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15 GOOGLE LLC

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 MARY HAMMERLING and KAY
20 JACKSON, individually and on behalf of all
21 others similarly situated,

22 Plaintiffs,

23 v.

24 GOOGLE LLC, a Delaware limited liability
25 company,

26 Defendant.

Case No. 3:21-cv-09004-CRB

**DEFENDANT GOOGLE LLC'S NOTICE
OF MOTION AND MOTION TO
DISMISS AMENDED COMPLAINT;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

Pursuant to Fed. R. Civ. P. 9(b) & 12(b)(6).

Date: December 2, 2022

Time: 10:00 a.m.

Courtroom: 6 —17th Floor

Judge: Hon. Charles R. Breyer

Date Filed: November 19, 2021

Trial Date: Not Yet Set

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	A. The Court dismissed Plaintiffs’ previous complaint for failing to state a claim.1
	1. Plaintiffs’ fraud-based claims failed because they did not allege actual reliance on any claimed misrepresentation or omission.1
	2. Plaintiffs’ privacy-based claims failed because Google’s alleged intrusion was not “highly offensive” or “egregious.”2
	3. Given those dismissals, Plaintiffs’ derivative UCL claims also failed.2
	4. Plaintiffs’ contract-based claims failed because Google never promised not to collect third-party app activity data in the parties’ contract.3
	B. Despite some shifting facts, Plaintiffs’ theories of liability remain the same.3
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