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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 JOHN DOE,

12 Plaintiff,

13 vs.

14 BORDERLAND BEAT, BLOGGER.COM,
15 GOOGLE LLC, EL SIGLO DE TORREON,
16 NOVENTA GRADOS, CODIGO ROJO
17 NOTICIAS, INFOBAE, EL MANANA,
18 REPORTE NIVEL UNO, OMNIA, VALOR
19 TAMAULIPECO, REFORMA, EL NORTE,
20 NOTICIAS PV NAYARIT, VANGUARDIA,
21 and ROES 1-50, inclusive,

22 Defendants.

Case No.:

COMPLAINT FOR DAMAGES

(Breach of Privacy – 18 U.S.C. § 2724,
Negligence, Negligence Per Se, Public
Disclosure of Private Facts, Intentional
Infliction of Emotional Distress, Negligent
Infliction of Emotional Distress)

JURY TRIAL DEMANDED

1 **INTRODUCTION**

- 2 1. This action arises out of Defendant Borderland Beat’s public disclosure of John Doe’s
3 driver’s license in violation of 18 United States Code section 2724. Borderland Beat
4 posts through Blogger.com, which is owned by Google LLC.
5
6 2. As part of the same transaction or occurrence, Defendant newspapers continue to re-
7 publish online protected information such as, without limitation, John Doe’s residence in
8 California and medical information, despite actual notice that the source of such
9 information has been permanently sealed by a court of competent jurisdiction.
10

11 **JURISDICTION**

- 12 3. This action arises under Title 18 of the United States Code, section 2724. This court has
13 subject matter jurisdiction pursuant to 28 United States Code section 1331. The court has
14 pendent jurisdiction and supplemental jurisdiction over the state law claims alleged in
15 this Complaint pursuant to 28 U.S.C. section 1367.
16
17 4. Defendants Blogger.com and Google LLC reside within this judicial district. Title 28
18 United States Code section 1391, subdivision (b), or in the alternative subdivision (c),
19 confer venue upon this Court.
20
21 5. Defendant newspapers, EL SIGLO DE TORREON, NOVENTA GRADOS, CODIGO
22 ROJO NOTICIAS, INFOBAE, EL MANANA, REPORTE NIVEL UNO, OMNIA,
23 VALOR TAMAULIPECO, REFORMA, EL NORTE, NOTICIAS PV NAYARIT,
24 VANGUARDIA, are properly sued here pursuant to *Calder v. Jones*, 465 U.S. 783, 788
25 (1984) as California is the focal point both of the story and of the harm suffered.
26

27 **PARTIES**

- 28 6. Plaintiff John Doe is a resident of California.

- 1 7. Defendants Blogger.com and Google LLC is and at all times herein mentioned a
2 corporate entity, duly organized and existing under the laws of the State of Delaware,
3 with its principal place of business, or nerve center, in Mountain View, California.
4
- 5 8. Defendant Borderland Beat is a Blog that uses the Blogger.com platform.
- 6 9. Defendants Borderland Beat, Blogger.com and Google LLC, and ROES 1 through 25,
7 are legally responsible and liable for the breach, injuries and damages hereinafter set
8 forth. Each defendant is liable for his/her personal conduct, vicarious or imputed
9 negligence, fault, or breach of duty, whether severally or jointly, or whether based upon
10 agency, employment, ownership, entrustment, custody, care or control or upon any other
11 act or omission.
12
- 13 10. Defendants EL SIGLO DE TORREON, NOVENTA GRADOS, CODIGO ROJO
14 NOTICIAS, INFOBAE, EL MANANA, REPORTE NIVEL UNO, OMNIA, VALOR
15 TAMAULIPECO, REFORMA, EL NORTE, NOTICIAS PV NAYARIT,
16 VANGUARDIA are newspapers and/or blogs that publish via the internet.
17
- 18 11. Defendant VALOR TAMAULIPECO uses the Blogger.com platform.
- 19
- 20 12. Defendant EL MANANA has its nerve center in Texas.
- 21 13. Defendant INFOBAE is a foreign entity located in Argentina.
- 22 14. Defendants EL SIGLO DE TORREON, NOVENTA GRADOS, CODIGO ROJO
23 NOTICIAS, REPORTE NIVEL UNO, OMNIA, REFORMA, EL NORTE, NOTICIAS
24 PV NAYARIT, VANGUARDIA are foreign entities located in Mexico.
25
- 26 15. Defendants EL SIGLO DE TORREON, NOVENTA GRADOS, CODIGO ROJO
27 NOTICIAS, INFOBAE, EL MANANA, REPORTE NIVEL UNO, OMNIA, VALOR
28 TAMAULIPECO, REFORMA, EL NORTE, NOTICIAS PV NAYARIT,

