

1 Eric H. Gibbs (SBN 178658)
2 Dylan Hughes (SBN 209113)
3 Aaron Blumenthal (SBN 310605)
4 **GIBBS LAW GROUP LLP**
5 504 14th Street, Suite 1110
6 Oakland, CA 94612
7 Telephone: (510) 350-9700
8 Facsimile: (510) 350-9701
9 ehg@classlawgroup.com
10 dsh@classlawgroup.com
11 ab@classlawgroup.com

12 Andrew N. Friedman (*pro hac vice forthcoming*)
13 Geoffrey Graber (SBN 211547)
14 Eric Kafka (*pro hac vice forthcoming*)
15 **COHEN MILSTEIN SELLERS & TOLL PLLC**
16 1100 New York Ave. NW, Fifth Floor
17 Washington, DC 20005
18 Telephone: (202) 408-4600
19 Facsimile: (202) 408-4699
20 afriedman@cohenmilstein.com
21 ggraber@cohenmilstein.com
22 ekafka@cohenmilstein.com

23 [Additional counsel on signature page]

24 *Counsel for Plaintiffs and Proposed Class*

25 **UNITED STATES DISTRICT COURT FOR THE**
26 **NORTHERN DISTRICT OF CALIFORNIA**
27 **SAN FRANCISCO DIVISION**

28 QUIRKY, INC., and WINK, INC. n/k/a
Wink Dissolution Corp., on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

Case No.: _____

CLASS ACTION COMPLAINT

1 Plaintiffs Quirky, Inc. and Wink, Inc. n/k/a Wink Dissolution Corp., on behalf of themselves
2 and all others similarly situated, hereby file suit against Facebook, Inc. and allege the following:

3 **INTRODUCTION**

4 1. Facebook, Inc. (“Facebook”) sells video advertising services. When Facebook sells these
5 services, Facebooks sells a package of both video advertisements for its website and metrics that enable
6 purchasers to monitor their video advertisements’ performance.

7 2. This case concerns two of the metrics, the “Average Duration of Video Viewed” and the
8 “Average Percentage of Video Viewed.” Because of what it now calls a “miscalculation,” Facebook
9 dramatically inflated both metrics by an estimated 60 to 80%. Consequently, Plaintiffs and putative class
10 members purchased more video advertisements and paid a higher price for video advertisements than
11 they otherwise would have. Plaintiffs and putative class members accordingly seek restitution under
12 California’s Unfair Competition Law.¹

13 **JURISDICTION**

14 3. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332(d)(2)
15 because this is a class action wherein the amount in controversy exceeds the sum or value of \$5,000,000,
16 exclusive of interest and costs; there are more than 100 members in the proposed class; and at least one
17 member of the class of Plaintiffs is a citizen of a state different from a Defendant.

18 4. This Court has personal jurisdiction over Defendant Facebook, Inc. because Facebook,
19 Inc. is headquartered in California, and conducts business in the state of California.

20 5. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b) because a substantial part of
21 the events or omissions giving rise to the claims occurred in, were directed to, and/or emanated from this
22 District. Venue is also proper because Facebook’s terms of service require that claims are resolved
23 “exclusively in the U.S. District Court for the Northern District of California or a state court located in
24 San Mateo County....”²

25 _____
26
27 ¹ Plaintiffs are in the process of notifying Facebook that it breached their contract, and Plaintiffs may
include claims for breach of contract in an amended complaint.

28 ² Facebook, *Statement of Rights and Responsibilities*, <https://www.facebook.com/terms> (last accessed:
Jan. 9, 2017).

1 **INTRADISRICT ASSIGNMENT**

2 6. Assignment is proper to the San Francisco division of this District under Local Rule 3-
3 2(c)-(d), as a substantial part of the events or omissions giving rise to the claim occurred in San Mateo
4 County.

