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SAN MATEO COUNTY

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO**

SELENA SCOLA, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

**FACEBOOK, INC. and PRO
UNLIMITED, INC.,**

Defendants.

Civil Action No. 18 CIV 05135

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

CLASS ACTION

NEED FOR ACTION

1. Plaintiff Selena Scola seeks to protect herself and all others similarly situated from the dangers of psychological trauma resulting from Facebook’s failure to provide a safe workplace for the thousands of contractors who are entrusted to provide the safest environment possible for Facebook users.¹

¹ This complaint does not contain additional and known allegations concerning Ms. Scola’s experience as a content moderator at Facebook. Such allegations provide greater factual support for Facebook’s abdication of its legal duties to protect people like Ms. Scola and the putative class members. This complaint does not include these allegations because Ms. Scola fears that Facebook may retaliate against her using a purported non-disclosure agreement (“NDA”). Ms. Scola

1 2. Every day, Facebook users post millions of videos, images, and livestreamed broadcasts
2 of child sexual abuse, rape, torture, bestiality, beheadings, suicide, and murder. To maintain a sanitized
3 platform, maximize its already vast profits, and cultivate its public image, Facebook relies on people
4 like Ms. Scola – known as “content moderators” – to view those posts and remove any that violate the
5 corporation’s terms of use.

6 3. From her cubicle in Facebook’s Silicon Valley offices, Ms. Scola witnessed thousands
7 of acts of extreme and graphic violence. As another Facebook content moderator recently told the
8 Guardian, “You’d go into work at 9am every morning, turn on your computer and watch someone
9 have their head cut off. Every day, every minute, that’s what you see. Heads being cut off.”

10 4. As a result of constant and unmitigated exposure to highly toxic and extremely
11 disturbing images at the workplace, Ms. Scola developed and suffers from significant psychological
12 trauma and post-traumatic stress disorder (“PTSD”).

13 5. In an effort to cultivate its image, Facebook helped draft workplace safety standards to
14 protect content moderators like Ms. Scola from workplace trauma. Other tech companies have
15 implemented these safety standards, which include providing moderators with robust and mandatory
16 counseling and mental health supports; altering the resolution, audio, size, and color of trauma-
17 inducing images; and training moderators to recognize the physical and psychological symptoms of
18 PTSD.

19 6. But Facebook ignores the workplace safety standards it helped create. Instead, the
20 multibillion-dollar corporation affirmatively requires its content moderators to work under conditions
21 known to cause and exacerbate psychological trauma.

22 7. By requiring its content moderators to work in dangerous conditions that cause
23 debilitating physical and psychological harm, Facebook violates California law.

24
25
26
27 _____
28 disputes the applicability of the NDA to this case, but out of an abundance of caution believes it is appropriate to later
lodge an amended complaint supplementing these allegations with the additional allegations related to her experience as a
content moderator at Facebook.

1 Facebook's offices in Menlo Park and Mountain View, California. During this period, Ms. Scola was
2 employed solely by Pro Unlimited, Inc.

3 15. Defendant Pro Unlimited, Inc. is a contingent labor management company. Pro
4 Unlimited is incorporated in New York, with its principal office located at 7777 Glades Road, Suite
5 208, Boca Raton, Florida, 33434.

6 16. Defendant Facebook, Inc. is "a mobile application and website that enables people to
7 connect, share, discover, and communicate with each other on mobile devices and personal
8 computers." Facebook is a publicly-traded corporation incorporated under the laws of Delaware, with
9 its headquarters located at 1601 Willow Road, Menlo Park, California, 94025.

10 **FACTUAL ALLEGATIONS**

11 **A. Content moderators scour the most depraved images on the internet to protect Facebook** 12 **users from trauma-inducing content.**

13 17. Content moderation is the practice of removing online material that violates the terms
14 of use for social networking sites like Facebook.

15 18. Instead of scrutinizing content before it is uploaded, Facebook relies on users to report
16 inappropriate content. Facebook receives more than one million user reports of potentially
17 objectionable content every day. Human moderators review the reported content – sometimes
18 thousands of videos and images every shift – and remove those that violate Facebook's terms of use.