1 VANGUARDIA, Blogger.com and Google LLC, and ROES 26 through 50, are legally
2 responsible and liable for the breach, injuries and damages hereinafter set forth. Each
3 defendant is liable for his/her personal conduct, vicarious or imputed negligence, fault,
4 or breach of duty, whether severally or jointly, or whether based upon agency,
5 employment, ownership, entrustment, custody, care or control or upon any other act or
6 omission.
7

8 **STATEMENT OF FACTS**
9

- 10 16. On or about June 23, 2020, Defendant Borderland Beat published a true and correct
11 photo of John Doe’s California Driver’s License without redaction, publishing the
12 driver’s license number, address, sex, height, weight, date of birth and signature of John
13 Doe.
14
- 15 17. Defendant Borderland Beat captioned the photograph as “California driver’s license of
16 [John Doe].”
- 17 18. Blogger.com has an express content policy for its bloggers that includes, “Personal and
18 confidential information: It's not ok to publish another person's personal and confidential
19 information. For example, don't post someone else's credit card numbers, Social Security
20 numbers, unlisted phone numbers, and **driver's license numbers**. In addition, do not
21 post or distribute images or videos of minors without the necessary consent from their
22 legal representatives. If someone has posted an image or video of a minor without
23 necessary consent, please report it to us here. Also, please keep in mind that in most
24 cases, information that is already available elsewhere on the Internet or in public records
25 is not considered to be private or confidential under our policies.” (bold added.)
26
27
28

1 19. Blogger.com’s enforcement of its content policy states, “Our team reviews user flags for
2 policy violations.”

3 20. Blogger.com failed to flag the unlawful publication and negligently allowed Defendant
4 Borderland Beat to post and publish the confidential information despite Blogger.com’s
5 express policy.

6 21. Blogger.com continues to allow Defendant Borderland Beat to post articles despite their
7 egregious violation of Blogger.com’s policy.

8 22. On or about the same day, several news outlets including Defendants EL SIGLO DE
9 TORREON, NOVENTA GRADOS, CODIGO ROJO NOTICIAS, INFOBAE, EL
10 MANANA, REPORTE NIVEL UNO, OMNIA, VALOR TAMAULIPECO,
11 REFORMA, EL NORTE, NOTICIAS PV NAYARIT, VANGUARDIA published
12 articles disclosing Mr. Doe’s residence in California and medical condition, among other
13 private information.

14 23. On or about July 27, 2020, a court of competent jurisdiction sealed the private
15 information.

16 24. Thereafter, Defendants EL SIGLO DE TORREON, NOVENTA GRADOS, CODIGO
17 ROJO NOTICIAS, INFOBAE, EL MANANA, REPORTE NIVEL UNO, OMNIA,
18 VALOR TAMAULIPECO, REFORMA, EL NORTE, NOTICIAS PV NAYARIT,
19 VANGUARDIA received actual and/or constructive notice that their continued
20 publication of the information was unlawful and would subject them to punitive
21 damages.

22 25. Defendants EL SIGLO DE TORREON, NOVENTA GRADOS, CODIGO ROJO
23 NOTICIAS, INFOBAE, EL MANANA, REPORTE NIVEL UNO, OMNIA, VALOR
24

1 TAMAULIPECO, REFORMA, EL NORTE, NOTICIAS PV NAYARIT,
2 VANGUARDIA knowingly continue to re-publish the private information.

3
4 **DAMAGES**

5 26. As a proximate result of Defendants' conduct, Plaintiff has suffered damages including
6 emotional distress, fear, terror, anxiety, humiliation, a loss of sense of security, dignity,
7 pride, invasion of privacy, and attorney's fees. Plaintiff had to hire security for
8 protection.

9
10 27. The conduct of Defendants was malicious, wanton, and oppressive. Plaintiff is therefore
11 entitled to an award of punitive damages against said Defendants.

12 **CAUSES OF ACTION**

13
14 **FIRST CAUSE OF ACTION**

15 **(Breach of Privacy, 18 U.S.C. section 2724)**

16 *(Against Defendants Borderland Beat, Blogger.com, Google LLC, and ROES 1-*
17 *25, inclusive)*

18 28. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27 of this
19 Complaint.

20
21 29. Borderland Beat knowingly obtained, disclosed or used personal information from a
22 motor vehicle record of John Doe for a purpose not permitted under 18 U.S.C. 2724.

23 30. As a result of their misconduct, Defendants are liable for Plaintiff's injuries and
24 damages, either because they were integral participants in obtaining, disclosing or using
25 the personal information from a motor vehicle record or because they failed to intervene
26 to prevent these violations.
27
28

1 31. Plaintiff is entitled to actual damages, punitive damages as Defendants conduct was
2 willful or reckless disregard of the law, attorney's fees and litigation costs, and equitable
3 relief.
4

5 **SECOND CAUSE OF ACTION**

6 **(Negligence Per Se)**

7 *(Against Defendants Borderland Beat, Blogger.com, Google LLC, and ROES 1-25,*
8 *inclusive)*
9

10 32. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27 of this
11 Complaint.