5 **PARTIES**

6 7. Quirky, Inc. was a community-led invention platform. Quirky raised about \$200 million
7 from investors, had a partnership with General Electric, and sold its products through a variety of retail
8 channels, such as Target, Walgreens, and the Museum of Modern Art. Wink, Inc., n/k/a Wink Dissolution
9 Corp. is a wholly-owned subsidiary of Quirky, Inc. Wink developed a platform for wireless-enabled
10 products that allowed consumers to control household appliances and services through their connected
11 devices and the internet. Through partnerships with General Electric, Honeywell, Nest, Phillips and
12 others, over 60 Wink-enabled products were available in the marketplace. Wink enabled homeowners to
13 wirelessly connect their lighting, power, and security systems through a single application. Quirky and
14 Wink (collectively, “Quirky,” or “Plaintiffs”) filed for bankruptcy in September 2015. During the relevant
15 time period, Plaintiffs were incorporated in Delaware and their principal place of business was New York.
16 Therefore, Plaintiffs are citizens of both New York and Delaware. Between May 4, 2014 and September
17 23, 2016, Plaintiffs purchased video advertising services from Facebook.

18 8. Defendant Facebook, Inc. is incorporated in Delaware, and its principal place of business
19 is 1 Hacker Way, Menlo Park, CA 94025. Facebook is, therefore, a citizen of both Delaware and
20 California.

21 **FACTUAL ALLEGATIONS**

22 9. Facebook is a Fortune 500 company that operates social media services, including the
23 www.facebook.com and www.instagram.com websites and the WhatsApp Messenger application.

24 10. Facebook.com has 1.79 billion monthly active users.³ Users do not pay Facebook to create
25 a facebook.com account. Once a user opens a Facebook account, the account holder can, at no cost, create
26 a profile page, post content (such as photographs, videos, and links to articles), make friends with other
27

28 ³ Facebook, *Company Info*, <http://newsroom.fb.com/company-info/> (last accessed: Jan. 9, 2017).

1 users, and view content posted by other users.

2 11. Instead of charging account holders to access facebook.com, Facebook makes money by
3 selling advertising services. Facebook earns most of its revenue from advertising. For example, in 2015,
4 Facebook's advertising revenue was over \$17.0 billion, more than 95% of its overall revenue.⁴

5 12. One type of advertising service Facebook sells is video advertisements, where advertisers
6 can pay money to have video displayed to Facebook users. "Facebook videos (including video ad
7 products) autoplay by default . . . though the audio remains off unless users actively turn it on."⁵ Facebook
8 allows users to scroll past autoplating videos (including video advertisements) without ever turning on
9 the sound or watching more than a few seconds of the video.

10 13. As part of Facebook's video advertising services, advertisers can choose to purchase
11 advertisements with specific objectives, including maximizing "Brand awareness," "Video views," or
12 "Conversions." Facebook says that a "Brand awareness" campaign will "[i]ncrease awareness for your
13 brand," whereas a "Video views" campaign will "[g]et more people to view your video content," and a
14 "Conversions" campaign will "[d]rive valuable actions on your website or app."

15 14. Facebook video advertising services include marketing analytics, which enable purchasers
16 to monitor and evaluate their video advertisements' performance. Marketing analytics refers to the
17 practice of measuring and analyzing the performance of an advertising or marketing campaign using data
18 from a variety of metrics. One of the main selling points of online advertising is that it offers more detailed
19 and closer to real time marketing analytics than traditional media (such as television or radio), and online
20 advertisement sellers such as Facebook have promoted their marketing analytics as a prime reason that
21 advertisers should purchase advertisements on their platforms.⁶ Online advertisers do so because
22 advertisers use analytics to determine where to spend advertising dollars and the effectiveness of the
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24
25 ⁴ Facebook, Inc., Annual Report (Form 10-K) at 42 (Jan. 28, 2016).

26 ⁵ Eric Blattberg, *Like it or not, autoplay video won* (Apr. 21, 2015),
<http://digiday.com/publishers/autoplay-video-beat-regular-video-sorry-guys/>.

27 ⁶ See, e.g., Yahoo, *Yahoo! Gemini*, <https://gemini.yahoo.com/advertiser/home> ("Measure the impact of
28 your campaigns and drive better results by accessing actionable insights . . .").

