

EDELSBERG LAW, P.A.
Scott Edelsberg, Esq. (CA Bar No. 330990)
1920 Century Park E #170
Los Angeles, CA 90067
Telephone: 305-975-3320
scott@edelsberglaw.com

SHAMIS & GENTILE, P.A.
Andrew J. Shamis, Esq.
(admitted pro hac vice)
14 NE 1st Avenue, Suite 400
Miami, Florida 33132
Telephone: 305-479-2299
ashamis@shamisgentile.com

KOPELOWITZ OSTROW P.A.
Kristen Lake Cardoso (CA Bar No. 338762)
cardoso@kolawyers.com
One West Las Olas, Suite 500
Fort Lauderdale, FL 33301
Telephone: (954) 525-4100

Counsel for Plaintiff and Proposed Class

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

AMY ROBERTS, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

PEREZ HILTON MANAGEMENT, INC.
d/b/a PEREZHILTON.COM,

Defendant.

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Amy Roberts (“Plaintiff”), individually and on behalf of all other persons similarly situated, by and through her attorneys, makes the following allegations pursuant to the investigation of her counsel and based upon information and belief, except as to allegations specifically pertaining to herself and her counsel, which are based on personal knowledge.

NATURE OF THE ACTION

1. This is a class action suit brought on behalf of all persons with

1 Facebook and PerezHilton.com accounts who watch videos on PerezHilton.com.

2 2. Perez Hilton Management, Inc. (“Defendant”) develops, owns, and
3 operates PerezHilton.com, which is “one of the leading go-to sites for celebrity news
4 garnering over 300 million hits a month.”¹

5 3. Plaintiff brings this action for damages and other legal and equitable
6 remedies resulting from the illegal actions of Defendant in knowingly disclosing
7 personally identifiable information—including a record of every video clip they
8 view—to Facebook without consent.

9 4. The United States Congress passed the Video Privacy Protection Act
10 (“VPPA”) in 1988, seeking to confer onto consumers the power to “maintain control
11 over personal information divulged and generated in exchange for receiving services
12 from video tape service providers.” S. Rep. No. 100-599, at 8. “The Act reflects the
13 central principle of the Privacy Act of 1974: that information collected for one
14 purpose may not be used for a different purpose without the individual’s consent.”

15 *Id.*

16 5. Defendant violated the VPPA by knowingly transmitting Plaintiff’s and
17 the putative Class’s personally identifiable information to unrelated third parties.

18 **PARTIES**

19 6. Plaintiff is, and has been at all relevant times, a resident of Columbus,
20 Ohio and has an intent to remain there, and is therefore a domiciliary of Ohio,
21 making her a citizen of that state.

22 7. Defendant is a Delaware corporation with its principal place of business
23 at 8506 West Third Street, Suite 101, Los Angeles, California 90048. Defendant
24 develops, owns, and operates PerezHilton.com, which is used throughout Ohio and
25 the United States.

26
27
28 ¹ ABOUT PEREZ HILTON, <https://perezhilton.com/about-perez-hilton/>.

1 **JURISDICTION AND VENUE**

2 8. This Court has subject matter jurisdiction over this action pursuant to
3 28 U.S.C. § 1331 because it arises under a law of the United States—the VPPA.

4 9. This Court has personal jurisdiction over Defendant because
5 Defendant’s principal place of business is in Los Angeles, California.

6 10. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a
7 substantial part of the events or omissions giving rise to the claim occurred in this
8 District.

9 **FACTUAL BACKGROUND**

10 **I. The VPPA**

11 11. The origins of the VPPA begin with President Ronald Reagan’s
12 nomination of Judge Robert Bork to the United States Supreme Court. During the
13 confirmation process, a movie rental store disclosed the nominee’s rental history to
14 the Washington City Paper, which then published that history. With an eye toward
15 the digital future, Congress responded by passing the VPPA. As Senator Patrick
16 Leahy, who introduced the Act, explained:

17 It is nobody’s business what Oliver North or Robert Bork or Griffin
18 Bell or Pat Leahy watch on television or read or think about when they
19 are home. In an area of interactive television cables, the growth of
20 computer checking and check-out counters, of security systems and
21 telephones, all lodged together in computers, it would be relatively easy
at some point to give a profile of a person and tell what they buy in a
store, what kind of food they like, what sort of television programs they
watch, who are some of the people they telephone. I think that is wrong.

22 S. Rep. 100-599, at 5-6 (internal ellipses and brackets omitted).

23 12. The VPPA prohibits “[a] video tape service provider who knowingly
24 discloses, to any person, personally identifiable information concerning any
25 consumer of such provider.” 18 U.S.C. § 2710(b)(1). The VPPA defines personally
26 identifiable information as “information which identifies a person as having
27 requested or obtained specific video materials or services from a video service
28

1 provider.” 18 U.S.C. § 2710(a)(3). A video tape service provider is “any person,
2 engaged in the business, in or affecting interstate or foreign commerce, of rental,
3 sale, or delivery of prerecorded video cassette tapes or similar audio visual
4 materials.” 18 U.S.C. § 2710(a)(4).

