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12 Attorneys for Plaintiffs

13  
 14 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
 15 COUNTY OF LOS ANGELES

17 RILEY HAGEN, an individual;  
 JONATHON HOLLIS, an individual;  
 18 PATRICK AMES, an individual;  
 DESHANAY GUNN, an individual;  
 19 ELIZABETH MACKAN, an individual;  
 TERESA CONTRERAS, an individual, on  
 20 behalf of themselves and all others  
 similarly situated,

No. 23STCV28623

**AMENDED CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

21  
 22 Plaintiffs,

23 v.

24 TIKTOK INC., a California corporation;  
 TIKTOK BYTE DANCE, LLC, a  
 25 California limited liability company; and  
 DOES 1 through 100, inclusive,

26 Defendants.  
 27

1 **COMPLAINT**

2 Plaintiffs Riley Hagen, Jonathon Hollis, Patrick Ames, Deshanay Gunn, Elizabeth Mackan,  
3 and Teresa Contreras, by and through their undersigned counsel, on their own behalf and on behalf  
4 of all other persons similarly situated (residents of California only) (collectively, “Plaintiffs”), sue  
5 TikTok Inc.; TikTok Byte Dance, LLC; (“TikTok”) and DOES 1 through 100 (“Doe Defendants”)  
6 (TikTok and Doe Defendants are collectively referred to herein simply as the “Defendants”) and  
7 for this Complaint, allege upon information and belief, and based on the investigation to date of  
8 their counsel, as follows:

9 **INTRODUCTION**

10 1. This is a class action brought for the benefit and protection of Plaintiffs, and all other  
11 similarly situated consumers who are residents of California and who have used or accessed at least  
12 one of Defendants’ mobile applications or websites, including but not limited to TikTok mobile  
13 applications and TikTok.com (collectively referred herein as the “Platforms”).

14 2. By way of this action, Plaintiffs, and all others similarly situated, seek statutory  
15 damages available as a result of Defendants’ violation of California Civil Code section 1670.8, as  
16 well as public injunctive relief to enjoin ongoing violations of said statutory provisions.

17 3. Because of the current power of the internet and social media platforms to publicize  
18 a company’s offerings of goods or services—and the potential harm to corporate interests when  
19 negative consumer statements “go viral”—Defendants have a significant incentive to minimize the  
20 negative publicity they receive, including in the form of negative online reviews and comments.  
21 Some companies have gone so far as to attempt to prohibit customers and potential customers from  
22 making negative statements about the goods or services they offer, to the detriment of consumers,  
23 potential consumers, and the public of the State of California. Fortunately, California Civil Code  
24 section 1670.8 was enacted to protect the right of California consumers to voice their opinions,  
25 observations, and experiences about the products and services delivered or offered to California  
26 consumers, as well as the citizens of the State of California. The California Legislature reasonably  
27 and correctly determined that such freedom is important to keep the public informed and keep large  
28 corporations honest about the quality of the goods or services they offer to consumers.

1           4.       Section 1670.8(a) provides as follows: “(1) **A contract or proposed contract** for  
2 the sale or lease of consumer goods or services **may not include a provision waiving the**  
3 **consumer’s right to make any statement** regarding the seller or lessor or its employees or agents,  
4 or concerning the goods or services” and “(2) **It shall be unlawful to threaten or seek to enforce**  
5 **a provision made unlawful under this section, or to otherwise penalize a consumer for making**  
6 **any statement protected under this section.**” Section 1670.8’s protections are so important that  
7 the statute expressly provides that “**any waiver of the provisions of this section is contrary to**  
8 **public policy, and is void and unenforceable.**”

9           5.       In order to use and benefit from the TikTok Platforms, Platform visitors, or users,  
10 are informed that they must agree to TikTok’s Terms of Service (“Terms”). In fact, TikTok asserts  
11 that simply by accessing or using the Platforms, users have read, understood, and agreed to be  
12 bound by the Terms—regardless of whether users are simply visiting the Platforms or are registered  
13 members of the Platforms.