19 19. Facebook's content moderators are asked to review more than 10 million potentially
20 rule-breaking posts per week. Facebook aims to do this with an error rate of less than one percent, and
21 seeks to review all user-reported content within 24 hours.

22 20. Facebook has developed hundreds of rules that its content moderators use to
23 determine whether comments, messages, or images violate its policies.

24 21. According to Monika Bickert, head of global policy management at Facebook,
25 Facebook conducts weekly audits of every content moderator's work to ensure that these rules are
26 being followed consistently.

27 22. In August 2015, Facebook rolled out Facebook Live, a feature that allows users to
28 broadcast live video streams on their Facebook pages. Mark Zuckerberg, Facebook's chief executive

1 officer, considers Facebook Live to be instrumental to the corporation's growth. Mr. Zuckerberg has
2 been a prolific user of the feature, periodically "going live" on his own Facebook page to answer
3 questions from users.

4 23. But Facebook Live also provides a platform for users to livestream murder, beheadings,
5 torture, and even their own suicides, including the following:

6 In late April a father killed his 11-month-old daughter and livestreamed it before
7 hanging himself. Six days later, Naika Venant, a 14-year-old who lived in a foster home,
8 tied a scarf to a shower's glass doorframe and hung herself. She streamed the whole
9 suicide in real time on Facebook Live. Then in early May, a Georgia teenager took pills
10 and placed a bag over her head in a suicide attempt. She livestreamed the attempt on
11 Facebook and survived only because viewers watching the event unfold called police,
12 allowing them to arrive before she died.

13 24. Facebook recognizes the dangers of exposing its users to images and videos of graphic
14 violence.

15 25. On May 3, 2017, Mr. Zuckerberg announced:

16 "Over the last few weeks, we've seen people hurting themselves and others on
17 Facebook—either live or in video posted later. Over the next year, we'll be adding 3,000
18 people to our community operations team around the world—on top of the 4,500 we
19 have today—to review the millions of reports we get every week, and improve the
20 process for doing it quickly.

21 These reviewers will also help us get better at removing things we don't allow on
22 Facebook like hate speech and child exploitation. And we'll keep working with local
23 community groups and law enforcement who are in the best position to help someone
24 if they need it -- either because they're about to harm themselves, or because they're in
25 danger from someone else."

26 26. According to Sheryl Sandberg, Facebook's chief operating officer, "Keeping people
27 safe is our top priority. We won't stop until we get it right."

28 27. Today, Facebook employs or contracts to employ at least 7,500 content moderators
around the world.

**B. Repeated exposure to graphic imagery can cause devastating psychological trauma,
including PTSD.**

29 28. It is well known that exposure to images of graphic violence can cause debilitating
injuries, including PTSD.

1 29. In a study conducted by the National Crime Squad in the United Kingdom, 76 percent
2 of law enforcement officers surveyed reported feeling emotional distress in response to exposure to
3 child abuse on the internet. The same study, which was co-sponsored by the United Kingdom's
4 Association of Chief Police Officers, recommended that law enforcement agencies implement
5 employee support programs to help officers manage the traumatic effects of exposure to child
6 pornography.

7 30. Another study found that "greater exposure to disturbing media was related to higher
8 levels of secondary traumatic stress disorder (STSD) and cynicism," and that "substantial percentages
9 of investigators reported poor psychological well-being."

10 31. The Eyewitness Media Hub studied the effects of viewing videos of graphic violence,
11 including suicide bombing, and found that "40 percent of survey respondents said that viewing
12 distressing eyewitness media has had a negative impact on their personal lives."

13 32. In a study of 600 employees of the Department of Justice's Internet Crimes Against
14 Children task force, the U.S. Marshals Service found that a quarter of the investigators surveyed
15 displayed symptoms of psychological trauma, including STSD.

16 33. The current DSM-V (American Psychiatric Association, 2013) recognizes repeated or
17 extreme exposure to aversive details of trauma through work-related media as diagnostic criteria for
18 PTSD.

19 34. Depending on many factors, an individual with psychological trauma and/or PTSD
20 may develop a range of subtle to significant physical symptoms, including extreme fatigue, cognitive
21 disassociation, difficulty sleeping, excessive weight gain, anxiety, and nausea.