1 dollars spent. As an article in the Harvard Business Review explains, analytics allow companies to make
2 informed decisions about how to allocate their limited marketing budgets across different mediums (such
3 as television, YouTube, or Facebook), to determine which advertising campaigns to “expand” and which
4 to “kill,” and to “readily adjust or allocate advertising in different markets on a monthly, weekly, or daily
5 basis—and, online, even from one fraction of a second to the next.”⁷

6 15. The importance of analytics is apparent in the competitive online video advertising
7 market. YouTube, LinkedIn, Twitter, and Facebook all have online video advertising offerings and all
8 emphasize the value of their analytics platforms. When Facebook was first entering the online video
9 advertising space, it knew that its analytics would be the key to its success. A November 2013 private
10 presentation Facebook gave to its advertising partners (“November 2013 Presentation”) provided talking
11 points on how to convince potential customers to purchase Facebook video advertisements instead of
12 other video advertisements, such as YouTube advertisements or television advertisements. The
13 presentation acknowledged that one of the weaknesses of Facebook’s video advertising platform was the
14 lack of metrics provided to video purchasers. The presentation stated, “Currently, we only report on video
15 plays, which is a weakness compared to YouTube, which reports on video views, completed views, and
16 average duration of view. We are working on building out our video insights to give advertisers a better
17 sense for how videos are performing. New video insights target launch: Q1 2014.”⁸

18 16. In May 2014, Facebook began providing video advertising purchasers with new analytics,
19 including video views, completed views, and average duration of view, as part of Facebook’s video
20 advertising services. Facebook told its users that the purpose of the new analytics was to help video
21 advertising purchasers “learn what’s resonating with people and determine how to more effectively create
22 and promote your videos on Facebook.”⁹ Facebook said its Audience Retention analytics in particular,
23

24
25 ⁷ *Id.*

26 ⁸ Josh Constine, *Leaked Facebook Video Ad Pitch Deck Reveals Plans To Steal TV and YouTube*
Dollars, TechCrunch (Dec. 13, 2013), <https://techcrunch.com/2013/12/13/facebook-vs-tv-and-youtube>.

27 ⁹ Facebook, *Introducing Video Metrics* (May 5, 2014),
<https://www.facebook.com/business/news/Coming-Soon-Video-Metrics>.

1 such as Average Duration of Video Viewed, would assist video advertising purchasers in identifying
2 underperforming videos and finding “the precise moment when most people lost interest and stopped
3 watching.”¹⁰ Facebook knew and acknowledged that “having access to reliable metrics is important to
4 the millions of partners who use our services to grow their businesses.”

5 17. “Average Duration of Video Viewed,” which is the average amount of time that users
6 watched a video, is one of the most important analytics used in evaluating video advertisements’
7 performance. Average Duration of Video Viewed is a measure of “retention,” which advertisers care
8 about because the longer people watch an advertisement, the greater the advertisement’s impact on the
9 viewer.¹¹ One study of video advertising campaigns on Facebook found that increasing retention of a
10 viewer from the 3-second mark to the 10-second mark in a video resulted in a 57 percent increase in ad
11 recall, a 103 percent increase in brand awareness, and a 64 percent increase in “purchase intent” (the
12 intent to the purchase the advertised product).¹² And because advertisers place higher value upon video
13 advertisements that are viewed for longer periods, they are willing to pay more for such advertisements.

14 18. After Facebook announced and released its new video analytics platform in May 2014,
15 Quirky and putative class members purchased video advertising services from Facebook with the
16 understanding that video advertising analytics were included in the purchased advertising services.

17 19. Upon introducing the new video metrics in their analytics platform, Facebook didn’t
18 disclose that its new video metrics were not audited or accredited by the Media Rating Council, the
19 marketing industry’s standard-bearer for accurate measurements.

20 20. As acknowledged by Facebook in its private November 2013 Presentation and public
21 statements, Facebook created and disseminated the new video analytics platform and its video metrics to
22 induce users to purchase Facebook’s video advertising services.

23 21. Among the new video metrics provided by Facebook were “Average Duration of Video
24 Viewed” and the “Average Percentage of Video Viewed.” Below is example of how these video
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26
27 ¹⁰ *Id.*

¹¹ Facebook Business, *The Value of Video for Brands* (Mar. 17, 2015),
28 <https://www.facebook.com/business/news/value-of-video>.

¹² *Id.*

1 advertising metrics would appear on a user’s screen:



22. Facebook told advertising purchasers that the “Average Duration of Video Viewed” was the “total time spent watching a video divided by the total number of people who have played the video.”

¹³ Figure 1, below, depicts how Facebook defined “Average Duration of Video Viewed.”

¹³ Facebook, *How Is the “Average Duration of Video Viewed” Calculated?*, <https://www.facebook.com/business/help/community/question/?id=10104227902985423> (late accessed: Jan. 9, 2017).