14           6.       While conducting substantial business with California consumers, the Terms  
15 Defendants impose upon TikTok’s customers and prospective customers clearly violate Section  
16 1670.8. Pursuant to the Terms that Defendants impose upon their customers and prospective  
17 customers for the privilege of accessing the goods and/or services offered and promoted on the  
18 Platforms, TikTok requires users to not upload, transmit, distribute, store or otherwise make  
19 available in any way “material that, in the sole judgement of TikTok, is objectionable . . . or which  
20 may expose TikTok. . . to any harm. . . of any type.” The Terms further threaten that “[TikTok]  
21 reserves the right, at any time and without prior notice, to remove or disable content at our discretion  
22 for any reason or no reason. Some of the reasons we may remove or disable access to content may  
23 including finding the content objectionable, in violation of these Terms . . . or otherwise harmful to  
24 our services...”

25           7.       Defendants’ conduct is unlawful, including among other reasons, because it is aimed  
26 to stifle California consumers’ right to free speech, and the right of the California public to hear  
27 lawful discourse. Defendants’ strong-arm tactics to silence injured parties were and continue to be  
28 intentionally exercised to protect Defendants’ self-promoting public image for commercial and

1 other benefits. Defendants' unlawful business practices, purposefully designed to maintain and  
2 increase their consumers and sales, all while denying public, consumers, and potential consumers  
3 accurate information so that they may make informed decisions as consumers.

4 8. By way of these provisions, TikTok seeks to have users waive their right as  
5 consumers to make negative statements regarding TikTok or its employees, agents, goods or  
6 services, and further threatens to penalize consumers for making such statements. These unlawful  
7 restrictions—imposed by Defendants against their own customers and prospective customers—is  
8 an important component of Defendants' business strategy, which relies upon the popularity of its  
9 Platforms nationwide to generate significant revenues and profits. But Defendants' efforts to  
10 silence their customers and prospective customers is clearly prohibited by California law, thereby  
11 subjecting Defendants to significant penalties, as described herein.

#### 12 **JURISDICTION AND VENUE**

13 9. This Court has jurisdiction over the claims and causes of action asserted herein  
14 because such claims arise solely and specifically out of Defendants' unlawful business practices  
15 within the State of California, and relate to at least one statute—California Civil Code section  
16 1670.8—that was designed to protect California's citizens, the application of which is exclusively  
17 a matter for the courts of this State.

18 10. Venue is proper in this Court because: Defendants transact business in California  
19 and in the County of Los Angeles based on Plaintiffs' use of the Platforms in this County;  
20 Defendants have committed unlawful acts in the County by and through the Platforms and  
21 associated business transactions within the County; and a substantial part of the events giving rise  
22 to the claims alleged herein occurred in this County, where at least one of the Plaintiffs resides.

#### 23 **THE PARTIES**

24 11. At all relevant times, Plaintiff Riley Hagen, was and has been, a citizen of the State  
25 of California and a resident of the County of Los Angeles. Plaintiff Hagen used or accessed at least  
26 one of Defendants' Platforms, within the applicable limitations period in Los Angeles County in  
27 the State of California.

28 12. At all relevant times, Plaintiff Jonathon Hollis, was and has been, a citizen of the

1 State of California and a resident of the County of Los Angeles. Plaintiff Hollis used or accessed  
2 at least one of Defendants' Platforms, within the applicable limitations period in Los Angeles  
3 County in the State of California.

4 13. At all relevant times, Plaintiff Patrick Ames, was and has been, a citizen of the State  
5 of California. Plaintiff Ames used or accessed at least one of Defendants' Platforms, within the  
6 applicable limitations period in the State of California.

7 14. At all relevant times, Plaintiff Deshanay Gunn, was and has been, a citizen of the  
8 State of California. Plaintiff Gunn used or accessed at least one of Defendants' Platforms, within  
9 the applicable limitations period in the State of California.

