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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE DIVISION**

13
14 MICHAEL DEVANEY, NICHOLAS
15 ARRIETA, and SARA YBERRA,
16 individually and on behalf of all others
similarly situated,

17 Plaintiffs,

18 v.

19 GOOGLE LLC and ALPHABET INC.,

20 Defendants.
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Case No. 5:20-cv-04130

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

1 Plaintiffs Michael Devaney, Nicholas Arrieta, and Sara Yberra (collectively,
2 “Plaintiffs”), acting individually and on behalf of all others similarly situated, bring this
3 action for damages and equitable relief under the Sherman Act, 15 U.S.C. § 2, and the
4 Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* against Defendants
5 Google LLC and Alphabet Inc. (collectively, “Google”).

6 NATURE OF THE CASE

7 1. Google has achieved an illegal monopoly by eliminating competition in
8 digital display advertising. Specifically, Google gained dominance in the display
9 advertising ad tech stack through acquisition of competitors, exclusivity provisions,
10 interoperability/compatibility design choices, and development of its analytics services.
11 With its ability to track millions of users across millions of sites and apps, other
12 publishers cannot compete with Google’s informational advantage.

13 2. Google’s market power in search and display has allowed it to charge supra-
14 competitive prices to advertisers. Although online ad auctions can be designed to drive
15 prices to competitive levels, Google’s role in running the auctions on behalf of both
16 buyers and sellers (including when Google itself is the seller, as it is for its Google search
17 supply and for YouTube and its other properties) gives it the incentive and ability to bias
18 auction prices.

19 3. In the digital advertising market, it is nearly impossible to advertise online
20 except through Google’s advertising services. Resulting harms include higher advertising
21 prices, higher consumer prices, decreased revenue for online newspapers and other web
22 publishers, and overall reduced competition in the buying and selling of digital
23 advertising. Consumers, of course, ultimately suffer the consequences of any abuse of
24 market power by Google. When Google charges supra-competitive prices to advertisers,
25 those excessive payments lead to an increase in the price consumers pay for goods and
26 services throughout the economy.

27 4. Plaintiffs, like other class members placed advertisements online through
28 Google as an intermediary. Like other class members, Plaintiffs overpaid and suffered

1 economic loss resulting from Google’s monopoly in relevant markets, and therefore seek
2 damages and injunctive relief.

3 **PARTIES**

4 5. Plaintiff Michael Devaney is a Sarasota, Florida resident who purchased
5 digital advertisements from Google during the class period for his supermarket website
6 and photography business.

7 6. Plaintiff Nicholas Arrieta is a Miami, Florida resident who purchased digital
8 advertisements from Google during the class period for his online website selling bicycle
9 hardware and related retail.

10 7. Plaintiff Sara Ybarra is a Spokane, Washington resident who purchased
11 digital advertisements from Google during the class period for her moving business.

12 8. Defendant Google LLC is a limited liability company organized under the
13 laws of Delaware with its principal place of business in Mountain View, California.
14 Google LLC is a technology company that provides internet-related services and
15 products, including online advertising technologies and a search engine

16 9. Defendant Alphabet Inc. is a corporation organized under the laws of
17 Delaware with its principal place of business in Mountain View, California. Google LLC
18 is a wholly owned subsidiary of Alphabet.

19 **JURISDICTION AND VENUE**

20 10. This Court has original jurisdiction over Plaintiffs’ federal antitrust claim
21 under Clayton Act, 15 U.S.C. § 15. The court also has jurisdiction over this action under
22 the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d) because at least one class
23 member is of diverse citizenship from Defendants, there are more than 100 class members
24 nationally, and the aggregate amount in controversy exceeds \$5,000,000.

25 11. This Court may exercise jurisdiction over Google because Google’s
26 principal place of business is located within this District. Google has established
27 sufficient contacts in this District such that personal jurisdiction is appropriate.

28

1 12. Venue is proper in this District under 28 U.S.C. § 1391. Google's principal
2 place of business is in this district and it regularly conducts business here. A substantial
3 part of the events or omissions giving rise to Plaintiffs' claims occurred in this District.

4 13. Assignment is proper to the San Jose Division of this District under Local
5 Rule 3-2(c)-(e), as a substantial part of the events or omissions giving rise to Plaintiffs'
6 claims occurred in Santa Clara County.