Figure 1: Formula for Facebook’s “Definition” of “Average Duration of Video Viewed”

$$\text{Average Duration of Video Viewed} = \frac{\text{Total time spent watching the video by all users combined}}{\text{Total number of users who spent any time watching the video}}$$

23. In August 2016, Facebook disclosed in a post in its “Advertising Help Center” that its “Average Duration of Video Viewed” and “Average Percentage of Video Viewed” metrics had been improperly calculated. Facebook admitted that it had erroneously “*calculated* the Average Duration of Video Viewed as ‘the total time spent watching a video divided by *only* the number of people who have viewed a video for three or more seconds’”¹⁴ The “Average % of Video Viewed” was also erroneous because Facebook calculated that metric by using the “Average Duration of Video Viewed” as a calculation input. Figure 2 below, depicts how Facebook erroneously calculated “Average Duration of Video Viewed.”¹⁵

Figure 2: Formula for How Facebook Actually Calculated “Average Duration of Video Viewed” from May 2014 to September 2016

$$\text{Average Duration of Video Viewed} = \frac{\text{Total time spent watching the video by all users combined}}{\text{Total number of users who spent three or more seconds watching the video}}$$

24. On or about September 23, 2016, David Fischer, Facebook’s vice president of business and marketing partnerships, admitted that, due to Facebook’s miscalculation, Facebook had misrepresented its “Average Duration of Video Viewed” metric. He wrote that the “average duration of video viewed ... metric should have reflected the total time spent watching a video divided by the total number of people who played the video. But it didn’t – it reflected the total time spent watching a video divided by only the number of ‘views’ of a video (that is, when the video was watched for three or more

¹⁴ *Id.*

¹⁵ *Id.*

seconds). And so the miscalculation overstated this metric.”¹⁶

25. Facebook’s “Average Duration of Video Viewed” metric was inflated because when calculating the average, Facebook included the total time spent by under-3-second viewers in watching the video in the numerator of the fraction, but excluded these under-3-second views from the denominator of the fraction. Thus, Facebook’s “Average Duration of Video Viewed” metric failed to align its criteria for eligible viewing time (the numerator) and its criteria for an eligible view (the denominator).

26. The impact of the numerator-denominator mismatch can be seen through the following illustration.

Figure 3: Example - How Duration Metric *Should Have Been Calculated*, According to Facebook’s Definition, For Video Viewed By Four Users for 1, 2, 4, and 9 seconds respectively.

$$\text{Average Duration} = \frac{1 \text{ sec.} + 2 \text{ secs.} + 4 \text{ secs.} + 9 \text{ secs.}}{4 \text{ total users who watched the video}} = \frac{16 \text{ seconds}}{4} = 4 \text{ seconds}$$

Figure 4: Example - How Duration Metric *Was Actually Calculated*, From May 2014 to September 2016, For Video Viewed By Four Users for 1, 2, 4, and 9 seconds respectively.

$$\text{Average Duration} = \frac{1 \text{ sec.} + 2 \text{ secs.} + 4 \text{ secs.} + 9 \text{ secs.}}{2 \text{ users who watched your video for 3 or more seconds}} = \frac{16 \text{ seconds}}{2} = 8 \text{ seconds}$$

27. Figure 3 demonstrates how Facebook should have measured average duration of video viewed according to its definition. By using the correct method, all four viewers are included in the denominator, yielding an average duration of video viewed of 4 seconds in this hypothetical. Figure 4 demonstrates what Facebook actually did by excluding the video-watches under 3 seconds from the denominator. In this hypothetical, 2 of the 4 video-watches are dropped from the denominator, causing the average duration of video viewed to incorrectly rise to 8 seconds.

¹⁶ David Fischer, *Facebook Video Metrics Update*, Facebook.com (Sept. 23, 2016) <https://www.facebook.com/business/news/facebook-video-metrics-update>.

1 28. By including the time spent watching the videos by users who viewed the videos for less
2 than 3 seconds, while excluding those “under 3-second” users from the denominator, the Average
3 Duration of Video Viewed metric not only failed to reflect its stated definition, it also created a highly
4 misleading result that favored Facebook.