10 15. At all relevant times, Plaintiff Elizabeth Mackan, was and has been, a citizen of the  
11 State of California. Plaintiff Mackan used or accessed at least one of Defendants' Platforms, within  
12 the applicable limitations period in the State of California.

13 16. At all relevant times, Plaintiff Teresa Contreras, was and has been, a citizen of the  
14 State of California. Plaintiff Contreras used or accessed at least one of Defendants' Platforms,  
15 within the applicable limitations period in the State of California.

16 17. Upon information and belief, Defendant TikTok Inc., is, and at all relevant times  
17 was, a California corporation with its principal place of business in Culver City, California.  
18 Defendant TikTok, Inc., also maintains offices in Palo Alto, California and Mountain View,  
19 California. Defendant TikTok Inc. is a wholly owned subsidiary of TikTok Byte Dance, LLC.  
20 Defendant TikTok Byte Dance LLC, is, and all relevant times was, a California limited liability  
21 company with its principal place of business in West Hollywood, California. These Defendants  
22 collectively and/or individually operate and provide social media services, through its Platforms,  
23 allowing users to create and share videos as well as post or copy comments. These Defendants  
24 additionally operate and provide users with access to TikTok's online marketplace, TikTok Shop,  
25 through its Platforms, which enables brands to showcase and sell a wide variety of consumer  
26 products to TikTok users. These Defendants generate sales revenue through their Platforms.

27 18. The true names and/or capacities, whether individual, corporate, partnership,  
28 associate, governmental, or otherwise, of the Doe Defendants, inclusive, and each of them, are

1 unknown to Plaintiffs at this time, who therefore sues said Doe Defendants by such fictitious names.  
2 Plaintiffs are informed and believe, and thereon allege, that each defendant designated herein as a  
3 Doe Defendant caused injuries and damages proximately thereby to Plaintiffs as hereafter alleged,  
4 and that each Doe Defendant is liable to Plaintiffs for the acts and omissions alleged herein below,  
5 and the resulting injuries to Plaintiffs, and damages sustained by Plaintiffs. Plaintiffs will amend  
6 this Complaint to allege the true names and capacities of said Doe Defendants when that same is  
7 ascertained.

8 **FACTS COMMON TO ALL CLASS MEMBERS**

9 19. At all relevant times, Tik Tok was and currently is in the business of advertising,  
10 promoting, marketing, selling, and distributing social media services and consumer products  
11 through its Platforms, which Platforms are targeted to, and accessible by, the citizenry of California.

12 20. TikTok is well-aware that its public image is vital to maintaining and gaining users  
13 and customers. If the public sees content posted by users that may be harmful to TikTok, and/or  
14 any of its partners, and/or any its employees, and/or concerning any of its services or goods, then  
15 its users, customers and/or prospective users/customers may shift to a competitor, such as  
16 Instagram, Facebook, Reddit, etc., ultimately resulting in loss of business and loss of revenue.

17 21. Thus, in order to maintain a positive public image, TikTok has engaged in an  
18 intentional business strategy to silence each and every user, customer or potential customer who  
19 visits its Platforms, purporting to bind users to its Terms—immediately upon accessing any of its  
20 Platforms.

21 22. Specifically, TikTok’s Terms provide that “[b]y accessing or using our [Platforms],  
22 you confirm that you . . . accept these Terms and that you agree to . . . [not] use the [Platforms] to  
23 upload, transmit, distribute, store or otherwise make available in any way . . . material that in the  
24 sole judgment of TikTok, is objectionable or . . . which may expose TikTok, the [Platforms] . . . to  
25 any harm. . . of any type.”

26 23. TikTok’s Terms, moreover, threaten to penalize users for making any statements  
27 that it considers to be “harmful” in providing that “[TikTok] reserves the right, at any time and  
28 without prior notice, to remove or disable content at our discretion for any reason or no reason.

1 Some of the reasons we may remove or disable access to content may including finding the content  
2 objectionable, in violation of these Terms . . . or otherwise harmful to our services...”

3 24. TikTok has provided and continues to provide social media services to billions of  
4 people worldwide, including Californians, generating untold billions in revenue.

