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18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN FRANCISCO DIVISION**

21 ERICA FRASCO, individually and on behalf
22 of all others similarly situated,

23 Plaintiff,

24 v.

25 FLO HEALTH, INC., GOOGLE, LLC,
26 FACEBOOK, INC., APPSFLYER, INC., and
27 FLURRY, INC.,

28 Defendants.

Case No.: 3:21-cv-00757-JD

**DEFENDANT FLO HEALTH, INC.'S
ANSWER TO PLAINTIFFS'
CONSOLIDATED CLASS ACTION
COMPLAINT**

CONSOLIDATED COMPLAINT FILED:
September 2, 2021

SARAH WELLMAN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

FLO HEALTH, INC., GOOGLE, LLC,
FACEBOOK, INC., APPSFLYER, INC., and
FLURRY, INC.,

Defendants.

JUSTINE PIETRZYK, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

FLO HEALTH, INC., GOOGLE, LLC,
FACEBOOK, INC., APPSFLYER, INC., and
FLURRY, INC.,

Defendants.

JENNIFER CHEN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

FLO HEALTH, INC., GOOGLE, LLC,
FACEBOOK, INC., APPSFLYER, INC., and
FLURRY, INC.,

Defendants.

TESHA GAMINO, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

FLO HEALTH, INC., GOOGLE, LLC,
FACEBOOK, INC., APPSFLYER, INC., and
FLURRY, INC.,

Defendants.

1 LEAH RIDGWAY and AUTUMN MEIGS,
2 individually and on behalf of all others
3 similarly situated,

4 Plaintiffs,

5 v.

6 FLO HEALTH, INC., GOOGLE, LLC,
7 FACEBOOK, INC., APPSFLYER, INC., and
8 FLURRY, INC.,

9 Defendants.

10 MADELINE KISS, individually and on behalf
11 of all other similarly situated,

12 Plaintiff,

13 v.

14 FLO HEALTH, INC., GOOGLE, LLC,
15 FACEBOOK, INC., APPSFLYER, INC., and
16 FLURRY, INC.,

17 Defendants.

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PRELIMINARY STATEMENT

Flo Health, Inc. (“Flo”), a leader in the “fem-tech” space, plays a critical role in supporting and advancing women’s health in the United States and abroad. The Flo App, designed and operated in consultation with a medical board of over 100 international experts, provides access to information about women’s reproductive health and allows its users to track information related to all phases of the reproductive cycle. It is the #1 OB-GYN-recommended app for period and cycle tracking based on a survey of U.S. OB-GYNs.¹

Flo’s mission is to create a better future for female health by helping women harness the power of their body signals. The Flo App is available in more than 20 languages and in more than 200 countries, including in many communities where access to information regarding women’s reproductive health is not otherwise available. Flo offers much of its services for free, as the company believes essential, evidence-based health information should be available to everyone. Starting in 2017, in recognition of Flo’s worldwide campaign to spread awareness about women’s reproductive and sexual health issues, the United Nations Population Fund (the U.N.’s sexual and reproductive health agency) began partnering with Flo in furtherance of that mission.

Plaintiffs’ claims against Flo are based on a fundamental misunderstanding of how the App operates, alleging that Flo shared “health information” with third parties for advertising purposes. This is completely untrue. Flo does not sell any user data and never has. Nor has Flo ever shared data with anyone else for advertising purposes. Instead, as disclosed in the App’s Terms of Use and Privacy Policy—which Plaintiffs and all putative class members affirmatively consented to—the App collects user data to operate the App, analyze user trends, and improve the user experience. Specifically, as Flo disclosed in every version of its Privacy Policy, the App used third-party tools provided by analytics divisions of larger tech companies “to monitor and analyze trends, usage and activities” based on certain aggregated, de-identified user data. Flo specifically named these third parties in the Privacy Policy, including Defendants Google, Facebook, and Flurry (collectively, the “Analytics Defendants”).

¹ Based on a survey of 225 U.S. OB-GYNs who recommend apps for period and cycle tracking.

ANSWER

Defendant Flo Health, Inc. (“Flo”) hereby answers the Consolidated Class Action Complaint (the “Complaint”) of Plaintiffs Erica Frasco, Sarah Wellman, Justine Pietrzyk, Jennifer Chen, Tesha Gamino, Leah Ridgway, Autumn Meigs, and Madeline Kiss (together, “Plaintiffs”) as follows:

SUMMARY OF ALLEGATIONS

1. Admitted

2. Flo states that the Flo App provides information regarding women’s health including an ovulation calendar, period tracker, pregnancy guide, and wellness and lifestyle tracker. Flo further states that the App uses artificial intelligence. Flo otherwise denies the allegations in Paragraph 2.

3. Admitted.

4. Flo’s website speaks for itself, and therefore no response is required. To the extent a response is required, Flo denies the allegations in Paragraph 4.

5. The purported survey questions from the Flo App speak for themselves. Flo further states that users can enter their names, email addresses, dates of birth, and places of residence into the Flo App. Flo otherwise denies the allegations contained in Paragraph 5.

6. The purported survey questions from the Flo App speak for themselves, therefore no response is required. To the extent a response is required, Flo denies the allegations contained in Paragraph 6.

7. Paragraph 7 contains legal conclusions to which no response is required. To the extent a response is required, Flo states that the Flo App allows users to answer various optional survey questions regarding, among other things, menstruation, body weight, sleep, sexual activity, mood, headaches, breast tenderness, acne, or fatigue. Flo otherwise denies the allegations contained in Paragraph 7.

8. The Complaint fails to identify when and where Flo allegedly made the statement referred to in the Paragraph 8. To the extent it exists, the purported statement speaks for itself. Flo otherwise denies the allegations in Paragraph 8.

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