5 29. Facebook informed some its advertisers that it inflated the “Average Duration of Video
6 Viewed” by between 60 and 80%.¹⁷ The inflated metric thus made video advertisements *appear* as if they
7 were performing much better on Facebook than they actually were.

8 30. The 60 to 80% inflation in the “Average Duration of Video Viewed” metric reveals that
9 many users watch Facebook videos advertisements for less than 3 seconds. When users scroll right past
10 muted video advertisements, the users have, under Facebook’s reported metric for “Average Duration of
11 Video Viewed,” technically spent time watching the video advertisement. Thus, many of the 1-2 second
12 video-watches (that contributed to the numerator, but not the denominator, of Average Duration of Video
13 Viewed) reflect users quickly scrolling past muted auto-playing video advertisements.

14 31. Video advertising purchasers, including Quirky, viewed the “Average Duration of Video
15 Viewed” and “Average % of Video Viewed” as important metrics because users are more likely to
16 remember a video advertisement and be affected by it if they watch a longer portion of the advertisement.

17 32. Facebook’s misrepresentations induced video advertising purchasers, including Quirky,
18 to purchase video advertisements because purchasers wanted accurate video advertising metrics
19 regarding “Average Duration of Video Viewed” and “Average % of Video Viewed” so that they could
20 monitor their video advertisements’ performance.

21 33. Facebook’s misrepresentations induced video advertising purchasers, including Quirky,
22 to continue purchasing video advertisements, and to purchase additional video advertisements, because
23 purchasers believed that users were watching their videos, on average, for longer than users were actually
24 watching their videos.

25 34. Facebook’s misrepresentations induced video advertising purchasers, including Quirky,
26

27 ¹⁷ Suzanne Vranica and Jack Marshall, *Facebook Overestimated Key Video Metric for Two Years*, Wall
28 Street Journal (Sept. 22, 2016, 7:29 PM), <http://www.wsj.com/articles/facebook-overestimated-key-video-metric-for-two-years-1474586951>

1 to pay more for Facebook video advertising than they otherwise would have been willing to pay.

2 35. Facebook’s misrepresentations thereby distorted the market price for its video advertising
3 by artificially increasing the price of Facebook video advertising, causing video advertising purchasers,
4 including Quirky, to pay more than they otherwise would have paid.

5 36. Facebook’s misrepresentations provided Facebook with an unfair competitive advantage
6 over other online video advertising platforms, such as YouTube, LinkedIn, and Twitter.

7 37. Facebook’s misrepresentations interfered with Quirky and other putative class members’
8 attempts to utilize Facebook’s video advertising analytics, and to run effective video advertising
9 campaigns.

10 **CLASS ALLEGATIONS**

11 38. Plaintiffs re-allege and incorporate by reference herein all of the allegations contained
12 above.

13 39. Pursuant to the Federal Rule of Civil P. 23(b)(3), Plaintiffs assert claims on behalf of the
14 following “Class”:

15 *All persons or entities who, from May 4, 2014 to September 23, 2016 (“Class Period”),*
16 *had an account with Facebook, Inc. and who paid for placement of video advertisements*
17 *on a Facebook-owned website.*

18 Excluded from the Class are Defendant, any entity in which Defendant has a controlling interest, and
19 Defendant’s officers, directors, legal representatives, successors, subsidiaries, and assigns. Also excluded
20 from the Class is any judge, justice, or judicial officer presiding over this matter and the members of their
21 immediate families and judicial staff.

22 40. This action has been brought and may properly be maintained as a class action as it
23 satisfies the numerosity, commonality, typicality, adequacy, and superiority requirements of Rule
24 23(b)(3). Plaintiffs seek to represent an ascertainable Class, as determining inclusion in the class can be
25 done through Facebook’s own records.

26 41. Plaintiffs reserve the right to amend the Class definition if discovery and further
27 investigation reveal that the Class should be expanded, divided into subclasses, or modified in any other
28 way.

1 42. Although the precise number of Class members is unknown and can only be determined
2 through appropriate discovery, Plaintiffs believe, and on that basis allege, that the proposed Class is so
3 numerous that joinder of all members would be impracticable as Facebook sells millions of
4 advertisements annually, and a significant portion of those advertisements are video advertisements.

