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12 *and the Proposed Class*

13 THE UNITED STATES DISTRICT COURT
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 MEREDITH CALLAHAN and LAWRENCE
17 GEOFFREY ABRAHAM, on behalf of
themselves and all others similarly situated,

18 Plaintiffs,

19 v.

20 ANCESTRY.COM OPERATIONS INC., a
21 Virginia Corporation; ANCESTRY.COM, INC.,
22 a Delaware Corporation; ANCESTRY.COM
23 LLC, a Delaware Limited Liability Company;
and DOES 1 through 50, inclusive,

24 Defendants.

Case No. 3:20-cv-8437

CLASS ACTION COMPLAINT FOR
VIOLATION OF CAL. CIV. CODE § 3344,
AND CAL. BUS. & PROF. CODE § 17200,
INTRUSION UPON SECLUSION, UNJUST
ENRICHMENT

CLASS ACTION

JURY TRIAL DEMANDED

1 1. Plaintiffs MEREDITH CALLAHAN and LAWRENCE GEOFFREY
2 ABRAHAM, by and through their attorneys, make the following allegations on information
3 and belief, except as to factual allegations pertaining to Plaintiffs, which are based on personal
4 knowledge.

5 **INTRODUCTION**

6 2. Plaintiffs bring this class action complaint against ANCESTRY.COM
7 OPERATIONS, INC.; ANCESTRY.COM, INC; ANCESTRY.COM LLC; and DOES 1
8 through 50 (collectively, “Ancestry”) for knowingly misappropriating the photographs,
9 likenesses, names, and identities of Plaintiffs and the class; knowingly using those photographs,
10 likenesses, names, and identities for the commercial purpose of selling access to them in
11 Ancestry products and services; and knowingly using those photographs, likenesses, names,
12 and identities to advertise, sell, and solicit purchases of Ancestry services and products; without
13 obtaining prior consent from Plaintiffs and the class.

14 3. Ancestry’s business model relies on amassing huge databases of personal
15 information, including names, photographs, addresses, places of birth, estimated ages, schools
16 attended, and other biological information, then selling access to that information for
17 subscription fees. Ancestry’s databases comprise billions of records belonging to hundreds of
18 millions of Americans. The main subject of this lawsuit is Ancestry’s database, entitled “U.S.,
19 School Yearbooks, 1900-1999” (“Ancestry Yearbook Database”), which includes the names,
20 photographs, cities of residence, and schools attended of many millions of Americans.
21 According to the Ancestry website, the Ancestry Yearbook Database includes over 60 million
22 individual records from California schools and universities.

23 4. Ancestry has not received consent from, given notice to, or provided
24 compensation to tens of millions of Californians whose names, photographs, biographical
25 information, and identities appear in its Ancestry Yearbook Database.

26 5. The names, photographs, cities of residence, schools attended, estimated ages,
27 likenesses, and identities contained in the Ancestry Yearbook Database uniquely identify
28 specific individuals.

1 6. Ancestry knowingly uses the names, photographs, cities of residence, schools
2 attended, estimated ages, likenesses, and identities in its Ancestry Yearbook Database on and in
3 its products and services. Ancestry sells access to those records to paying subscribers. In
4 exchange for subscription payments ranging from \$24.99 to \$49.99 per month, depending on
5 the plan, Ancestry subscribers receive the ability to search, view, and download records in
6 Ancestry databases, including the names, photographs, cities of residence, schools attended,
7 estimated ages, likenesses, and identities Ancestry has amassed in its Ancestry Yearbook
8 Database without consent.

9 7. Ancestry knowingly uses the names, photographs, cities of residence, schools
10 attended, estimated ages, likenesses, and identities in its Ancestry Yearbook Database to
11 advertise, sell, and solicit the purchase of its monthly subscription products and services,
12 including its “U.S. Discovery,” “World Explorer,” and “All Access” subscription plans.

13 8. Ancestry advertises and promotes its products and services to new subscribers
14 by offering a 14-day promotional “free trial” that provides temporary access to search, view,
15 and download records from Ancestry’s databases. Users who sign up for the promotional “free
16 trial” provide payment information but are not billed until the promotional “free trial” expires
17 and may cancel before the trial expires without charge. During the promotional “free trial,”
18 users are encouraged to search Ancestry Databases, including its Yearbook Database, for the
19 names of any people they may know or be curious about. In response to searches of the
20 Ancestry Yearbook Database, users receive a list records, each of which corresponds to a
21 specific identifiable person, and includes the individual’s name, yearbook photo, estimated age,
22 city of residence, school attended, and year of attendance. “Free trial” users may view and
23 download full-resolution versions of yearbook photos of the individuals they have searched.