5 **II. The Facebook Tracking Pixel**

6 13. Facebook is the largest social networking site on the planet, touting 2.9
7 billion monthly active users.² Facebook describes itself as a “real identity
8 platform,”³ meaning users are allowed only one account and must share “the name
9 they go by in everyday life.”⁴ To that end, when creating an account, users must
10 provide their first and last name, along with their birthday and gender.⁵

11 14. Facebook generates revenue by selling advertising space on its
12 website.⁶

13 15. Facebook sells advertising space by highlighting its ability to target
14 users.⁷ Facebook can target users so effectively because it surveils user activity both
15 on and off its site.⁸ This allows Facebook to make inferences about users beyond
16 what they explicitly disclose, like their “interests,” “behavior,” and “connections.”⁹

17 ² Sean Burch, *Facebook Climbs to 2.9 Billion Users, Report 29.1 Billion in Q2*
18 *Sales*, YAHOO (July 28, 2021), [https://www.yahoo.com/now/facebook-climbs-2-9-](https://www.yahoo.com/now/facebook-climbs-2-9-billion-202044267.html)
19 [billion-202044267.html](https://www.yahoo.com/now/facebook-climbs-2-9-billion-202044267.html).

20 ³ Sam Schechner and Jeff Horwitz, *How Many Users Does Facebook Have? The*
21 *Company Struggles to Figure It Out*, WALL. ST. J. (Oct. 21, 2021).

22 ⁴ FACEBOOK, COMMUNITY STANDARDS, PART IV INTEGRITY AND AUTHENTICITY,
23 [https://www.facebook.com/communitystandards/integrity_](https://www.facebook.com/communitystandards/integrity_authenticity)
24 [authenticity](https://www.facebook.com/communitystandards/integrity_authenticity).

25 ⁵ FACEBOOK, SIGN UP, <https://www.facebook.com/>.

26 ⁶ Mike Isaac, *Facebook’s profit surges 101 percent on strong ad sales.*, N.Y. TIMES
27 (July 28, 2021), [https://www.nytimes.com/2021/07/28/business/facebook-q2-](https://www.nytimes.com/2021/07/28/business/facebook-q2-earnings.html)
28 [earnings.html](https://www.nytimes.com/2021/07/28/business/facebook-q2-earnings.html).

⁷ FACEBOOK, WHY ADVERTISE ON FACEBOOK,
<https://www.facebook.com/business/help/205029060038706>.

⁸ FACEBOOK, ABOUT FACEBOOK PIXEL,
[https://www.facebook.com/business/help/742478679120153?id=12053766828321](https://www.facebook.com/business/help/742478679120153?id=1205376682832142)
42.

⁹ FACEBOOK, AD TARGETING: HELP YOUR ADS FIND THE PEOPLE WHO WILL LOVE
YOUR BUSINESS, <https://www.facebook.com/business/ads/ad-targeting>.

1 Facebook compiles this information into a generalized dataset called “Core
2 Audiences,” which advertisers use to apply highly specific filters and parameters for
3 their targeted advertisements.¹⁰

4 16. Advertisers can also build “Custom Audiences.”¹¹ Custom Audiences
5 enable advertisers to reach “people who have already shown interest in [their]
6 business, whether they’re loyal customers or people who have used [their] app or
7 visited [their] website.”¹² Advertisers can use a Custom Audience to target existing
8 customers directly, or they can use it to build a “Lookalike Audiences,” which
9 “leverages information such as demographics, interests, and behavior from your
10 source audience to find new people who share similar qualities.”¹³ Unlike Core
11 Audiences, Custom Audiences require an advertiser to supply the underlying data to
12 Facebook. They can do so through two mechanisms: by manually uploading contact
13 information for customers, or by utilizing Facebook’s “Business Tools,” which
14 collect and transmit the data automatically.¹⁴ One such Business Tool is the
15 Facebook Tracking Pixel.

16 17. The Facebook Tracking Pixel is a piece of code that advertisers, like
17 Defendant, can integrate into their website. Once activated, the Facebook Tracking
18

19 ¹⁰ FACEBOOK, EASIER, MORE EFFECTIVE WAYS TO REACH THE RIGHT PEOPLE ON
20 FACEBOOK, <https://www.facebook.com/business/news/Core-Audiences>.

21 ¹¹ FACEBOOK, ABOUT CUSTOM AUDIENCES,
22 [https://www.facebook.com/business/help/744354708981227?id=24690979533764](https://www.facebook.com/business/help/744354708981227?id=2469097953376494)
23 94.

24 ¹² FACEBOOK, ABOUT EVENTS CUSTOM AUDIENCE,
25 [https://www.facebook.com/business/help/366151833804507?id=30036058427127](https://www.facebook.com/business/help/366151833804507?id=300360584271273)
26 3.

27 ¹³ FACEBOOK, ABOUT LOOKALIKE AUDIENCES,
28 [https://www.facebook.com/business/help/164749007013531?id=40166839044232](https://www.facebook.com/business/help/164749007013531?id=401668390442328)
8.

¹⁴ FACEBOOK, CREATE A CUSTOMER LIST CUSTOM AUDIENCE,
[https://www.facebook.com/business/help/170456843145568?id=24690979533764](https://www.facebook.com/business/help/170456843145568?id=2469097953376494)
94; FACEBOOK, CREATE A WEBSITE CUSTOM AUDIENCE,
[https://www.facebook.com/business/help/1474662202748341?id=2469097953376](https://www.facebook.com/business/help/1474662202748341?id=2469097953376494)
494.

1 Pixel “tracks the people and type of actions they take.”¹⁵ When the Facebook
2 Tracking Pixel captures an action, it sends a record to Facebook. Once this record
3 is received, Facebook processes it, analyzes it, and assimilates it into datasets like
4 the Core Audiences and Custom Audiences.