5 43. Questions of law and fact common to the putative Class exist that predominate over
6 questions affecting only individual members, including *inter alia*:

- 7 a. Whether Facebook made material misrepresentations about its video advertising
8 services, including misrepresenting the “Average Duration of Video Viewed” and
9 “Average % of Video Viewed” metrics;
- 10 b. Whether Facebook’s use of inaccurate, unaudited, and unverified video metrics
11 was likely to deceive members of the public and thus constituted a fraudulent
12 business practice under California’s Unfair Competition Law (Cal. Bus. & Prof.
13 Code § 17200);
- 14 c. Whether Facebook’s failure to properly audit and verify its video metrics was
15 unethical, unscrupulous, or substantially injurious to video advertising purchasers
16 and thus constituted an unfair business practice under California’s Unfair
17 Competition Law; and
- 18 d. Whether and in what amount Facebook acquired money by means of its
19 dissemination of inflated and improperly verified video metrics.

20 44. Plaintiffs are members of the putative Class. The claims asserted by the Plaintiffs in this
21 action are typical of the claims of the members of the putative Class, as the claims arise from the same
22 course of conduct by the Defendant and the relief sought is common.

23 45. Plaintiffs will fairly and adequately represent and protect the interests of the members of
24 the putative Class, as their interests are coincident with, not antagonistic to, the other members of the
25 Class.

26 46. Plaintiffs have retained counsel competent and experienced in both consumer protection
27 and class action litigation. Plaintiffs’ counsel specifically has experience litigating some of the largest
28 and most complex consumer class actions, including numerous consumer class actions in the Northern

1 District of California.

2 47. Certification of the Class is appropriate pursuant to Fed. R. Civ. P. 23(b)(3) because
3 questions of law or fact common to the respective members of the Class predominate over questions of
4 law or fact affecting only individual members. This predominance makes class litigation superior to any
5 other method available for the fair and efficient adjudication of these claims including consistency of
6 adjudications. Absent a class action it would be highly unlikely that the members of the Class would be
7 able to protect their own interests because the cost of litigation through individual lawsuits might exceed
8 the expected recovery.

9 48. A class action is a superior method for the adjudication of the controversy in that it will
10 permit a large number of claims to be resolved in a single forum simultaneously, efficiently, and without
11 the unnecessary hardship that would result from the prosecution of numerous individual actions and the
12 duplication of discovery, effort, expense, and the burden of the courts that individual actions would create.

13 49. The benefits of proceeding as a class action, including providing a method for obtaining
14 redress for claims that would not be practical to pursue individually, outweigh any difficulties that might
15 be argued with regard to the management of the class action.

16 **CAUSE OF ACTION**

17 **(On behalf of the Class)¹⁸**

18 **CALIFORNIA UNFAIR COMPETITION LAW,**

19 **CAL. BUS. & PROF. CODE § 17200, *et seq.***

20 50. Plaintiffs re-allege and incorporate by reference herein all of the allegations contained
21 above.

22 51. Facebook violated California's Unfair Competition Law (UCL), Cal. Bus. & Prof. Code
23 §17200 *et seq.*, by engaging in the fraudulent and unfair business acts and practices alleged previously,
24 and as further specified below.

25 52. Facebook's dissemination of inaccurate and inflated video-advertising metrics constitutes
26

27 ¹⁸ Pursuant to Facebook's terms of service, the laws of the State of California govern "any claim" that
28 arises between Facebook and its users, "without regard to conflict of law provisions." Facebook,
Statement of Rights and Responsibilities, <https://www.facebook.com/terms> (last accessed: Jan. 9, 2017).

1 a fraudulent practice under the UCL, as it is likely to deceive Class members into believing that their
2 video advertisements were viewed, on an average, for a longer duration than they actually were viewed.

3 53. Facebook's failure to properly audit and verify the accuracy of its video-advertising
4 metrics before disseminating them to Class members is unethical, unscrupulous, and substantially
5 injurious to video-advertising purchasers, and thus constitutes an unfair practice under the UCL.
6 Facebook's practice was also contrary to legislatively declared and public policies that seek to protect
7 consumers from misleading statements, as reflected by laws like the Federal Trade Commission Act (15
8 U.S.C. § 45), Consumers Legal Remedies Act (Cal. Civ. Code § 1750 et seq.), and California False
9 Advertising Law (Cal Bus. & Prof. Code § 17500). The harm these practices caused to Plaintiffs and the
10 Class members outweigh their utility, if any.