22 35. PTSD symptoms may manifest soon after the traumatic event, or they may develop
23 over time and manifest later in life.

24 **C. Facebook helped craft industry standards for minimizing harm to content moderators**
25 **but failed to implement those standards.**

26 36. In 2006, Facebook helped create the Technology Coalition, a collaboration of internet
27 service providers ("ISPs") aiming "to develop technology solutions to disrupt the ability to use the
28 Internet to exploit children or distribute child pornography."

1 37. Facebook was a member of the Technology Coalition at all times relevant to the
2 allegations herein.

3 38. In January 2015, the Technology Coalition published an “Employee Resilience
4 Guidebook for Handling Child Sex Abuse Images” (the “Guidebook”).

5 39. According to the Guidebook, the technology industry “must support those employees
6 who are the front line of this battle.”

7 40. The Guidebook recommends that ISPs implement a robust, formal “resilience”
8 program to support content moderators’ well-being and mitigate the effects of exposure to trauma-
9 inducing imagery.

10 41. With respect to hiring content moderators, the Guidebook recommends:

- 11 a. In an informational interview, “[u]se industry terms like “child sexual abuse
12 imagery” and “online child sexual exploitation” to describe subject matter.”
- 13 b. In an informational interview, “[e]ncourage candidate to go to websites [like the
14 National Center for Missing and Exploited Children] to learn about the problem.”
- 15 c. In follow-up interviews, “[d]iscuss candidate’s previous experience/knowledge
16 with this type of content.”
- 17 d. In follow-up interviews, “[d]iscuss candidate’s current level of comfort after
18 learning more about the subject.”
- 19 e. In follow-up interviews, “[a]llow candidate to talk with employees who handle
20 content about their experience, coping methods, etc.”
- 21 f. In follow-up interviews, “[b]e sure to discuss any voluntary and/or mandatory
22 counseling programs that will be provided if candidate is hired.”

23 42. With respect to safety on the job, the Guidebook recommends:

- 24 a. Limiting the amount of time an employee is exposed to child pornography;
- 25 b. Teaching moderators how to assess their own reaction to the images;
- 26 c. Performing a controlled content exposure during the first week of employment
27 with a seasoned team member and providing follow up counseling sessions to the
28 new employee;
- d. Providing mandatory group and individual counseling sessions administered by a
 professional with specialized training in trauma intervention; and
- e. Permitting moderators to “opt-out” from viewing child pornography.

1 43. The Technology Coalition also recommends the following practices for minimizing
2 exposure to graphic content:

- 3 a. Limiting time spent viewing disturbing media to “no more than four consecutive
4 hours.”
- 5 b. “Encouraging switching to other projects, which will allow professionals to get
6 relief from viewing images and come back recharged and refreshed.”
- 7 c. Using “industry-shared hashes to more easily detect and report [content] and in
8 turn, limit employee exposure to these images. Hash technology allows for
9 identification of exactly the same image previously seen and identified as
10 objectionable.”
- 11 d. Prohibiting moderators from viewing child pornography one hour before the
12 individuals leave work.
- 13 e. Permitting moderators to take time off as a response to trauma.

14 44. According to the Technology Coalition, if a company contracts with a third-party
15 vendor to perform duties that may bring vendor employees in contact with graphic content, the
16 company should clearly outline procedures to limit unnecessary exposure and should perform an initial
17 audit of a contractor’s wellness procedures for its employees.

18 45. The National Center for Missing and Exploited Children (NCMEC) also promulgates
19 guidelines for protecting content moderators from psychological trauma. For instance, NCMEC
20 recommends changing the color or resolution of the image, superimposing a grid over the image,
21 changing the direction of the image, blurring portions of the image, reducing the size of the image, and
22 muting audio.

23 46. Based on these industry standards, some ISPs take steps to minimize harm to content
24 moderators. For instance, at one ISP, “[t]he photos are blurred, rendered in black and white, and shown
25 only in thumbnail sizes. Audio is removed from video.” Filtering technology is used to distort images,
26 and moderators are provided with mandatory psychological counseling.