5 18. Advertisers control what actions—or, as Facebook calls it, “events”—
6 the Facebook Tracking Pixel will collect, including the website’s metadata, along
7 with what pages a visitor views.¹⁶ Advertisers can also configure the Facebook
8 Tracking Pixel to track other events. Facebook offers a menu of “standard events”
9 from which advertisers can choose, including what content a visitor views or
10 purchases.¹⁷ An advertiser can also create their own tracking parameters by building
11 a “custom event.”¹⁸

12 19. Advertisers control how the Facebook Tracking Pixel identifies
13 visitors. The Facebook Tracking Pixel is configured to automatically collect “HTTP
14 Headers” and “Pixel-specific Data.”¹⁹ HTTP Headers collect “IP addresses,
15 information about the web browser, page location, document, referrer and persons
16 using the website.”²⁰ Pixel-specific Data includes “the Pixel ID and cookie.”²¹

17
18 ¹⁵ FACEBOOK, RETARGETING,
19 <https://www.facebook.com/business/goals/retargeting>.

20 ¹⁶ See FACEBOOK, FACEBOOK PIXEL, ACCURATE EVENT TRACKING, ADVANCED,
21 <https://developers.facebook.com/docs/facebook-pixel/advanced/>; see also
22 FACEBOOK, BEST PRACTICES FOR FACEBOOK PIXEL SETUP,
23 <https://www.facebook.com/business/help/218844828315224?id=1205376682832142>.

24 ¹⁷ FACEBOOK, SPECIFICATIONS FOR FACEBOOK PIXEL STANDARD EVENTS,
25 <https://www.facebook.com/business/help/402791146561655?id=1205376682832142>.

26 ¹⁸ FACEBOOK, ABOUT STANDARD AND CUSTOM WEBSITE EVENTS,
27 <https://www.facebook.com/business/help/964258670337005?id=1205376682832142>.

28 ¹⁹ FACEBOOK, FACEBOOK PIXEL, <https://developers.facebook.com/docs/facebook-pixel/>.

²⁰ *Id.*

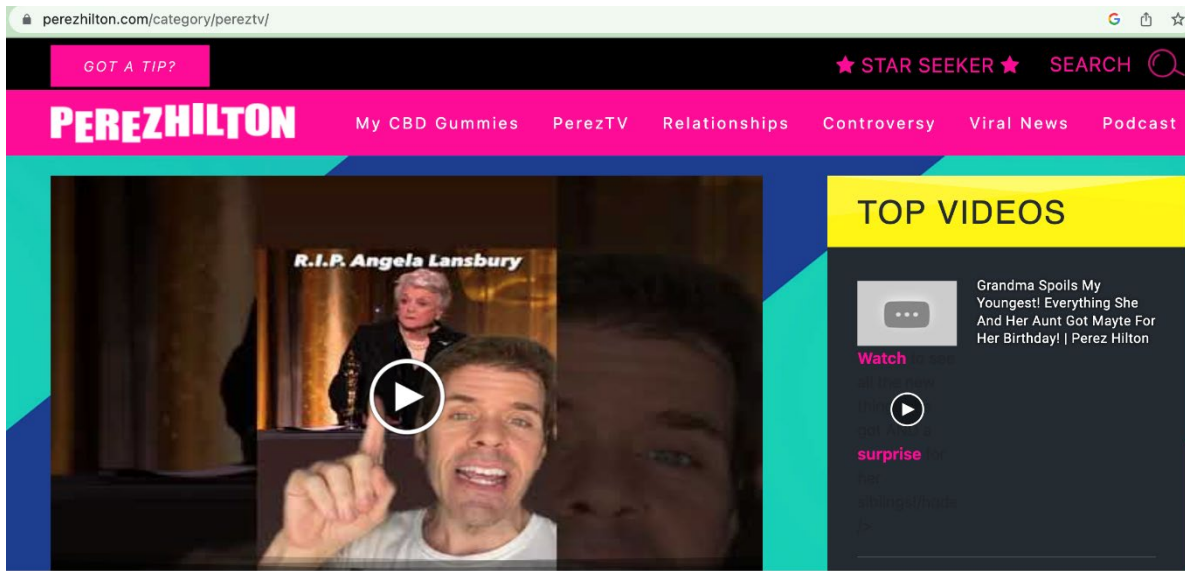
²¹ *Id.*

1 **III. PerezHilton.com and The Facebook Pixel**

2 20. PerezHilton.com hosts and delivers thousands of videos, including on
3 its PerezTV webpage.

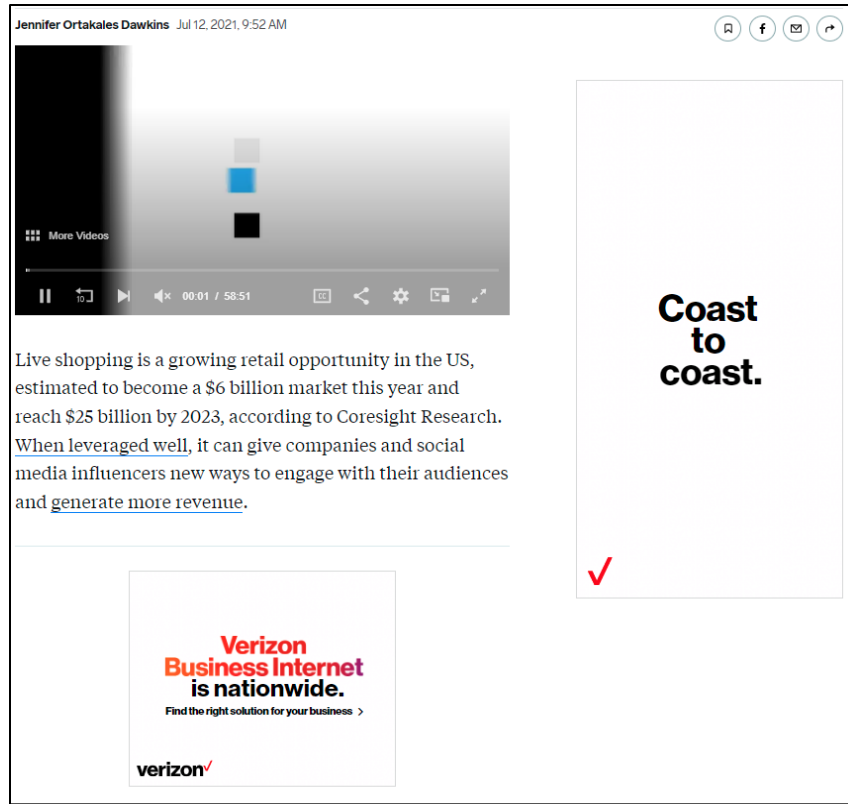
4 21. Defendant monetizes these videos through advertisements that play
5 prior to the content’s delivery.