24 9. The sole purpose of offering the promotional “free trial” is to induce users to
25 subscribe to its paid product and service. By providing access to and encouraging use of its
26 Ancestry Yearbook Database as part of its promotional “free trial”, Ancestry is knowingly
27 using the names, photographs, and likenesses of Plaintiffs and the class to advertise, sell, and
28 solicit the purchase of its subscription products and services.

1 10. Ancestry also advertises is monthly subscription products and services by
2 providing a promotional limited-access version of its website. Any visitor to the Ancestry
3 website may access the promotional limited-access version, even if they have not provided
4 contact information or signed up for the promotional “free trial.” Users on the promotional
5 limited-access version are encouraged to search Ancestry Databases, including its Yearbook
6 Database, for the names of any people they may know or be curious about. In response to
7 searches of the Ancestry Yearbook Database, users receive a list records, each of which
8 corresponds to a specific identifiable person, and includes the individual’s name, city of
9 residence, and a low-resolution version of a yearbook photo. Users of the promotional limited-
10 access version of the website may view the low-resolution photo, allowing them to confirm the
11 record corresponds to the person they are searching for. Users cannot view the full-resolution
12 version of the photograph or view additional information about the person such as estimated
13 age, name of school, and yearbook year. If users click to view this information, they are
14 encouraged to “sign up now” for a paid subscription.

15 11. The sole purpose of offering the promotional limited-access version of the
16 website is to induce users to subscribe to its paid product and service. By providing access to
17 and encouraging use of its Ancestry Yearbook Database as part of its promotional limited-
18 access website for non-subscribers, Ancestry is knowingly using the names, photographs, and
19 likenesses of Plaintiffs and the class to advertise, sell, and solicit the purchase of its
20 subscription products and services.

21 12. Ancestry also advertises using targeted promotional email messages that include
22 names, photographs, images, likenesses, and other personal information it has amassed in its
23 databases. These targeted promotional email messages are intended to entice potential
24 customers to purchase a paid subscription, and to entice existing customers to upgrade to more
25 expensive plans. For example, in one of its more ghoulish advertising techniques, Ancestry
26 sends to potential subscribers’ photographs of the gravesites of their deceased relatives,
27 promising that a paid subscription will reveal even more information about the deceased. On
28 information and belief, Ancestry also sends to potential subscribers’ messages containing

1 names, photographs, images, biographical information, and likenesses from its Yearbook
2 Database, including the names, photographs, images, biographical information, and likenesses
3 of Plaintiffs and the class.

4 13. Ancestry appropriated and continues to grow its massive databases of personal
5 information, including its Ancestry Yearbook Database, which contains the names,
6 photographs, cities of residence, schools attended, estimated ages, likenesses, and identities of
7 tens of millions of Californians. Ancestry uses these records both as the core element of its
8 products and services, and to sell and advertise its products and services, without providing any
9 notice to the human beings who are its subjects. Ancestry did not ask the consent of the people
10 whose personal information and photographs it profits from. Nor has it offered them any
11 compensation for the ongoing use of their names, photographs, likenesses, and identities as part
12 of its products and services, and to sell and advertise its products and services.

13 14. These practices, as further detailed in this complaint, violate the California right
14 to publicity as codified in Cal. Civ. Code § 3344; the California Unfair Competition Law, Cal.
15 Bus. & Prof. Code § 17200 *et seq.*; California's common law right protecting against Intrusion
16 upon Seclusion; and California Unjust Enrichment law.

17 JURISDICTION AND VENUE

18 15. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d) (the
19 Class Action Fairness Act ("CAFA")), because: (A) all members of the putative class are
20 citizens of a state different from any defendant. According to available public records, while
21 defendants maintain an office in San Francisco, California, Defendants are all incorporated in
22 either Delaware or Virginia, and are headquartered in Utah. The class members are residents of
23 California. (B) The proposed class consists of at least 100 members. Ancestry advertises that its
24 Ancestry Yearbook Database comprises about 730 million individual records collected from
25 "more than 450,000 yearbooks and more than 62 million pages." A search of the database for
26 records located in "California, USA" returns in excess of 60 million individual records. Even
27 accounting for the fact that some individuals may appear in multiple records, that some are
28 deceased or no longer live in California while others have moved into the state, and that the

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