27 47. At another ISP, each applicant for a content moderator position is assessed for
28 suitability by a psychologist, who asks about their support network, childhood experiences, and
triggers. Applicants are then interviewed about their work skills before proceeding to a final interview
where they are exposed to child sexual abuse imagery. Candidates sit with two employees of the ISP

1 and review a sequence of images getting progressively worse, working towards the worst kinds of sexual
2 violence against children. This stage is designed to see how candidates cope and let them decide
3 whether they wish to continue with the role. Once they accept the job, analysts have an enhanced
4 background check before they start their six months' training, which involves understanding criminal
5 law, learning about the dark web, and, crucially, building resilience to looking at traumatic content.

6 48. Facebook does not provide its content moderators with sufficient training or
7 implement the safety standards it helped develop. Facebook content moderators review thousands of
8 trauma-inducing images each day, with little training on how to handle the resulting distress.

9 49. As one moderator described the job:

10 “[The moderator] in the queue (production line) receives the tickets (reports)
11 randomly. Texts, pictures, videos keep on flowing. There is no possibility to know
12 beforehand what will pop up on the screen. The content is very diverse. No time is
13 left for a mental transition. It is entirely impossible to prepare oneself psychologically.
14 One never knows what s/he will run into. It takes sometimes a few seconds to
15 understand what a post is about. The agent is in a continual situation of stress. The
16 speed reduces the complex analytical process to a succession of automatisms. The
17 moderator reacts. An endless repetition. It becomes difficult to disconnect at the end
18 of the eight-hour shift.”

16 **D. Plaintiff Scola's individual allegations.**

17 50. From approximately June 19, 2017 until March 1, 2018, Plaintiff Selena Scola was
18 employed by Pro Unlimited as a Public Content Contractor at Facebook's offices in Menlo Park and
19 Mountain View, California.

20 51. During this period, Ms. Scola was employed solely by Pro Unlimited, an independent
21 contractor of Facebook.

22 52. Ms. Scola has never been employed by Facebook in any capacity.

23 53. During her employment as a content moderator, Ms. Scola was exposed to thousands
24 of images, videos, and livestreamed broadcasts of graphic violence.

25 54. Ms. Scola developed and continues to suffer from debilitating PTSD as a result of
26 working as a Public Content Contractor at Facebook.

27 55. Ms. Scola's PTSD symptoms may be triggered when she touches a computer mouse,
28 enters a cold building, watches violence on television, hears loud noises, or is startled. Her symptoms

1 are also triggered when she recalls or describes graphic imagery she was exposed to as a content
2 moderator.

3 CLASS ACTION ALLEGATIONS

4 56. Plaintiff Selena Scola brings this class action individually and on behalf of all California
5 citizens who performed content moderation work for Facebook within the last three years.

6 57. Excluded from this definition are the Defendants and their officers, directors,
7 management, employees, subsidiaries, and affiliates, and any federal, state, or local governmental
8 entities, any judicial officer presiding over this action and the members of his/her immediate family
9 and judicial staff, and any juror assigned to this action. Plaintiff reserves the right to revise the class
10 definition based upon information learned through discovery.

11 58. The class is so numerous that joinder of all members is impracticable. Plaintiff does
12 not know the exact size of the class since that information is within the control of Facebook. However,
13 upon information and belief, Plaintiff alleges that the number of class members is numbered in the
14 thousands. Membership in the class is readily ascertainable from Defendants' employment records.

15 59. Plaintiff's claims are typical of the claims of the class, as all members of the class are
16 similarly affected by Defendants' wrongful conduct.

17 60. There are numerous questions of law or fact common to the class, and those issues
18 predominate over any question affecting only individual class members. The common legal and factual
19 issues include the following:

- 20 a. Whether Defendants committed the violations of the law alleged herein;
- 21 b. Whether Defendants participated in and perpetrated the tortious conduct
22 complained of herein;
- 23 c. Whether Facebook's duty of care included the duty to warn the class of and protect
24 the class from the health risks and the psychological impact of content moderating;
- 25 d. Whether Plaintiff and the class are entitled to an order directing Defendants to
26 establish one or more funds to pay for the expense of future medical monitoring
and medical care for Plaintiff and the class;
- 27 e. Whether injunctive relief should be awarded in the form of an order directing
28 Facebook comply with industry guidelines for safety in content moderation; and

1 f. Whether relief should be awarded in the form of an order directing Facebook to
2 establish a medical monitoring fund.