6 **Figure 1**



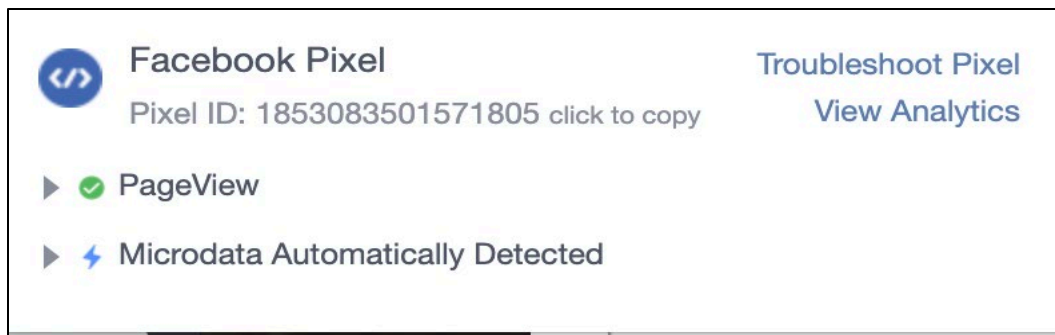
17 22. Defendant also gains advertising revenue by placing advertisements
18 next to the videos.

1 **Figure 2**



15 23. PerezHilton.com hosts the Facebook Tracking Pixel and transmits two
16 distinct events to Facebook.²²

17 **Figure 3**



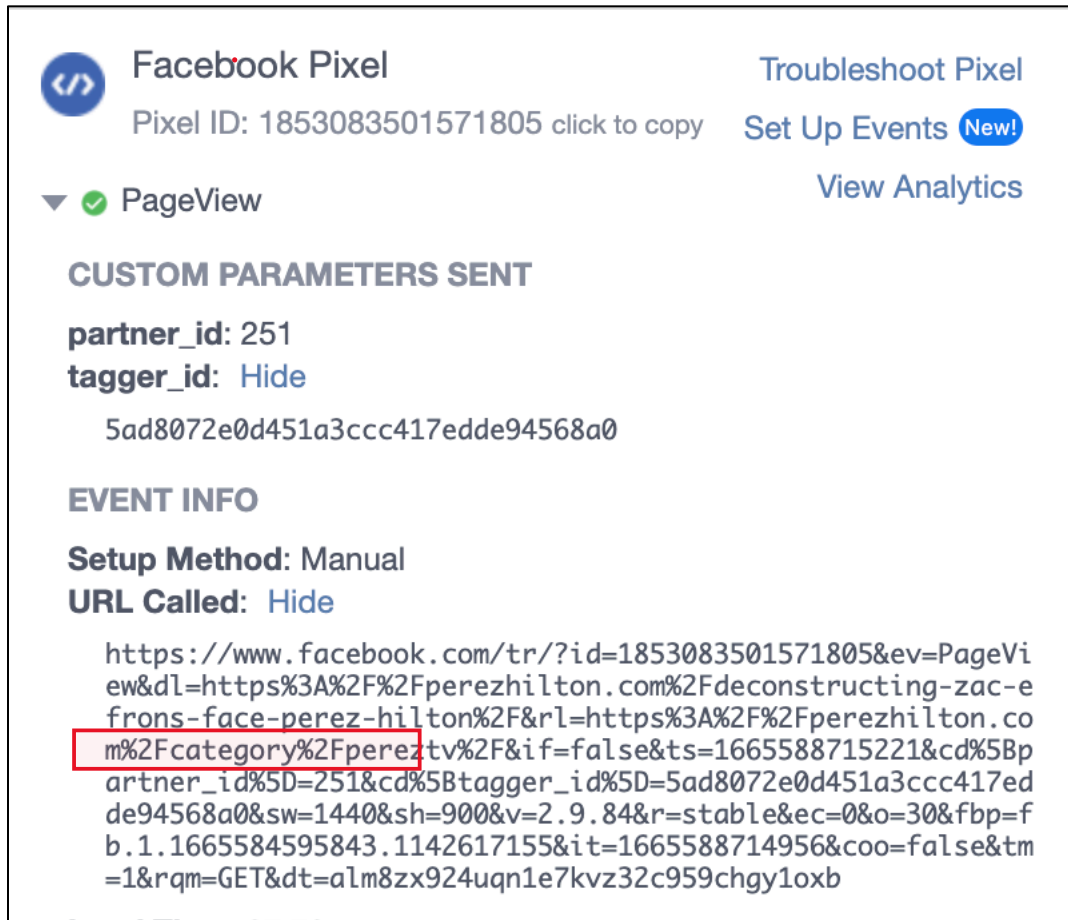
24 24. Each metric independently and jointly permits an ordinary person to
25 identify a video and the video's content.

26 25. Defendant has customized the PageView event to transmit the URL and

27
28 ²² This data derives from a tool created and offered by Facebook.

1 the category of content selected.

2 **Figure 4**



18 26. In the above figure, for example, Defendant discloses a webpage's
19 Universal Resource Locator ("URL").

