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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ADRIENNE SEPANIAK KING and
CHRISTOPHER EDWARD
SEPANIAK KING,

Plaintiffs,

vs.

FACEBOOK, INC., a Delaware corpor-
ation,

Defendant.

) Civ. No. _____

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) COMPLAINT FOR DAMAGES AND

) DECLARATORY AND INJUNCTIVE

) RELIEF; DEMAND FOR JURY

) TRIAL

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COMPLAINT FOR DAMAGES AND DECLARATORY
AND INJUNCTIVE RELIEF

Plaintiffs ADRIENNE SEPANIAK KING (“KING”) and CHRISTOPHER EDWARD SEPANIAK KING (“CKING”) state for their Complaint for Damages and Declaratory and Injunctive Relief against Defendant FACEBOOK, INC. (“FACEBOOK”) as follows:

PRELIMINARY STATEMENT

1. KING had a Personal Account (“King Facebook Account”) with FACEBOOK which she established approximately ten years ago to her recollection. Over the years, KING used the King Facebook Account extensively and eventually had about 1,000 “Friends” around the world. On the King Facebook Account, KING shared personal information about family and non-political material, and KING shared political material and discussed political topics from a conservative point of view. On or about November 17, 2020, KING discovered, when she attempted to log on to the King Facebook Account, that she was unable to do so. In attempting to discover the problem, on or about November 19, 2020, KING received a message from FACEBOOK that her account had been “disabled.” No reason was given for FACEBOOK’s disabling of KING’s account. On or about November 19, 2020, KING and CKING, KING’s son who live with her, attempted to reinstate KING’s account but received a message from FACEBOOK that her account was disabled because “it did not follow our Community Standards. This decision can’t be

reversed.” No explanation was provided as to how KING had allegedly violated FACEBOOK’s Community Standards. Despite further attempts made by KING and CKING with FACEBOOK to discover why her account was permanently disabled, FACEBOOK made no further communication back to KING.

2. FACEBOOK’s permanent disabling of the King Facebook Account subjected her to embarrassment and derision with her approximately 1,000 Facebook Friends and caused her emotional distress. As further alleged in this Complaint, FACEBOOK was without authority pursuant to the Communications Decency Act of 1996 (“CDA”), particularly 47 U.S.C. 230(c)(2)(A), to disable the King Facebook Account.

3. KING seeks special, general, and punitive damages in excess of \$75,000 against FACEBOOK for intentional or reckless infliction of emotional distress and/or negligent or grossly negligent infliction of emotional distress, and for action against KING in disabling the King Facebook Account in violation of the CDA without good faith. KING also seeks 1) declaratory relief against FACEBOOK regarding its abuse of the CDA and the application of FACEBOOK’s Community Standards to restrict constitutionally protected speech in violation of KING’s protected right to Free Speech pursuant to the provisions of 47 U.S.C. 230(c)(2)(A), and 2) injunctive relief enjoining FACEBOOK from further action against KING in disabling the King Facebook Account. KING also seeks reinstatement of the King Facebook Account

and all posts, photographs, and other material associated with the King Facebook Account, and reinstatement of all posts and communications sent by her to other users of FACEBOOK (this would include reestablishing information about KING's email address and phone number for users of *facebook.com* searching for KING).

4. CKING, as the son of KING who lives in the same household as KING, seeks special, general, and punitive damages against FACEBOOK for intentional or reckless infliction of emotional distress and/or negligent or grossly negligent infliction of emotional distress, loss of consortium, and action by FACEBOOK against KING in disabling the King Facebook Account in violation of the CDA without good faith which damages against FACEBOOK exceed \$75,000.

JURISDICTION AND VENUE

5. Plaintiffs bring this action pursuant to diversity of citizenship jurisdiction provided in 28 USC 1332(a)(1) as all Plaintiffs, KING and CKING, on the one hand, and FACEBOOK, on the other hand, are citizens of different states as further alleged below and the amount in controversy exceeds \$75,000 as to each Plaintiff. *See also* 28 USC 1367(a).

6. Plaintiffs also bring this action pursuant to the civil liability provisions of the CDA set forth in 47 U.S.C. 320(c)(2)(A). A substantial federal question is involved regarding the applicability of the CDA to this Complaint, and federal question jurisdiction is invoked pursuant to 28 U.S.C. 1331.

7. Declaratory relief is authorized pursuant to 28 U.S.C. 2201 and 2202.

8. Injunctive relief is authorized by the Federal Rules of Civil Procedure, Rule 65.

9. In its Terms of Service, FACEBOOK has a provision entitled “Disputes” (paragraph 4 of Section 4 entitled “Additional Provisions”) which provides in part:

For any claim, cause of action, or dispute you have against us that arises out of or relates to these Terms [of Service] or the Facebook products (“claim”), you agree that it will be resolved exclusively in the U.S. District Court of the Northern District of California or a state court located in San Mateo County. You also agree to submit to the personal jurisdiction of either of these courts for the purpose of litigating any such claim, and that the laws of the State of California will govern these Terms [of Service] and any claim, without regard to conflict of law provisions.

Based on this forum-selection provision of FACEBOOK’s Terms of Service, with respect to venue, Plaintiffs have filed this action in the District Court for the Northern District of California.

PARTIES

10. KING and CKING are, and at all times relevant to this Complaint have been, residents of the State of Hawaii.

11. FACEBOOK is, and at all times relevant to this Complaint has been, a for-profit corporation incorporated in the State of Delaware and has its principal offices and place of business in the State of California

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