or who intercepted Class Members' Medical Information, with the exception of Criteo, are headquartered and have their principal places of business in California.

²⁵ BetterHelp website, "About" page, <https://www.betterhelp.com/about/> (last visited, March 23, 2023).

140. The application of California laws to the Class is also appropriate under California's choice of law rules because California has significant contacts to the claims of Plaintiffs and the proposed Class, and California has a greater interest in applying its laws here than any other interested state.

FIRST CAUSE OF ACTION

Common Law Invasion of Privacy – Intrusion into Private Matters

141. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

142. Defendant's secret disclosure of Plaintiffs' and other Class Members' Medical Information, including each Class Member's email address, IP address, Facebook User ID, and other individually identifying information, and information about their medical history, mental and physical condition, and treatment (including that they were seeking or receiving mental health treatment), constitutes an intentional intrusion upon Plaintiffs' and Class Members' private matters that were intended to stay private from third parties.

143. Plaintiffs and Class Members had a reasonable expectation of privacy in their Medical Information. Plaintiffs and Class Members did not consent to, authorize, or have any reason to know about Defendant's intrusion into their privacy at the time it occurred.

144. Defendant's intrusion into Plaintiffs' and Class Members' private affairs, seclusion, and solitude, would be highly offensive to a reasonable person.

145. Plaintiffs and Class Members expected that the Medical Information they shared with a provider of healthcare would not be disclosed to an unauthorized third party. Social norms and industry standards inform the understanding that Medical Information is highly protected and that disclosure of that information to third parties requires consent and authorization. The secret disclosure of Medical Information would be highly offensive to a reasonable person.

146. Plaintiffs and Class Members have been harmed as a result of Defendant's actions, including by, but not limited to, an invasion of their privacy rights.

147. Plaintiffs and Class Members seek appropriate relief for their injuries, including, but not limited to, monetary damages to compensate for the harm to their privacy interests and disgorgement of profits made by Defendant as a result of its intrusions into Plaintiffs' and Class Members' private matters.

148. Plaintiffs and Class Members are also entitled to punitive damages resulting from the malicious, willful, and intentional nature of Defendant's actions which were directed at invading Plaintiffs' and Class Members' privacy rights in conscious disregard of those rights. Such damages are necessary to deter Defendant from engaging in such conduct in the future.

149. This action, if successful, will enforce an important right affecting the public interest and would confer a significant benefit on a large class of persons and/or the general public. Private enforcement is necessary and places a disproportionate financial burden on Plaintiffs in relation to Plaintiffs' stake in the matter. Because this case is brought for the purposes of enforcing important rights affecting the public interest, Plaintiffs also seek the recovery of attorneys' fees and costs in prosecuting this action against Defendant under Code of Civil Procedure § 1021.5 and other applicable law.

150. Plaintiffs, on behalf of themselves and the Class, requests relief as further described below.

SECOND CAUSE OF ACTION

Invasion of Privacy and Violation of California Constitution, Art. 1, § 1

151. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

152. The right to privacy is enshrined in the California Constitution. Article 1, Section 1, provides: "All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy."

153. Plaintiffs and Class Members did not consent to or authorize Defendant to disclose their Medical Information to unauthorized third parties. Indeed, Plaintiffs and Class Members had no knowledge that such information was being so disclosed and, consequently, had no opportunity to deny consent or authorization.

154. Plaintiffs and Class Members had a reasonable expectation of privacy in their personal information, identities, and Medical Information pursuant to Article 1, Section 1, of the California Constitution, social norms, and the expectations of privacy that attach to relationships and communications with providers of healthcare.

155. Defendant's disclosure of Plaintiffs' and Class Members' Medical Information constitutes an intentional invasion of private communications, information, and matters, and an egregious breach of social norms.

156. Defendant's conduct would be highly offensive to a reasonable person because the data disclosed was highly sensitive and personal, as protected by the California Constitution, and Defendant lacked consent or authorization to disclose such information.

157. Defendant's violation of the privacy rights of thousands of Class Members, including Plaintiffs, without authorization or consent, constitutes an egregious breach of social norms.

1 158. Plaintiffs and Class Members have sustained damages and will continue to suffer damages
2 as a result of Defendant's invasion of their privacy.