20 27. Microdata discloses the video's title and other descriptors.

21

22

23

24

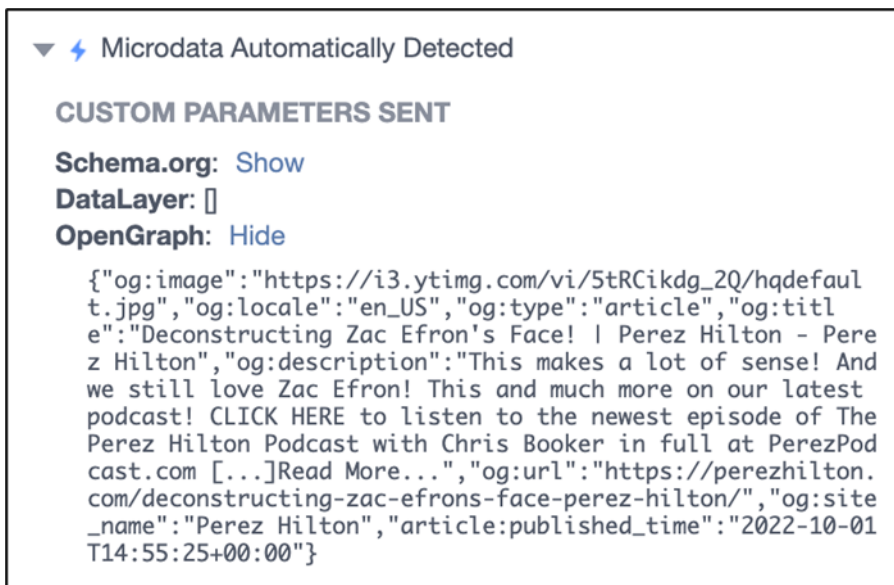
25

26

27

28

1 **Figure 5**



12 28. Both events (Page View and Microdata Automatically Deleted),
13 independently and jointly, permit an ordinary person to identify a video’s content,
14 title, and location.

15 29. When a visitor watches a video on PerezHilton.com while logged into
16 Facebook, Defendant compels a visitor’s browser to transmit the c_user cookie to
17 Facebook. The c_user cookie contains that visitor’s unencrypted Facebook ID.
18 When accessing the above video, for example, Defendant compelled the browser to
19 send nine cookies, eight of which are visible here:

20 **Figure 6**

21

22

23

24

25

26

27

fr	0Y8GpuB3u...	.facebook.com
xs	21%3ABOzO...	.facebook.com
c_user	10003596607...	.facebook.com
datr	0_kSYR3c5q...	.facebook.com
sb	0_kSYfOFlukj...	.facebook.com
dpr	2	.facebook.com
presence	C%7B%22t3...	.facebook.com
wd	981x732	.facebook.com

30. When a visitor's browser has recently logged out of Facebook, Defendant will compel the browser to send a smaller set of cookies:

Figure 7

fr	0Y8GpuB3u...	.facebook.com
locale	en_US	.facebook.com
datr	0_kSYR3c5...	.facebook.com
sb	0_kSYfOFlu...	.facebook.com
dpr	2	.facebook.com
wd	981x732	.facebook.com

31. The fr cookie contains, at least, an encrypted Facebook ID and browser identifier.²³ The datr cookies also identifies a browser.²⁴ Facebook, at a minimum, uses the fr cookie to identify particular users.²⁵

32. If a visitor has never created a Facebook account, Defendant transmits three cookies, two of which are visible here:

Figure 8

fr	0w1x9dAWVUuo...	.facebook.com
sb	FuJGY8uY5Pa-yj...	.facebook.com

33. Missing from the above images is the first-party “_fbp cookie,” which Defendant compels a browser to send in all three instances.

Figure 9

_fbp	fb.1.16560006393...	.businessinsider.c...
------	---------------------	-----------------------

²³ DATA PROTECTION COMMISSIONER, FACEBOOK IRELAND LTD, REPORT OF RE-AUDIT (Sept. 21, 2012), http://www.europe-v-facebook.org/ODPC_Review.pdf.

²⁴ FACEBOOK, COOKIES & OTHER STORAGE TECHNOLOGIES, <https://www.facebook.com/policy/cookies/>.

²⁵ FACEBOOK, COOKIES & OTHER STORAGE TECHNOLOGIES, <https://www.facebook.com/policy/cookies/>.

1 34. The `_fbp` cookie contains, at least, an unencrypted value that uniquely
2 identifies a browser.²⁶ As with the `fr` cookie, Facebook uses the `_fbp` cookie to
3 identify users.

4 35. Without a corresponding Facebook ID, the `fr` cookie contains, at least,
5 an abbreviated and encrypted value that identifies the browser. The `_fbp` cookie
6 contains, at least, an unencrypted value that uniquely identifies a browser. Facebook
7 uses both for targeted advertising.

8 36. The `fr` cookie will expire after 90 days unless the visitor’s browser logs
9 back into Facebook.²⁷ If that happens, the time resets, and another 90 days begins
10 to accrue.²⁸

11 37. The `_fbp` cookie will expire after 90 days unless the visitor’s browser
12 accesses the same website.²⁹ If that happens, the time resets, and another 90 days
13 begins to accrue.³⁰

14 38. The Facebook Tracking Pixel uses both first- and third-party cookies.
15 A first-party cookie is “created by the website the user is visiting”—*i.e.*,
16 PerezHilton.com.³¹ A third-party cookie is “created by a website with a domain
17 name other than the one the user is currently visiting”—*i.e.*, Facebook.³² The `_fbp`
18 cookie is always transmitted as a first-party cookie. A duplicate `_fbp` cookie is

19 _____
20 ²⁶ FACEBOOK, CONVERSION API, <https://developers.facebook.com/docs/marketing-api/conversions-api/parameters/fbp-and-fbc/>.