5 25. TikTok has sold and continues to sell hundreds of thousands of products and service  
6 upcharges (and other moneymaking operations) to consumers in California through its Platforms.

7 26. TikTok forbids any persons who have used or accessed TikTok through its Platforms  
8 from making any “harmful” or “objectionable” statements about TikTok itself, any of its partners,  
9 any of its employees, any of its agents, or any of its goods or services.

10 27. In doing so, TikTok has and continues to engage in conduct that violates California  
11 Civil Code section 1670.8.

12 28. Each of the Plaintiffs specifically identified herein, and millions more similarly  
13 situated persons in the State of California, have visited the Platforms—either as consumers or  
14 potential consumers—and thus have been subjected to the unlawful Terms.

15 **CLASS ACTION ALLEGATIONS**

16 29. Pursuant to California Code of Civil Procedure section 382, Plaintiffs bring this  
17 class action on their own behalf and on behalf of all other similarly situated consumers in California.  
18 The proposed class is defined as follows:

19 a. During the fullest period allowed by law, all persons residing in California who visited  
20 or used the Platforms (the “Class”).

21 30. Like Plaintiffs, all Class members are California residents who visited or used the  
22 Platforms and who were subject to the Terms that limit their right as consumers to make statements  
23 regarding Defendants, their employees or agents, or concerning the goods or services.

24 31. Excluded from the Class are assigned judges and members of their families within  
25 the first degree of consanguinity; Defendants; and Defendants’ subsidiaries, affiliates, officers, and  
26 directors.

27 32. The requirements of Code of Civil Procedure section 382 are satisfied for the  
28 proposed Class.

1           33.     The proposed Class is so numerous that individual joinder of all the members is  
2 impracticable because members of the Class number in at least the tens or hundreds of thousands.  
3 The precise number of Class members and their identities are unknown to Plaintiffs at this time but  
4 are objectively ascertainable and will be determined through appropriate discovery and other  
5 readily available means.

6           34.     Defendants possess objective evidence as to the identity of each Class member and,  
7 to a reasonable degree of certainty, the harm suffered by each Class member, including without  
8 limitation web traffic and mobile data evidencing visits to, downloading of, and sharing of the  
9 Platforms; sales receipts, phone numbers, names, rewards accounts data, credit card data, customer  
10 service complaint forms/emails/date, and other evidence which objectively identifies Class  
11 members.

12           35.     Class members may be notified of the pendency of this action by mail, publication  
13 and/or through the records of Defendants.

14           36.     There are common questions of law and fact affecting Plaintiffs and Class members.  
15 Common legal and factual questions include, but are not limited to:

16           a. Whether each imposition of Defendants' Terms upon members of the Class constitutes a  
17 violation of the provisions of California Civil Code section 1670.8 and, if so, whether each such  
18 violation is a "willful, intentional, or reckless" violation;

19           b. Whether Defendants' Terms are unlawful, contrary to public policy, void and/or  
20 unenforceable;

21           c. Whether Class members are entitled to civil penalties; and

22           d. Whether, as a result of Defendants' misconduct alleged herein, Plaintiffs and Class  
23 members are entitled to injunctive and/or public injunctive relief, and if so, the nature of such relief.

24           37.     Plaintiffs' claims are typical of the claims of the proposed Class because the rights  
25 of Plaintiffs and Class members were violated in the same manner by the same conduct.

26           38.     Plaintiffs and Class members are all entitled to recover statutory penalties and other  
27 relief arising out of Defendants' violations of statutory law alleged herein.

28           39.     Plaintiffs will fairly and adequately represent and protect the interests of the Class.



1           40.     Plaintiffs’ interests do not conflict with the interests of the Class they seek to  
2 represent. Plaintiffs have retained counsel competent and experienced in prosecuting class actions,  
3 and Plaintiffs intend to vigorously prosecute this action.

4           41.     The class mechanism is superior to other available means for the fair and efficient  
5 adjudication of the claims of Plaintiffs and Class members.