3 159. Plaintiffs and Class Members seek appropriate relief for their injuries, including, but not
4 limited to, monetary damages to compensate for the harm to their privacy interests and disgorgement of
5 profits made by Defendant as a result of its intrusions into Plaintiffs' and Class Members' private matters.

6 160. Plaintiffs and Class Members are also entitled to punitive damages resulting from the
7 malicious, willful, and intentional nature of Defendant's actions which were directed at invading
8 Plaintiffs' and Class Members' privacy rights in conscious disregard of those rights. Such damages are
9 necessary to deter Defendant from engaging in such conduct in the future.

10 161. This action, if successful, will enforce an important right affecting the public interest and
11 would confer a significant benefit on a large class of persons and/or the general public. Private
12 enforcement is necessary and places a disproportionate financial burden on Plaintiffs in relation to
13 Plaintiffs' stake in the matter. Because this case is brought for the purposes of enforcing important rights
14 affecting the public interest, Plaintiffs also seek the recovery of attorneys' fees and costs in prosecuting
15 this action against Defendant under Code of Civil Procedure § 1021.5 and other applicable law.

16 162. Plaintiffs, on behalf of themselves and the Class, seek relief as further described below.

17 **THIRD CAUSE OF ACTION**

18 **Violation of California Confidentiality of Medical Information Act (CMIA), Cal. Civ. Code § 19 56.101**

20 163. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the
21 preceding paragraphs.

22 164. Defendant is, and at all relevant times has been, a "provider of health care" within the
23 meaning of Cal. Civ. Code §§ 56.06(a) and (b), because Defendant maintains medical information and
24 offers software to consumers that is designed to maintain medical information for the purposes of allowing
25 its Users to manage their information or make the information available to a health care provider, or for
26 the diagnosis, treatment, or management of a medical condition.

165. The CMIA defines medical information to mean any "individually identifiable
information" in possession of or derived from "a provider of health care, health care service plan,
pharmaceutical company, or contractor regarding a patient's medical history, mental or physical
condition, or treatment." As explained above, the information Defendant maintained and disclosed is
medical information, within the meaning of the CMIA, because it is individually identifiable information
relating to Plaintiffs' and Class Members' medical histories, conditions, and treatments.

1 166. Cal. Civ. Code § 56.101(a) requires that every provider of health care “who creates,
2 maintains, preserves, stores, abandons, destroys, or disposes of medical information shall do so in a
3 manner that preserves the confidentiality of the information contained therein.”

4 167. Section 56.101(a) further provides, in pertinent part: “Any health care provider who
5 “negligently creates, maintains, preserves, stores, abandons, destroys, or disposes of medical information
6 shall be subject to remedies and penalties provided under subdivisions (b) and (c) of Section 56.36.”

7 168. Plaintiffs and Class Members are “patients” as defined by Cal. Civ. Code § 56.05(j).

8 169. Defendant is a provider of health care who creates, maintains, preserves, stores, abandons,
9 destroys, or disposes of medical information, within the meaning of §§ 56.101(a) and 56.05(i).

10 170. Defendant failed to maintain, preserve, and store Plaintiffs’ and Class Members’ medical
11 information in a manner that preserves the confidentiality of the information contained therein because
12 Defendant disclosed to Meta and other third parties Plaintiffs’ and Class Members’ Medical Information,
13 as defined and described in this Complaint, including their email addresses and IP addresses, and
14 information about their medical histories, physical conditions, mental conditions, and treatments.

15 171. Defendant’s failure to maintain, preserve, and store medical information in a manner that
16 preserves the confidentiality of the information was, at a minimum, negligent, and violates Civil Code §
17 56.101(a).

18 172. Accordingly, pursuant to Cal. Civil Code § 56.36, Plaintiffs and Class Members are
19 entitled to: (1) nominal damages of one thousand dollars (\$1,000); (2) actual damages, in an amount to be
20 determined at trial; and (3) statutory damages pursuant to Civil Code § 56.36(c); and (4) reasonable
21 attorneys’ fees and the costs of litigation.

22 173. Plaintiffs, on behalf of themselves and the Class, seek relief as further described below.