21 ²⁷ See FACEBOOK, COOKIES & OTHER STORAGE TECHNOLOGIES,
22 <https://www.facebook.com/policy/cookies/>.

²⁸ Confirmable through developer tools.

23 ²⁹ See FACEBOOK, COOKIES & OTHER STORAGE TECHNOLOGIES,
24 <https://www.facebook.com/policy/cookies/>.

³⁰ Also confirmable through developer tools.

25 ³¹ PC MAG, FIRST-PARTY COOKIES,
26 <https://www.pcmag.com/encyclopedia/term/first-party-cookie>. This is confirmable
by using developer tools to inspect a website’s cookies and track network activity.

27 ³² PC MAG, THIRD-PARTY COOKIES,
28 <https://www.pcmag.com/encyclopedia/term/third-party-cookie>. This is also
confirmable by tracking network activity.

1 sometimes sent as a third-party cookie, depending on whether the browser has
2 recently logged into Facebook.

3 39. Facebook, at a minimum, uses the fr, _fbp, and c_user cookies to link
4 to Facebook IDs and corresponding Facebook profiles.

5 40. A Facebook ID is personally identifiable information. Anyone can
6 identify a Facebook profile—and all personal information publicly listed on that
7 profile—by appending the Facebook ID to the end of Facebook.com.

8 41. Through the Facebook Tracking Pixel’s code, these cookies combine
9 the identifiers with the event data, allowing Facebook to know, among other things,
10 what PerezHilton.com videos a user has watched.³³

11 42. Defendant also uses “Advanced Matching.” With Advanced Matching,
12 Defendant’s Pixel “look[s] for recognizable form field and other sources on your
13 website that contain information such as first name, last name and email.”³⁴ The
14 Facebook Tracking Pixel’s code collect[s] that information, “along with the event,
15 or action, that took place.”³⁵ This information is “hashed,”³⁶ meaning it is “[a]
16 computed summary of digital data that is a one-way process.”³⁷ In other words, it
17 “cannot be reversed back into the original data.”³⁸

18 43. Defendant discloses this information so it can better match visitors to
19 their Facebook profiles, which thereby allows Defendant to better track analytics
20 and target its advertisements:

21 _____
22 ³³ FACEBOOK, GET STARTED, <https://developers.facebook.com/docs/meta-pixel/get-started>.

23 ³⁴
24 <https://www.facebook.com/business/help/611774685654668?id=1205376682832142>

25 ³⁵ FACEBOOK, ABOUT ADVANCED MATCHING FOR WEB,
26 <https://www.facebook.com/business/help/611774685654668?id=1205376682832142>.

27 ³⁶ DEFINITION OF HASH, <https://www.pcmag.com/encyclopedia/term/hash>

28 ³⁷ *Id.*

³⁸ *Id.*

1 **Figure 10**

2 You can use Advanced Matching to help:

- 3
- 4 • Increase the number of attributed conversions. We can match more of the conversions that happen on your website to people on Meta. This helps you understand the impact of your ads on website conversions.
 - 5 • Increase your Custom Audience size. We're able to better match your website visitors to people on Meta and increase the size of your Custom Audience.
 - 6 • Decrease the cost per conversion. Conversion-optimized campaigns become more efficient because we can better identify and deliver ads to the types of people likely to take the actions you care about.
- 7
- 8
- 9

10 44. As part of Advanced Matching, Defendant has enabled “Automatic
11 Advanced Matching for Partner Integrations”:³⁹

12 **Figure 11**

13

```
48 fbq.loadPlugin("automaticmatchingforpartnerintegrations");  
49 instance.optIn("1988166924554892", "AutomaticMatchingForPartnerIntegrations", true);
```

15 45. “Partner Integrations” means Defendant employs another third-party to
16 “install Meta Business Tools.”⁴⁰

17 46. Upon information and belief, Defendant has also customized its Pixel
18 to collect a user’s email address to provide content, including Defendant’s
19 newsletter.
20
21
22
23
24

25 ³⁹ Facebook provides a corresponding look-up table: FACEBOOK, ADVANCED
26 MATCHING, <https://developers.facebook.com/docs/meta-pixel/advanced/advanced-matching>.

27 ⁴⁰ FACEBOOK, ABOUT FACEBOOK PARTNER INTEGRATIONS,
28 <https://www.facebook.com/business/help/1179210765468894?id=1205376682832142>.

1 **Figure 12**

2

3

4

5

6

7

8

9

10

11

12

13

```

▼ ⚡ Button Click Automatically Detected

CUSTOM PARAMETERS SENT
formFeatures: []
buttonText: CONTINUE
buttonFeatures: Hide

{"classList":"rounded-button headline-bold dark-button dia
log-base-button authentication-create-account continue-but
ton dialog-base-secondary-action authentication-reg-wall-c
reate-account authentication-webflow-create-account authen
tication-corp-subscribe-account-password authentication-
corp-subscribe-login","destination":"","id":"","imageUrl":"","i
nnerText":"CONTINUE","numChildButtons":0,"tag":"button","n
ame":"","value":""}

pageFeatures: {"title":"Insider"}
parameters: []

EVENT INFO
URL Called: Show
Load Time: 14.26 ms
Pixel Location: Show

```

14 47. Defendant discloses these identifiers so Facebook can match them with
 15 a corresponding Facebook profile and link it to a user's subsequent activity on
 16 PerezHilton.com.