6           42.     Given the relative value of statutory penalties available to any of the individual Class  
7 members, individual litigation is not practicable.

8           43.     Individual Class members will not wish to undertake the burden and expense of  
9 individual cases.

10          44.     In addition, individualized litigation increases the delay and expense to all parties  
11 and multiplied the burden on the judicial system. Individualized ligation also presents the potential  
12 for inconsistent or contradictory judgments.

13          45.     In contrast, the class action device presents far fewer management difficulties and  
14 provides the benefits of single adjudication, economy of scale, and comprehensive supervision by  
15 a single court.

16          46.     Questions of law and fact common to all Class members predominate over any  
17 questions affecting only individual Class members. Injuries sustained by Plaintiffs and Class  
18 members flow, in each instance, from a common nucleus of operative facts as set forth above.

19          47.     In each case, Defendants’ actions caused harm to all Class members as a result of  
20 such conduct. The resolution of these central issues will be the focus of the litigation and  
21 predominate over any individual issues.

22          48.     Proposed Class counsel possesses the knowledge, experience, reputation, ability,  
23 skill, and resources to represent the Class and should be appointed lead counsel for the Class.

24                   **COUNT I— VIOLATION OF CIVIL CODE SECTION 1670.8**

25          49.     Plaintiffs re-allege and incorporate by reference Paragraphs 1 through 48 of their  
26 Complaint. Plaintiffs assert this first cause of action on behalf of themselves and all other similarly  
27 situated persons residing in California who accessed or used the Platforms.

28          50.     Defendants are in the business of generating revenue by providing social media

1 services, including goods, products, service upcharges, and other moneymaking operations.

2 51. Plaintiffs and Class members accessed or used the Platforms.

3 52. Pursuant to the Terms on the Platforms, Defendants told Plaintiffs and the Class  
4 members that they must agree to not make any statements that TikTok finds objectionable, or which  
5 may expose TikTok “to any harm. . . of any type.”

6 53. By simply accessing or using the Platforms, Defendants purport to have charged  
7 Plaintiffs and Class members with having read, understood, and agreed to be bound by the Terms.

8 54. By way of this restriction, Defendants intentionally, willfully, or recklessly sought  
9 to have Plaintiffs and the Class members waive their right as consumers to make statements  
10 regarding TikTok or its employees, agents, and goods or services, which restriction is prohibited  
11 under California Civil Code 1670.8 and is contrary to public policy.

12 55. Defendants have repeatedly violated California Civil Code 1670.8 in relation to each  
13 of the Plaintiffs and Class members interactions with the Platforms.

14 56. Defendants’ conduct has caused Plaintiffs and Class members to suffer harm.

15 57. Plaintiffs and Class members are entitled to restitutionary and injunctive relief,  
16 including public injunctive relief.

17 58. Plaintiffs and Class members are thus entitled to civil penalties for Defendants’  
18 violations of Civil Code section 1670.8.

19 **PRAYERS FOR RELIEF**

20 **WHEREFORE**, Plaintiffs, on behalf of themselves and the putative Class members, pray  
21 for judgment as follows:

22 a. Determining that this action is a proper class action and certifying the Class, as defined  
23 herein;

24 b. Appointing Plaintiffs as Class representatives;

25 c. Appointing the undersigned as Class counsel;

26 d. Finding Defendants liable to Plaintiffs and Class members for damages in such amount(s)  
27 as the Court or Jury may determine;

28 e. Awarding statutorily provided damages to Plaintiffs and Class members as appropriate;

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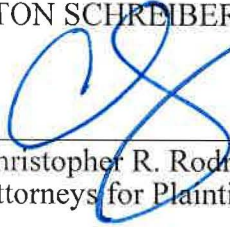
- h. Awarding pre- and post-judgment interest;
- i. Awarding injunctive relief, including public injunctive relief, as claimed herein or as the Court may deem proper;
- j. Awarding Plaintiffs and Class members attorney fees and all litigation costs, as allowed by law; and
- k. Awarding such other and further relief as may be just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: November 21, 2023

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