12 33. Borderland Beat knowingly disclosed the residence address of John Doe within the
13 meaning of California Vehicle Code section 1808.21(a).
14

15 34. The violation of California Vehicle Code section 1808.21(a) was a substantial factor in
16 bringing about the harm.

17 35. Plaintiff John Doe was harmed.

18 36. Defendants' conduct constitutes oppression, fraud, or malice within the meaning of Civil
19 Code section 3294, subdivision (a) and subjects them to punitive damages.
20

21 **THIRD CAUSE OF ACTION**

22 **(Negligence)**

23 *(Against Defendants Borderland Beat, Blogger.com, Google LLC, and ROES 1-25,*
24 *inclusive)*
25

26 37. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27 of this
27 Complaint.
28

1 38. Borderland Beat knowingly obtained, disclosed or used personal information from a
2 motor vehicle record of John Doe. Blogger.com, owned and operated by Google LLC,
3 was negligent in failing to preventing the disclosure.
4

5 39. Plaintiff John Doe was harmed.

6 40. Defendants' negligence was a substantial factor in causing Plaintiff John Doe's harm.

7 41. Defendants' conduct constitutes oppression, fraud, or malice within the meaning of Civil
8 Code section 3294, subdivision (a) and subjects them to punitive damages.
9

10 **FOURTH CAUSE OF ACTION**

11 **(Public Disclosure of Private Facts)**

12 *(Against Defendants El Siglo De Torreon, Noventa Grados,Codigo Rojo Noticias, Infobae,*
13 *El Manana, Reporte Nivel Uno, Omnia, Valor Tamaulipeco, Reforma, El Norte, Noticias PV*
14 *Nayarit, Vanguardia, Blogger.com, Google LLC, and ROES 26-50, inclusive)*
15

16 42. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27 of this
17 Complaint.
18

19 43. Defendants violated Plaintiff's right to privacy.

20 44. Defendants publicized private information concerning Plaintiff.

21 45. That a reasonable person in Plaintiff's position would consider the publicity highly
22 offensive.
23

24 46. That Defendants knew, or acted with reckless disregard of the fact, that a reasonable
25 person in Plaintiff's position would consider the publicity highly offensive.

26 47. That the private information was not of legitimate public concern or did not have a
27 connection to a matter of legitimate public concern.
28

48. That Plaintiff was harmed.

1 49. That Defendants' conduct was a substantial factor in causing Plaintiff's harm.

2 50. The conduct of Defendants was malicious, wanton, and oppressive. Plaintiff is therefore
3 entitled to an award of punitive damages against said Defendants.
4

5 ///

6 **FIFTH CAUSE OF ACTION**

7 **(Intentional Infliction of Emotional Distress)**

8 *(Against all Defendants)*
9

10 51. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27 of this
11 Complaint.

12 52. Defendants' conduct was outrageous.

13 53. Defendants intended to cause Plaintiff emotional distress.

14 54. Plaintiff suffered severe emotional distress.

15 55. Defendants' conduct was a substantial factor in causing Plaintiff's severe emotional
16 distress.
17

18 56. The conduct of Defendants was malicious, wanton, and oppressive. Plaintiff is therefore
19 entitled to an award of punitive damages against said Defendants.
20

21 **SIXTH CAUSE OF ACTION**

22 **(Negligent Infliction of Emotional Distress)**

23 *(Against all Defendants)*
24

25 57. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27 of this
26 Complaint.

27 58. Defendants' conduct caused him to suffer serious emotional distress.

28 59. Defendants were negligent.

1 60. Plaintiff suffered serious emotional distress;

2 61. Defendants' negligence was a substantial factor in causing Plaintiff's serious emotional
3 distress.
4

5 62. The conduct of Defendants was malicious, wanton, and oppressive. Plaintiff is therefore
6 entitled to an award of punitive damages against said Defendants.

7 **JURY DEMAND**

8 63. Pursuant to Federal Rules of Civil Procedure Rule 38(b), and Rule 3-6, Local Rules,
9 United States District Court, Northern District of California, Plaintiff hereby demands a
10 jury trial for all the issues plead herein so triable.
11

12 WHEREFORE, Plaintiff pray for relief as hereinafter set forth.

13 **PRAYER**

14 WHEREFORE, Plaintiff pray for relief, as follows:

- 15
- 16 1. For actual damages in a sum to be proven at trial in the amount of \$50,000;
 - 17 2. For punitive damages in the amount of \$100,000;
 - 18 3. For reasonable attorney's fees in the amount of \$100,000;
 - 19 4. For costs of suit herein incurred;
 - 20 5. For declaratory and injunctive relief as the Court deems just and proper; and
 - 21 6. For such other and further relief as the Court deems just and proper.
- 22

23 Dated: September 29, 2020.

24 Respectfully submitted,
25 CASE LAW LTD.

26 /s/ Jeffrey L. Mendelman

27 JEFFREY L. MENDELMAN

28 Attorney for Plaintiff