17 48. Defendant knows Facebook will match the Advanced Matching
 18 parameters with a user's subsequent activity, thereby helping "[i]ncrease the number
 19 of attributed conversions," "[i]ncrease [its] Custom Audience size," and "[d]ecrease
 20 the cost per conversion."⁴¹

21 49. By compelling a visitor's browser to disclose the Advanced Matching
 22 parameters alongside event data for videos, Defendant knowingly discloses
 23 information sufficiently permitting an ordinary person to identify a specific
 24 individual's video viewing behavior.

25 50. By compelling a visitor's browser to disclose the c_user cookie

26

27 ⁴¹ FACEBOOK, ABOUT ADVANCED MATCHING FOR WEB,
 28 <https://www.facebook.com/business/help/611774685654668?id=1205376682832142>.

1 alongside event data for videos, Defendant knowingly discloses information
2 sufficiently permitting an ordinary person to identify a specific individual's video
3 viewing behavior.

4 51. By compelling a visitor's browser to disclose the fr and _fbp cookies
5 alongside event data for videos, Defendant knowingly discloses information
6 sufficiently permitting an ordinary person to identify a specific individual's video
7 viewing behavior.

8 52. By compelling a visitor's browser to disclose the fr cookie and other
9 browser identifiers alongside event data for videos, Defendant knowingly discloses
10 information sufficiently permitting an ordinary person to identify a specific
11 individual's video viewing behavior.

12 53. Facebook confirms that it matches activity on PerezHilton.com with a
13 user's profile. Facebook allows users to download their "off-site activity," which is
14 a "summary of activity that businesses and organizations share with us about your
15 interactions, such as visiting their apps or websites."⁴² The off-site activity report
16 confirms Defendant identifies an individual's video viewing activities.

17 **IV. Plaintiff and Class Members Use PerezHilton.com**

18 54. As shown, users including Plaintiff provided Defendant with an email
19 address, for example when signing up to receive Defendant's newsletter.

20 **III. Experience of Plaintiff**

21 55. In or around 2012, Plaintiff signed up for a newsletter published by
22 Defendant.

23 56. During the relevant time period, Plaintiff frequented PerezHilton.com
24 to, among other things, watch videos. Doing so resulted in Defendant disclosing her

25 ⁴² FACEBOOK, WHAT IS OFF-FACEBOOK ACTIVITY?,
26 <https://www.facebook.com/help/2207256696182627>. As discussed there, the Off-
27 Facebook Activity is only a "summary" and Facebook acknowledges "receiv[ing]
28 more details and activity than what appears in your Facebook activity." What is
more, it omits "information we've received when you're not logged into Facebook,
or when we can't confirm that you've previously used Facebook on that device."

1 email address to Facebook.

2 57. When Plaintiff watched videos on PerezHilton.com, Defendant
3 disclosed her event data, which recorded and disclosed the video's title and URL,
4 along with every time Plaintiff paused or played a video. Alongside this event data,
5 Defendant also disclosed identifiers for Plaintiff, including the c_user and fr cookies.

6 58. By disclosing her event data and identifiers, Defendant disclosed
7 Plaintiff's personally identifiable information to a third-party.

8 59. Plaintiff discovered that Defendant surreptitiously collected and
9 transmitted her personally identifiable information in October, 2022.

10 CLASS ALLEGATIONS

11 60. **Class Definition:** Plaintiff seeks to represent a class of similarly
12 situated individuals defined as all persons in the United States who have Facebook
13 and PerezHilton.com accounts, and viewed videos on PerezHilton.com (the
14 "Class").

15 61. Subject to additional information obtained through further investigation
16 and discovery, the above-described Class may be modified or narrowed as
17 appropriate, including through the use of multi-state subclasses.

18 62. **Numerosity (Fed. R. Civ. P. 23(a)(1)):** At this time, Plaintiff does not
19 know the exact number of members of the aforementioned Class. However, given
20 the popularity of Defendant's website, which boasts that PerezHilton.com garners
21 over 300 million hits per month, the number of persons within the Class is believed
22 to be so numerous that joinder of all members is impractical.

23 63. **Commonality and Predominance (Fed. R. Civ. P. 23(a)(2),**
24 **23(b)(3)):** There is a well-defined community of interest in the questions of law and
25 fact involved in this case. Questions of law and fact common to the members of the
26 Class that predominate over questions that may affect individual members of the
27 Class include:
28

1 (a) whether Defendant collected Plaintiff's and the Class's PII;

2 (b) whether Defendant unlawfully disclosed and continues to disclose its
3 users' PII in violation of the VPPA;

4 (c) whether Defendant's disclosures were committed knowingly; and

5 (d) whether Defendant disclosed Plaintiff's and the Class's PII without
6 consent.

7 64. **Typicality (Fed. R. Civ. P. 23(a)(3)):** Plaintiff's claims are typical of
8 those of the Class because Plaintiff, like all members of the Class, used
9 PerezHilton.com to watch videos, and had her PII collected and disclosed by
10 Defendant.

11 65. **Adequacy (Fed. R. Civ. P. 23(a)(4)):** Plaintiff has retained and are
12 represented by qualified and competent counsel who are highly experienced in
13 complex consumer class action litigation, including litigation concerning the VPPA.
14 Plaintiff and their counsel are committed to vigorously prosecuting this class action.
15 Moreover, Plaintiff is able to fairly and adequately represent and protect the interests
16 of the Class. Neither Plaintiff nor her counsel has any interest adverse to, or in
17 conflict with, the interests of the absent members of the Class. Plaintiff has raised
18 viable statutory claims or the type reasonably expected to be raised by members of
19 the Class and will vigorously pursue those claims. If necessary, Plaintiff may seek
20 leave of this Court to amend this Class Action Complaint to include additional
21 representatives to represent the Class, additional claims as may be appropriate, or to
22 amend the definition of the Class to address any steps that Defendant took.

