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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DZ RESERVE and CAIN MAXWELL (d/b/a
MAX MARTIALIS), individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

Case No. 3:18-cv-04978 JD

**FACEBOOK, INC.'S NOTICE OF MOTION
AND MOTION TO DISMISS THE THIRD
AMENDED CONSOLIDATED CLASS
ACTION COMPLAINT; MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT**

Date: July 30, 2020
Time: 10:00 a.m.
Court: Courtroom 11, 19th Floor
Hon. James Donato

NOTICE OF MOTION AND MOTION TO DISMISS**TO PLAINTIFFS AND TO THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that on July 30, 2020, at 10:00 a.m. in Courtroom 11 of the United States District Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco, California, Defendant Facebook, Inc. (“Facebook”) will and hereby does move for an order dismissing Plaintiffs’ Third Amended Consolidated Class Action Complaint (“Third Amended Complaint” or “TAC”), Dkt. 166. This motion is made pursuant to Federal Rules of Civil Procedure Rules 9(b) and 12(b)(6), on the grounds that (1) the breach of the implied covenant of good faith and fair dealing and quasi-contract claims in the TAC fail to state a claim as a matter of law under Federal Rule of Civil Procedure 12(b)(6); (2) the breach of the implied covenant of good faith and fair dealing claim is time-barred to the extent it is based on ad campaigns begun before August 15, 2014; (3) Plaintiffs fail to state a claim for fraudulent misrepresentation or fraudulent concealment under Federal Rule of Civil Procedure 9(b) or 12(b)(6); (4) the quasi-contract claim is time-barred to the extent it is based on ad campaigns begun before August 15, 2016; and (5) the fraudulent misrepresentation and fraudulent concealment claims are time-barred to the extent they are based on ad campaigns begun before April 15, 2017.

This motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities, Facebook, Inc.’s Request for Judicial Notice in Support of Its Motion to Dismiss the Third Amended Consolidated Class Action Complaint (“Request for Judicial Notice”) and the Declaration of Nicole C. Valco Support of Facebook, Inc.’s Motion to Dismiss the Third Amended Consolidated Class Action Complaint (“Valco Decl.”) filed therewith, the pleadings and papers on file in this action, the arguments of counsel, and any other matter that the Court may properly consider.

STATEMENT OF RELIEF SOUGHT

Facebook seeks an order pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6) dismissing with prejudice Plaintiffs’ claims for breach of the implied covenant of good faith and fair dealing, quasi-contract, fraudulent concealment, and fraudulent misrepresentation in their entirety and for failure to state a claim upon which relief can be granted.

1 Dated: May 14, 2020

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