23 **FOURTH CAUSE OF ACTION**

24 **Violation of California Confidentiality of Medical Information Act, Cal. Civ. Code § 56.10.**

25 174. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the
26 preceding paragraphs.

175. Cal. Civil Code § 56.10(a) prohibits a health care provider, such as Defendant, from
disclosing medical information without first obtaining an authorization, unless a statutory exception
applies.

176. Defendant disclosed medical information without first obtaining authorization when it
disclosed to Meta and other third parties Plaintiffs’ and Class Members’ Medical Information, as defined
and described in this Complaint, including their email addresses and IP addresses, and information about

1 their medical histories, physical conditions, mental conditions, and treatments. No statutory exception
2 applies. As a result, Defendant violated Civil Code § 56.10(a).

3 177. Defendant knowingly and willfully disclosed Plaintiffs' and Class Members' medical
4 information without consent to Meta and other third parties for financial gain. Namely, to market and
5 advertise its services, or to allow others to market and advertise their services, in violation of Civil Code
§ 56.10(a).

6 178. At the least, Defendant negligently disclosed Plaintiffs' and Class Members' medical
7 information in violation of Civil Code § 56.10(a).

8 179. Accordingly, pursuant to Cal. Civil Code § 56.35 and 56.36, Plaintiffs and Class Members
9 are entitled to: (1) nominal damages of one thousand dollars (\$1,000); (2) actual damages, in an amount
10 to be determined at trial; (3) statutory damages pursuant to Civil Code § 56.36(c); (4) punitive damages
11 of three thousand dollars (\$3,000) pursuant to § 56.35; and (5) reasonable attorneys' fees and the costs of
litigation.

12 180. Plaintiffs, on behalf of themselves and the Class, seek relief as further described below.

13 **FIFTH CAUSE OF ACTION**

14 **Violation of California Invasion of Privacy Act (CIPA), California Penal Code §§ 630, *et seq.***

15 181. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the
16 preceding paragraphs.

17 182. The California Invasion of Privacy Act begins with its statement of purpose: "The
18 legislature hereby declares that advances in science and technology have led to the development of new
19 devices and techniques for the purpose of eavesdropping upon private communications and that the
20 invasion of privacy resulting from the continual and increasing use of such devices and techniques has
created a serious threat to the free exercise of personal liberties and cannot be tolerated in a free and
civilized society. The Legislature by this chapter intends to protect the right of privacy of the people of
this state." Cal. Penal Code § 630.

21 183. Cal. Penal Code § 631(a) provides, in pertinent part: "Any person who, by means of any
22 machine, instrument, or contrivance, or in any other manner, intentionally taps, or makes any unauthorized
23 connection, whether physically, electrically, acoustically, inductively, or otherwise, with any telegraph or
24 telephone wire, line, cable, or instrument, including the wire, line, cable, or instrument of any internal
25 telephonic communication system, or who willfully and without the consent of all parties to the
26 communication, or in any unauthorized manner, reads, or attempts to read, or to learn the contents or
meaning of any message, report, or communication while the same is in transit or passing over any wire,

1 line, or cable, or is being sent from, or received at any place within this state; or who uses, or attempts to
 2 use, in any manner, or for any purpose, or to communicate in any way, any information so obtained, or
 3 who aids, agrees with, employs, or conspires with any person or persons to unlawfully do, or permit, or
 4 cause to be done any of the acts or things mentioned above in this section, is punishable by a fine not
 exceeding two thousand five hundred dollars (\$2,500) . . .”

5 184. Defendant is a “person” within the meaning of Cal. Penal Code § 631.

6 185. The Meta Pixel, other tracking tools, Plaintiff’s and Class Members’ browsers, and
 7 Plaintiffs’ and Class Members’ computing and mobile devices qualify as a “machine, instrument,
 contrivance or . . . other manner” under this statute.

8 186. Plaintiffs’ and Class Members’ communications of Medical Information with Defendant
 9 on and through Defendant’s Sites were intended to be confined to the parties. Plaintiffs and Class
 10 Members were using what they understood to be Defendant’s secure Sites and no indication was given
 11 that their Medical Information would be shared with or viewed by any unauthorized third party. The
 12 circumstances reasonably indicate that Plaintiffs and Class Members desired their communications with
 Defendant to be confined to the parties thereto.