11 54. Facebook should have known that its metrics for "Average Duration of Video Viewed"
12 and "Average % of Video Viewed" were inaccurate and inflated, and had Facebook properly audited and
13 verified its video-advertising metrics it would have known that those metrics were inaccurate and inflated.
14 The calculation errors that Facebook allowed to persist for over two years were obvious errors that would
15 have been discovered by a reasonable auditing and verification process.

16 55. Facebook's failure to employ reasonable auditing and verification procedures gave it an
17 unfair competitive advantage, as it allowed Facebook to provide video-advertising services at a lower
18 cost and made those advertising services appear to be more effective than they were.

19 56. Plaintiffs have standing to bring these claims under the UCL because they were injured
20 and lost money or property, including but not limited to money paid for Facebook video advertisements,
21 as a result of Facebook's fraudulent and unfair business practices. Among other things, Plaintiffs would
22 not have bought as much video-advertising services if Facebook had not disseminated inflated metrics
23 and would have paid a lower price for the video-advertising services they did purchase.

24 57. Pursuant to Cal. Bus. & Prof. Code § 17203, Plaintiffs seek equitable relief to prevent the
25 continued use of Facebook's unfair and fraudulent practices and to restore to the Class all money
26 Facebook may have acquired by means of its fraudulent and unfair business practices.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, Quirky, on behalf of itself and the Class, seeks the following relief:

1 A. An order certifying this action as a class action under Fed. R. Civ. P. 23, defining the Class
2 as requested herein, appointing Cohen Milstein Sellers & Toll PLLC and Gibbs Law Group LLP as Class
3 counsel, and finding that Plaintiffs are proper representatives of the Class requested herein.

4 B. Plaintiffs request injunctive relief. Awarding injunctive and other equitable relief as is
5 necessary to protect the interests of the Class, including: (i) an order prohibiting Facebook from engaging
6 in the wrongful acts described herein; (ii) requiring Facebook to engage third-party auditors to conduct
7 audits and evaluations of Facebook's advertising metrics on a periodic basis and ordering them to
8 promptly correct any problems or issues detected by these auditors, and (iii) requiring Facebook to
9 disclose any further inaccurate advertising metrics in a timely and accurate manner.

10 C. Plaintiffs also request equitable relief, restitution, attorneys' fees, statutory costs, and such
11 other and further relief as is just and proper. Plaintiffs seek attorneys' fees under California Code of Civil
12 Procedure 1021.5.

13
14 DATED: January 17, 2017

Respectfully submitted,

GIBBS LAW GROUP LLP

By: /s/ Eric H. Gibbs

Eric H. Gibbs (SBN 178658)
ehg@classlawgroup.com
Dylan Hughes (SBN 209113)
dsh@classlawgroup.com
Aaron Blumenthal (SBN 310605)
ab@classlawgroup.com
504 14th Street, Suite 1110
Oakland, CA 94612
Telephone: (510) 350-9700
Facsimile: (510) 350-9701

COHEN MILSTEIN SELLERS & TOLL PLLC

By: /s/ Geoffrey Graber

Andrew N. Friedman (*pro hac vice forthcoming*)
afriedman@cohenmilstein.com
Geoffrey Graber (SBN 211547)
ggraber@cohenmilstein.com

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Eric Kafka (*pro hac vice forthcoming*)
ekafka@cohenmilstein.com
1100 New York Ave. NW, Fifth Floor
Washington, DC 20005
Telephone: (202) 408-4600
Facsimile: (202) 408-4699

Michael Eisenkraft (*pro hac vice forthcoming*)
meisenkraft@cohenmilstein.com
COHEN MILSTEIN SELLERS & TOLL PLLC
88 Pine Street, 14th Floor
New York, NY 10005
Telephone: (212) 838-7797
Facsimile: (212) 838-7745

Aisha Christian (*pro hac vice forthcoming*)
129 West 27th Street, 11th Floor
New York, NY 10001
Telephone: (646) 285-2029

Charles Reichmann (SBN 206699)
charles.reichmann@gmail.com
LAW OFFICES OF CHARLES REICHMANN
16 Yale Circle
Kensington, CA 94708-1015
Telephone: (415) 373-8849

Counsel for Plaintiffs and Proposed Class