7 FACTUAL ALLEGATIONS

8 **A. Digital Advertising Background**

9 14. Advertising campaigns used to be planned and managed by media buyers.
10 If that media buyer needed to help a toy manufacturer reach parents of children, she might
11 place an ad in *Parents Magazine*, or in the family section of the local newspaper.
12 Advertising used to be something that could be placed, counted, then seen in the front
13 cover spread of a magazine.

14 15. This is not how digital advertising works today. Digital advertising is
15 automated and data-driven, involving data scientists, mathematicians, and computer
16 programmers who, behind the scenes, use advanced statistical tools to optimize
17 advertising campaigns, by micro-targeting users and constantly tweaking algorithms.

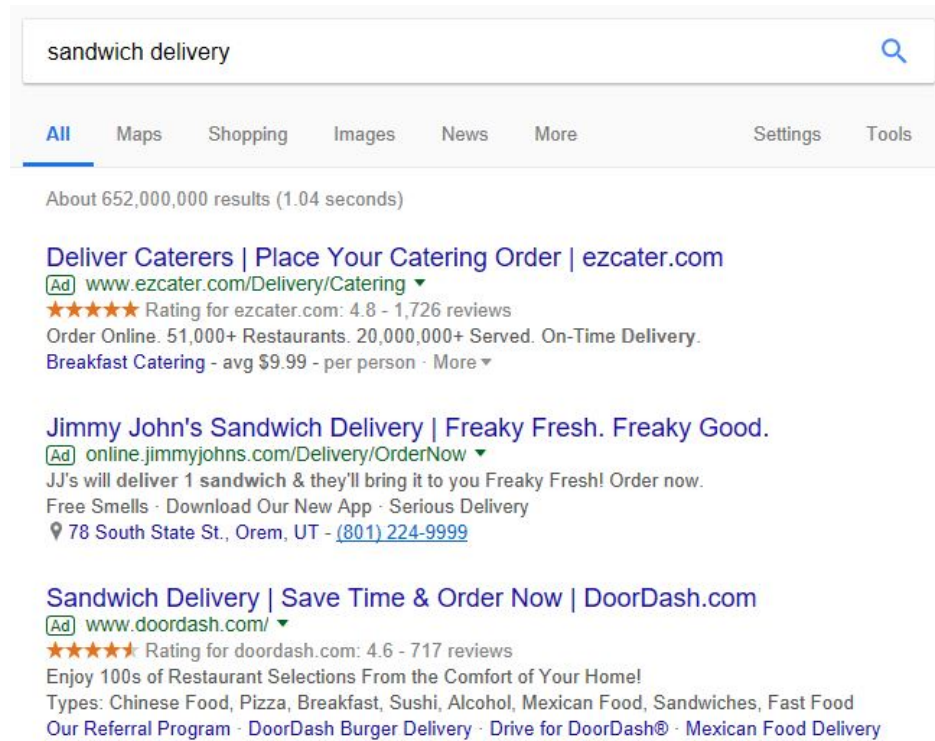
18 16. In the US, \$125 billion was spent on digital advertising in 2019, accounting
19 for over half of total ad spending.¹

20 17. The two big contenders in digital advertising are search and display
21 advertising.

22 18. Search advertising is a service that businesses pay for to show up in search
23 results on search engine result pages, predominately Google Search. Because the
24 audience is targeted to those who are actually searching for a product or service, an
25

26
27 ¹See [https://www.iab.com/wp-content/uploads/2020/05/FY19-IAB-Internet-Ad-Revenue-
28 Report_Final.pdf](https://www.iab.com/wp-content/uploads/2020/05/FY19-IAB-Internet-Ad-Revenue-Report_Final.pdf).

1 advertiser only pays when the user clicks on the ad. For example, if a user searches for
2 sandwich delivery, the search advertising results looks something like this²:



16 19. Search advertising is designed to reach customers who have already shown
17 an interest in purchasing a product or service and may be close to making a purchasing
18 decision. Search advertising is attractive to local or small businesses not seeking to reach
19 a broad audience. For example, if a citizen finds himself in need of a plumber, and
20 searches for plumbers on Google, search advertising will place ads for local plumbers
21 above the organic search results.

22 20. The downside to search advertising for advertisers themselves is that they
23 have to wait for someone to search for their product or service in order to direct
24 prospective customers to their business.

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28 ²See <https://www.disruptivestatic.com/wp-content/uploads/2018/02/sandwich-delivery-google-search.jpg>.

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