23 66. **Superiority (Fed. R. Civ. P. 23(b)(3)):** A class action is superior to
24 other available methods for the fair and efficient adjudication of this controversy
25 because individual litigation of the claims of all members of the Class is
26 impracticable. Even if every member of the Class could afford to pursue individual
27 litigation, the court system could not. It would be unduly burdensome to the courts
28

1 in which individual litigation of numerous cases would proceed. Individualized
2 litigation would also present the potential for varying, inconsistent, or contradictory
3 judgments, and would magnify the delay and expense to all parties and to the court
4 system resulting from multiple trials of the same factual issues. By contrast, the
5 maintenance of this action as a class action, with respect to some or all of the issues
6 presented herein, presents few management difficulties, conserves the resources of
7 the parties and of the court system and protects the rights of each member of the
8 Class. Plaintiff anticipates no difficulty in the management of this action as a class
9 action.

10 **COUNT I**

11 **VIOLATION OF THE VIDEO PRIVACY PROTECTION ACT**

12 **18 U.S.C. § 2710, *et seq.***

13 67. Plaintiff hereby incorporates by reference the allegations contained in
14 all preceding paragraphs of this complaint.

15 68. Plaintiff brings this claim individually and on behalf of the members of
16 the proposed Class against Defendant.

17 69. Defendant is a “video tape service provider” because it creates, hosts,
18 and delivers thousands of videos on its website, thereby “engag[ing] in the business,
19 in or affecting interstate or foreign commerce, of rental, sale, or delivery of
20 prerecorded video cassette tapes or similar audio visual materials.” 18 U.S.C. §
21 2710(a)(4). In particular, Defendant leverages its video to derive substantial
22 revenues from advertisements that it intersperses in each video. Defendant also uses
23 the videos to collect and disclose viewers’ PII so it can later retarget them for
24 advertisements.

25 70. Plaintiff and members of the Class are “consumers” because they have
26 accounts with PerezHilton.com. 18 U.S.C. § 2710(a)(1).

27 71. Defendant disclosed to a third party, Facebook, Plaintiff’s and the Class
28

1 members' personally identifiable information. Defendant utilized the Facebook
2 Tracking Pixel to compel Plaintiff's web browser to transfer Plaintiff's identifying
3 information, like her Facebook ID, along with Plaintiff's event data, like the title of
4 the videos she viewed.

5 72. Plaintiff and the Class members viewed videos using PerezHilton.com.

6 73. Defendant knowingly disclosed Plaintiff's PII because it used that data
7 to build audiences on Facebook and retarget them for its advertising campaigns.

8 74. Plaintiff and Class members did not provide Defendant with any form
9 of consent—either written or otherwise—to disclose their PII to third parties.

10 75. Nor were Defendant's disclosures made in the "ordinary course of
11 business" as the term is defined by the VPPA. In particular, Defendant's disclosures
12 to Facebook were not necessary for "debt collection activities, order fulfillment,
13 request processing, [or] transfer of ownership." 18 U.S.C. § 2710(a)(2).

14 76. On behalf of herself and the Class, Plaintiff seeks: (i) declaratory relief;
15 (ii) injunctive and equitable relief as is necessary to protect the interests of Plaintiff
16 and the Class by requiring Defendant to comply with VPPA's requirements for
17 protecting a consumer's PII; (iii) statutory damages of \$2,500 for each violation of
18 the VPPA pursuant to 18 U.S.C. § 2710(c); and (iv) reasonable attorneys' fees and
19 costs and other litigation expenses.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff seeks a judgment against Defendant, individually
22 and on behalf of all others similarly situated, as follows:

23 (a) For an order certifying the Class under Rule 23 of the Federal Rules of
24 Civil Procedure, naming Plaintiff as representative of the Class, and naming
25 Plaintiff's attorneys as Class Counsel to represent the Class;

26 (b) For an order declaring that Defendant's conduct violates the statutes
27 referenced herein;

- 1 (c) For an order finding in favor of Plaintiff and the Class on all counts
2 asserted herein;
- 3 (d) An award of statutory damages to the extent available;
- 4 (e) For punitive damages, as warranted, in an amount to be determined at
5 trial;
- 6 (f) For prejudgment interest on all amounts awarded;
- 7 (g) For injunctive relief as pleaded or as the Court may deem proper; and
- 8 (h) For an order awarding Plaintiff and the Class their reasonable attorneys'
9 fees and expenses and costs of suit.

10 **JURY DEMAND**

11 Pursuant to Fed. R. Civ. P. 38(b)(1), Plaintiff demands a trial by jury of all
12 issues so triable.

13 Dated: October 25, 2022

Respectfully submitted,

14
15 By: /s/ Scott Edelsberg
16 Scott Edelsberg
EDELSBERG LAW, PA
17 Scott Edelsberg (CA Bar No. 330990)
20900 NE 30th Ave., Suite 417
18 Aventura, FL 33180
Telephone: (305) 975-3320
Email: scott@edelsberglaw.com

19 Andrew J. Shamis*
SHAMIS & GENTILE, P.A.
20 14 NE 1st Ave, Suite 705
21 Miami, Florida 33132
Telephone: (305) 479-2299
ashamis@shamisgentile.com

22
23 Kristen Lake Cardoso (CA Bar No.
338762)
KOPELOWITZ OSTROW P.A.
24 One West Las Olas Blvd., Suite 500
25 Fort Lauderdale, FL 33301
cardoso@kolawyes.com

26 *Pro Hac Vice Application Forthcoming
27 Attorneys for Plaintiff and the Putative Class
28