13 187. Despite not having any authorization from Plaintiffs or Class Members, Defendant aided,
 14 agreed with, or conspired with Meta and other third parties, to permit those third parties to intercept these
 15 communications and to learn the content of those communications while in transit or in the process of
 being sent or received.

16 188. Defendant’s conduct, as described above, violated Penal Code § 631. Under Penal Code §
 17 637.2, Plaintiffs and Class Members are entitled to recover the greater of: (1) five thousand dollars
 18 (\$5,000) per violation; or (2) three times the amount of actual damages according to proof at trial, as well
 as injunctive or other equitable relief.

19 189. Plaintiffs and Class Members have also suffered irreparable injury from these unauthorized
 20 acts of disclosure. Their personal, private, and sensitive Medical Information has been collected, viewed,
 21 accessed, stored, and used by Meta and other third parties, and has not been destroyed. Due to the
 22 continuing threat of such injury, Plaintiffs and Class Members have no adequate remedy at law and are
 23 entitled to injunctive relief. Plaintiffs and Class Members seek a permanent injunction under Penal Code
 24 § 637.2 enjoining Defendant from engaging in further conduct in violation of Cal. Penal Code § 630, *et*
seq.

25 190. Plaintiffs, on behalf of themselves and the Class, seek relief as further described below.

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SIXTH CAUSE OF ACTION

Breach of Contract

191. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

192. In its Privacy Policy, as described above, Defendant set out specific limited purposes for which it would use or disclose Plaintiffs' and Class Members' Medical Information.

193. At least prior to September 2020, Defendant's disclosure of Plaintiffs' and Class Members' Medical Information to Meta and/or other unauthorized third parties for Defendant's advertising purposes did not fall within any required or permissible uses or disclosures that Defendant set out in its Privacy Policy.

194. Moreover, at no time has Defendant's disclosure of Plaintiffs' and Class Members' Medical Information to Meta and/or other unauthorized third parties, under which Meta and/or other unauthorized third parties were able to use that Medical Information for their own purposes, fallen within any required or permissible uses or disclosures that Defendant set out in its Privacy Policy.

195. Plaintiffs and other Class Members did not provide any written authorization or express consent for Defendant to disclose their Medical Information to Meta or other third parties, to use their Medical Information for Defendant's own marketing purposes, or to permit third parties to use Plaintiffs' and Class Members' Medical Information for those third parties' own purposes.

196. At least prior to June 2021, Defendant's use of web beacons (including pixels) and cookies to disclose or permit the interception of Medical Information by third parties, including Meta, for advertising purposes or for the third parties' own purposes, did not fall within the limited purposes of web beacons and cookies set out in Defendant's privacy policies.

197. Plaintiffs and other Class Members accepted Defendant's promises to protect their Medical Information in accordance with Defendant's Privacy Policy, and not to disclose their Medical Information to third parties without authorization, when they used Defendant's Sites to sign up for the Service.

198. Plaintiffs and Class Members fully performed their obligations under their contracts with Defendant, including entering their Medical Information into Defendant's website and using Defendant's Sites to sign up for the Service.

199. Defendant did not perform consistent with its obligations under the contract. Defendant secretly disclosed Plaintiffs' and Class Members' Medical Information to Meta and other third parties in violation of Defendant's agreement with Plaintiffs and Class Members.

1 200. As a direct and proximate result of Defendant's breaches of its contracts, Plaintiffs and
2 Class Members sustained damages as alleged herein. Plaintiffs and Class Members would not have used
3 Defendant's Sites to sign up for the Service or would not have entered their medical information into
4 Defendant's Sites had they known their Medical Information would be disclosed.

5 201. Plaintiffs and Class Members are entitled to compensatory and consequential damages as
6 a result of Defendant's breach of contract.

7 202. Plaintiffs, on behalf of themselves and the Class, seek relief as further described below.

SEVENTH CAUSE OF ACTION

Breach of Implied Contract (in the alternative)

8 203. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the
9 preceding paragraphs.

10 204. When Plaintiffs and Class Members used Defendant's Sites to sign up for Defendant's
11 Service and entered their Medical Information in order to obtain the Service, they entered implied
12 contracts pursuant to which Defendant agreed to safeguard and not disclose their Medical Information
13 without authorization or consent.