3 61. The claims asserted by Plaintiff are typical of the claims of the class, in that the
4 representative plaintiff, like all class members, was exposed to highly toxic, unsafe, and injurious
5 content during her employment as a content moderator at Facebook. Each member of the proposed
6 class has been similarly injured by Defendants' misconduct.

7 62. Plaintiff will fairly and adequately protect the interests of the class. Plaintiff has retained
8 attorneys experienced in class actions and complex litigation. Plaintiff intends to vigorously prosecute
9 this litigation. Neither Plaintiff nor her counsel have interests that conflict with the interests of the
10 other class members.

11 63. Plaintiff and the class members have all suffered and will continue to suffer harm
12 resulting from Defendants' wrongful conduct. A class action is superior to other available methods for
13 the fair and efficient adjudication of the controversy. Treatment as a class action will permit a large
14 number of similarly situated persons to adjudicate their common claims in a single forum
15 simultaneously, efficiently, and without the duplication of effort and expense that numerous individual
16 actions would engender. Class treatment will also permit the adjudication of claims by many members
17 of the proposed class who could not individually afford to litigate a claim such as is asserted in this
18 complaint. This class action likely presents no difficulties in management that would preclude
19 maintenance as a class action.

20 **FIRST CAUSE OF ACTION**

21 **NEGLIGENCE**

22 **(as against Facebook only)**

23 64. Plaintiff realleges and incorporates by reference herein all allegations above.

24 65. A hirer of an independent contractor is liable to an employee of the contractor insofar
25 as a hirer's exercise of retained control affirmatively contributed to the employee's injuries.

26 66. If a hirer entrusts work to an independent contractor but retains control over safety
27 conditions at a jobsite and then negligently exercises that control in a manner that affirmatively
28 contributes to an employee's injuries, the hirer is liable for those injuries, based on its own negligent

1 exercise of that retained control. When the hirer actively retains control, it cannot logically be said to
2 have delegated that authority.

3 67. At all times relevant to the allegations herein, Plaintiff was an employee of Pro
4 Unlimited.

5 68. Facebook retained control over the safety of Plaintiff and the class by actively directing
6 the mode, means, and method of content moderation work at its California offices.

7 69. Facebook negligently exercised that retained control in a manner that affirmatively
8 contributed to the injuries of Plaintiff and the class.

9 70. Facebook had a duty to provide Plaintiff and the class with necessary and adequate
10 safety and instructional materials, warnings, and means to reduce and/or minimize the physical and
11 psychiatric risks associated with exposure to graphic imagery.

12 71. Facebook was aware or should have been aware that the workplace could be made safe
13 if proper precautions were followed.

14 72. Facebook was also aware of the psychological trauma that could be caused by viewing
15 video, images, and/or livestreamed broadcasts of child abuse, rape, torture, bestiality, beheadings,
16 suicide, murder, and other forms of extreme violence. As a result, Facebook had a duty to monitor and
17 follow up with content moderators, who are exposed to such content each day.

18 73. Facebook breached its duty by failing to provide the necessary and adequate safety and
19 instructional materials, warnings, and means to reduce and/or minimize the physical and psychiatric
20 risks associated with exposure to graphic imagery.

21 74. As a result of Facebook's tortious conduct, Plaintiff and the class have experienced an
22 increased risk of developing serious mental health injuries, including PTSD.

23 75. The PTSD from which Plaintiff suffers requires specialized testing with resultant
24 treatment that is not generally given to the public at large.

25 76. The medical monitoring regime includes, but is not limited to, baseline tests and
26 diagnostic examinations which will assist in diagnosing the adverse health effects associated with
27 exposure to trauma. This diagnosis will facilitate the treatment and behavioral and/or pharmaceutical
28

1 interventions that will prevent or mitigate various adverse consequences of the post-traumatic stress
2 disorder and diseases associated with exposure to graphic imagery.

3 77. Monitoring and testing Plaintiff and the class will significantly reduce the risk of long-
4 term injury, disease, and economic loss.

