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17
18 **UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

19
20 ERICA FRASCO, individually and on behalf of
all others similarly situated,

21
22 Plaintiff,

23 v.

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

26 Defendants.
27
28

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

**CONSOLIDATED CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

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

3 Plaintiff,

4 v.

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

8 Defendants.

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

11 Plaintiff,

12 v.

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

16 Defendants.

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

19 Plaintiff,

20 v.

21 FLO HEALTH, INC., GOOGLE, LLC,
22 FACEBOOK, INC., APPSFLYER, INC., and
23 FLURRY, INC.,

24 Defendants.

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

3 Plaintiff,

4 v.

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

8 Defendants.

9 LEAH RIDGWAY and AUTUMN MEIGS,
10 individually and on behalf of all others similarly
11 situated,

12 Plaintiff,

13 v.

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

17 Defendants.

18 MADELINE KISS, individually and on behalf of
19 all others similarly situated,

20 Plaintiff,

21 v.

22 FLO HEALTH, INC., GOOGLE, LLC,
23 FACEBOOK, INC., APPSFLYER, INC., and
24 FLURRY, INC.,

25 Defendants.

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1 Plaintiffs Erica Frasco, Sarah Wellman, Justine Pietrzyk, Jennifer Chen, Tesha Gamino,
2 Leah Ridgway, Autumn Meigs, and Madeline Kiss (“Plaintiffs”), on behalf of themselves and all
3 others similarly situated, assert the following against Defendants Flo Health, Inc. (“Flo Health”),
4 Google, LLC (“Google”), Facebook, Inc. (“Facebook”), AppsFlyer, Inc. (“AppsFlyer”), and Flurry,
5 Inc. (“Flurry”)¹ based upon personal knowledge, where applicable, information and belief, and the
6 investigation of counsel, which included, among other things, consultation with experts in the field
7 of data privacy.

8 SUMMARY OF ALLEGATIONS

9 1. Defendant Flo Health owns and developed the Flo Period & Ovulation Tracker (“Flo
10 App” or “App”), one of the most popular health and fitness mobile applications.

11 2. The Flo App purports to use artificial intelligence to provide advice and assistance
12 related to women’s health, such as by serving as an ovulation calendar, period tracker, pregnancy
13 guide, and wellness and lifestyle tracker.

14 3. Flo Health touts that its app is the “#1 mobile product for women’s health.” The Flo
15 App has been installed more than 180 million times and has more than 38 million monthly active
16 users. The App has also been rated the #1 period tracker in the United States based on active
17 audience and as the #1 most downloaded health app in the Apple App Store.²

18 4. The Flo App presents itself as a leader in women’s health care with at least “60
19 doctors and experts from Europe and North America” on its Medical Board.³

20 5. In order to use the Flo App, millions of users—including Plaintiffs—provide Flo
21 Health with personally identifying information (e.g., their names, email addresses, dates of birth,
22 and places of residence), along with intimate details about their sexual health, menstruation cycles,
23

24 ¹ Defendants Flo Health, Google, Facebook, Appsflyer, and Flurry are hereafter referred to
25 collectively, at times, as “Defendants.” Defendants Google, Facebook, Appsflyer, and Flurry are
hereafter referred to, collectively, at times, as the “Non-Flo Defendants.”

26 ² The Flo App was also featured as the “App of the Day” in the Apple App Store in over 30
27 countries.

28 ³ *Our Medical Expertise*, FLO HEALTH, INC., <https://flo.health/medical-expertise>.

1 gynecological health, and physical well-being through a series of “survey questions.” These
2 questions cover extremely personal topics and include, for example: (1) “do you experience any
3 pain during sex?” (2) “how often do you have sex?” (3) “how often do you masturbate?” (4) “have
4 you noticed a decrease in sexual desire?” (5) “are you sexually active during your period?” and
5 (6) “what type of relationship do you have at present?”

6 6. Users also provided intimate, personal health details in response to probing survey
7 questions about health and wellness, such as: (1) “do you smoke” (2) “how often do you experience
8 stress?” (3) “do you want to change your weight?” (4) “do you follow a particular diet?” (5) “how
9 often do you exercise?” (6) “do you get yeast infections?” (6) “do you have any chronic diseases?”
10 and (7) “do you have any reproductive system diseases?”

11 7. Within the first few minutes of using the Flo App, users answer over thirty survey
12 questions like these. As users continue to use the app, they are encouraged by Flo Health to provide
13 more and more intimate health data, including daily information about whether they have their
14 period, their weight, how long they slept, whether they had sex (as well as their sex drive, if sex was
15 unprotected, or if they masturbated), their mood (ranging from “calm” to “very self-critical”) and if
16 they have any health symptoms (such as headaches, breast tenderness, acne, or fatigue).

17 8. With access to this highly sensitive information, Flo Health claims to predict
18 ovulation, aid in pregnancy and childbirth, and provide lifestyle and wellness suggestions, allowing
19 users to “take full control of [their] health.”

20 9. Plaintiffs and Class members provided this information to Flo Health based on the
21 company’s repeated assurances that their intimate health data would remain protected and
22 confidential and would not be disclosed to third parties.

23 10. This is because the improper collection and surreptitious sharing of this intimate data
24 has significant real-world consequences. Indeed, in today’s world, data is an extremely valuable
25 commodity. The companies that deal in this data—such as Defendants Google and Facebook—are
26 some of the largest and most valuable companies in the world. When these companies gain access
27 to the intimate data users shared here, they are able to capitalize on an especially sensitive class of

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