14 205. Plaintiffs and Class Members accepted Defendant's offers and provided their Medical
15 Information to Defendant.

16 206. Plaintiffs and Class Members would not have entrusted Defendant with their Medical
17 Information in the absence of an implied contract between them and Defendant obligating Defendant not
18 to disclose this information without consent.

19 207. Defendant breached these implied contracts by disclosing Plaintiffs' and Class Members'
20 Medical Information to Meta and other unauthorized third parties.

21 208. As a direct and proximate result of Defendant's breaches of these implied contracts,
22 Plaintiffs and Class Members sustained damages as alleged herein. Plaintiffs and Class Members would
23 not have used Defendant's Sites to obtain the Service or would not have entered their Medical Information
24 into Defendant's Sites had they known their Medical Information would be disclosed.

25 209. Plaintiffs and Class Members are entitled to compensatory and consequential damages as
26 a result of Defendant's breach of implied contract.

 210. Plaintiffs, on behalf of themselves and the Class, seek relief as further described below.

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EIGHTH CAUSE OF ACTION

Violation of California Business & Professions Code §§ 17200 *et seq.* (UCL)

211. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

212. The UCL prohibits unfair competition in the form of any unlawful, unfair, or fraudulent business act or practice. Cal. Bus. & Prof. Code § 17204 allows “any person who has suffered injury in fact and has lost money or property” to prosecute a civil action for violation of the UCL. Such a person may bring such an action on behalf of themselves and others similarly situated, who are affected by the unlawful, unfair, or fraudulent business practice or practices.

213. Defendant’s acts, omissions, practices, and non-disclosures as alleged herein constituted unlawful, unfair, and fraudulent business acts and practices within the meaning of Cal. Bus. & Prof. Code §§ 17200, *et seq.* (UCL).

214. Defendant engaged in “unlawful” business acts and practices, as set forth above: in violation of the common law; in violation of the California Constitution; and in violation of California statutes, including the Confidentiality of Medical Information Act and the California Invasion of Privacy Act.

215. Plaintiffs reserve the right to allege other violations of law committed by Defendant that constitute unlawful business acts or practices within the meaning of the UCL.

216. Defendant has also engaged in “unfair” business acts and practices. California has a strong public policy of protecting consumers’ privacy interests, including consumers’ personal data. Defendant violated this strong public policy by, among other things, surreptitiously disclosing, releasing, and otherwise misusing Plaintiffs’ and Class Members’ Medical Information without Plaintiffs’ and Class Members’ consent. Defendant’s acts and practices violate the policies underlying the statutes and the article of the California Constitution referenced herein.

217. Defendant’s acts and practices are also “unfair” in that they are immoral, unethical, oppressive, unscrupulous, and/or substantially injurious to consumers. Defendant secretly disclosed, released, and otherwise misused Plaintiffs’ and Class Members’ Medical Information, with no corresponding benefit to its affected customers. And, because consumers were unaware of Defendant’s incorporation of tracking tools into its Sites and that Defendant would disclose and release their Medical Information to unauthorized third parties, they could not have avoided the harm.

1 218. Had Plaintiffs and Class Members known that their Medical Information would be
2 disclosed or released by Defendant to unauthorized third parties, they would not have shared their Medical
3 Information with Defendant's Sites or would not have used Defendant's Sites.

4 219. The UCL also prohibits any "fraudulent business act or practice." Defendant's above-
5 described nondisclosures and misleading statements were false, misleading, and likely to deceive the
6 consuming public in violation of the UCL.

7 220. Plaintiffs and Class Members suffered injury in fact and lost money or property as a result
8 of Defendant's acts and practices in that a portion of any money Plaintiffs and Class Members paid for
9 Defendant's Service went to fulfill Defendant's obligations with respect to the confidentiality and security
10 of Plaintiffs' and Class Members' Medical Information, and Defendant failed to fulfill those obligations.

11 221. Plaintiffs and Class Members also suffered injury in fact as a result of Defendant's acts
12 and practices because they paid more for Defendant's services than they otherwise would have had they
13 known Defendant was disclosing their Medical Information to unauthorized third parties in violation of
14 its legal obligations, social norms, and reasonable consumer expectations.