5 78. Plaintiff seeks an injunction creating a court-supervised, Facebook-funded medical
6 monitoring program to facilitate the diagnosis and adequate treatment of Plaintiff and the class for
7 psychological trauma, including but not limited to PTSD. The medical monitoring should include a
8 trust fund to pay for the medical monitoring and treatment of Plaintiff and the class as frequently and
9 appropriately as necessary.

10 79. Plaintiff and the class have no adequate remedy at law, in that monetary damages alone
11 cannot compensate them for the continued risk of developing long-term physical and economic losses
12 due to serious and debilitating mental health injuries. Without court-approved medical monitoring as
13 described herein or established by the Court, Plaintiff and the class will continue to face an
14 unreasonable risk of continued injury and disability.

15 **SECOND CAUSE OF ACTION**
16 **CALIFORNIA UNFAIR COMPETITION LAW**
17 **(as against Pro Unlimited only)**

18 80. Plaintiff realleges and incorporates by reference herein all allegations above.

19 81. The California Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code § 17200 *et*
20 *seq.*, UCL §17200 provides, in pertinent part, that “unfair competition shall mean and include unlawful,
21 unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising”

22 82. Under the UCL, a business act or practice is “unlawful” if it violates any established
23 state or federal law.

24 83. Section 6400 of California’s Labor Code requires employers to “furnish employment
25 and a place of employment that is safe and healthful for the employees therein.” Similarly, § 6401
26 requires every employer to “furnish and use safety devices and safeguards, and [to] adopt and use
27 practices, means, methods, operations, and processes which are reasonably adequate to render such
28 employment and place of employment safe and healthful.”

1 84. To protect employees from unsafe workplaces, California law requires that “[e]very
2 employer shall do every other thing reasonably necessary to protect the life, safety, and health of
3 employees.” Cal. Labor Code § 6401. This includes “establish[ing], implement[ing], and maintain[ing]
4 an effective injury prevention program.” Cal. Labor Code § 6401.7. Employers must “provide and use
5 safety devices and safeguards reasonably adequate to render the employment and place of employment
6 safe”; “adopt and use methods and processes reasonably adequate to render the employment and place
7 of employment safe”; and “do every other thing reasonably necessary to protect the life, safety, and
8 health of employees.” Cal. Labor Code § 6403.

9 85. No employer can “require or permit any employee to go or be in any employment or
10 place of employment which is not safe and healthful.” Cal. Labor Code § 6402.

11 86. Pro Unlimited’s failure to provide a safe workplace for Plaintiff and its former and
12 current employees violates, *inter alia*, Labor Code §§ 6400, 6401, 6401.7, 6402 and 6403.

13 87. Pro Unlimited did not provide Plaintiff or the class with a safe working environment.
14 Pro Unlimited routinely and repeatedly exposed Plaintiff and the class to content known to cause
15 psychological trauma and PTSD. Even though Pro Unlimited knew of and could have reasonably
16 implemented adequate safety measures, the company refused to implement necessary and adequate
17 safety and instructional materials, warnings, and means to reduce and/or minimize the risks associated
18 with exposure to graphic imagery.

19 88. Pro Unlimited required Plaintiff and the class to work in unsafe conditions every day.

20 89. Pro Unlimited’s illegal conduct was willful and serious, and directly caused harm to
21 Plaintiff and the class.

22 90. Plaintiff suffered an injury in fact because of Pro Unlimited’s conduct and has lost
23 money because of Pro Unlimited’s conduct.

24 91. Specifically, Plaintiff paid for medical treatment and therapy to treat PTSD, which was
25 caused by Pro Unlimited’s conduct.

26 92. There were reasonably available alternatives to further Pro Unlimited’s legitimate
27 business interests, other than the conduct described herein.

28

1 93. Pro Unlimited's failure to follow worker safety laws amounts to an unlawful, unfair,
2 and fraudulent business practice under California Business and Professions Code § 17200.

3 94. Plaintiff seeks all appropriate injunctive relief pursuant to Business and Professions
4 Code § 17203, including an order requiring Pro Unlimited to implement safety guidelines for all content
5 moderators.