15 222. Plaintiffs and Class Members have also suffered (and will continue to suffer) economic
16 damages and other injury and actual harm in the form of, *inter alia*: (i) invasion of privacy; (ii) breach of
17 the confidentiality of their Medical Information; and/or (iii) deprivation of the value of their Medical
18 Information for which there is a well-established national and international market.

19 223. Plaintiffs seek a declaration from the Court that Defendant's conduct alleged herein
20 constitutes a violation of Bus. & Prof. Code §§ 17200 *et seq.* under the unlawful, unfair, and fraudulent
21 prongs of the UCL.

22 224. Plaintiffs also seek injunctive relief, for themselves, Class Members, and for the benefit of
23 the public, in the form of an order of this Court requiring Defendant to correct its illegal conduct, to refrain
24 from repeating the illegal and wrongful practices alleged above, and to protect and preserve the
25 confidentiality of Medical Information in Defendant's possession that has been accessed, downloaded,
26 exfiltrated, and viewed by an unauthorized third party as a result of Defendant's illegal and wrongful
practices set forth above.

 225. Plaintiffs also seek restitution on behalf of themselves and the Class.

 226. This action, if successful, will enforce an important right affecting the public interest and
would confer a significant benefit on a large class of persons and/or the general public. Private
enforcement is necessary and places a disproportionate financial burden on Plaintiffs in relation to
Plaintiffs' stakes in the matter. Because this case is brought for the purposes of enforcing important rights

1 affecting the public interest, Plaintiffs also seek the recovery of attorneys' fees and costs in prosecuting
2 this action against Defendant under Code of Civil Procedure § 1021.5 and other applicable law.

3 227. Plaintiffs, on behalf of themselves and the Class, seeks relief as further described below.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiffs, on behalf of themselves and other Class Members, pray for judgment
6 against Defendant as follows:

7 228. Ordering that this action may proceed and be maintained as a class action under § 382 of
8 the Code of Civil Procedure; and defining the Class as specified above and appointing Plaintiffs as
9 Representatives of the Class and their attorneys as Counsel for the Class;

10 229. Awarding Plaintiffs and Class Members compensatory damages, disgorgement of profits,
11 and punitive damages for Defendant's invasion of privacy and violation of Article 1, Section 1 of the
12 California Constitution;

13 230. Awarding Plaintiffs and Class Members nominal damages of \$1,000 per violation, or
14 actual damages, and reasonable attorneys' fees and the costs of litigation, for Defendant's violations of
15 California's Confidentiality of Medical Information Act, Cal. Civil Code § 56.101;

16 231. Awarding Plaintiffs and Class Members nominal damages of \$1,000 per violation, or
17 actual damages, punitive damages of \$3,000 per violation, and reasonable attorneys' fees and the costs of
18 litigation, for Defendant's violations of California's Confidentiality of Medical Information Act, Cal.
19 Civil Code § 56.10;

20 232. Awarding Plaintiffs and Class Members statutory damages of \$5,000 per violation, or three
21 times the amount of actual damages, and injunctive relief for Defendant's violations of California's
22 Invasion of Privacy Act, Penal Code §§ 630 *et seq.*;

23 233. Awarding compensatory and consequential damages for Defendant's breach of contract
24 or, in the alternative, Defendant's breach of implied contract;

25 234. Declaring that Defendant's conduct alleged herein constitutes a violation of Bus. & Prof.
26 Code §§ 17200 *et seq.* under the unlawful, unfair, and fraudulent prongs of the UCL;

235. Awarding Plaintiffs and Class Members restitution and injunctive relief for Defendant's
violations of the UCL, Cal. Bus. & Prof. Code §§ 17200 *et seq.*;

236. Awarding attorneys' fees and costs as authorized by statute and governing law, including
Code of Civil Procedure § 1021.5; and

237. Awarding such other and further relief, at law and in equity, as the nature of this case may
require or as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves and other members of the Class, hereby demand a jury trial on all issues so triable.

DATED: April 3, 2023

Respectfully submitted,

/s/ Julian Hammond

Julian Hammond

Attorneys for Plaintiffs and the Putative Class