6 95. Plaintiff seeks an injunction creating a court-supervised, Pro Unlimited-funded medical
7 monitoring program facilitating the diagnosis and adequate treatment of Plaintiff and the class for
8 psychological injuries, including but not limited to PTSD. The medical monitoring should include a
9 trust fund to pay for the medical monitoring and treatment of Plaintiff and the class as frequently and
10 appropriately as necessary.

11 96. Plaintiff and the class will be irreparably harmed and/or denied an effective and
12 complete remedy if such an order is not granted.

13 97. Plaintiff also seeks an award of attorney's fees.

14 **THIRD CAUSE OF ACTION**
15 **CALIFORNIA UNFAIR COMPETITION LAW**
16 **(as against Facebook only)**

17 98. Plaintiff realleges and incorporates by reference herein all allegations above.

18 99. Facebook's negligent exercise of retained control Plaintiff and the class violates the
19 California common law.

20 100. Facebook's failure to provide a safe workplace for Plaintiff and the class violates the
21 California common law.

22 101. If a hirer entrusts work to an independent contractor but retains control over safety
23 conditions at a jobsite and then negligently exercises that control in a manner that affirmatively
24 contributes to an employee's injuries, the hirer is liable for those injuries, based on its own negligent
25 exercise of that retained control. Because the hirer actively retains control, it cannot logically be said to
26 have delegated that authority.

27 102. At all times relevant to the allegations herein, Plaintiff was an employee of Pro
28 Unlimited.

1 103. Facebook retained control over the safety of Plaintiff and the class by actively directing
2 the mode, means, and method of content moderation work at its California offices.

3 104. Facebook negligently exercised that retained control in a manner that affirmatively
4 contributed to the injuries of Plaintiff and the class.

5 105. Facebook had a duty to provide Plaintiff and the class with necessary and adequate
6 safety and instructional materials, warnings, and means to reduce and/or minimize the risks associated
7 with exposure to graphic imagery.

8 106. Facebook was aware or should have been aware that the workplace could be made safe
9 if proper precautions were followed.

10 107. Facebook was also aware of the psychological trauma that could be caused by viewing
11 video, images, and/or livestreamed broadcasts of child abuse, rape, torture, bestiality, beheadings,
12 suicide, murder, and other forms of extreme violence. As a result, Facebook has a duty to monitor and
13 follow up with those who are repeatedly exposed to such content.

14 108. Facebook breached its duty by failing to provide the necessary and adequate safety and
15 instructional materials, warnings, and means to reduce and/or minimize the risks associated with
16 exposure to graphic imagery.

17 109. Facebook's illegal conduct was willful and serious, and directly caused harm to Plaintiff
18 and the class.

19 110. Plaintiff suffered an injury in fact because of Facebook's conduct and has lost money
20 because of Facebook's conduct.

21 111. Specifically, Plaintiff paid out of pocket for medical treatment and therapy for her
22 PTSD, which was caused by Facebook's conduct.

23 112. There were reasonably available alternatives to further Facebook's legitimate business
24 interests, other than the conduct described herein.

25 113. Plaintiff seeks all appropriate injunctive relief pursuant to Business and Professions
26 Code Section 17203 including an order requiring Facebook to implement safety guidelines for all
27 content moderators.

28

1 114. Plaintiff seeks an injunction creating a court-supervised, Facebook-funded medical
2 monitoring program facilitating the diagnosis and adequate treatment of Plaintiff the class for
3 psychological injuries, including but not limited to PTSD. The medical monitoring should include a
4 trust fund to pay for the medical monitoring and treatment of Plaintiff and the class as frequently and
5 appropriately as necessary.

6 115. Plaintiff also seeks an award of attorney's fees.

7 **FOURTH CAUSE OF ACTION**
8 **CALIFORNIA UNFAIR COMPETITION LAW**
9 **(as against Facebook only as "Special Employer")**

10 116. Plaintiff realleges and incorporates by reference herein all allegations above.

11 117. Solely in the alternative and to the extent that the Court concludes that Facebook is a
12 "special employer" of Plaintiff and the class, Plaintiff brings this fourth cause of action under the UCL
13 for failure to provide a safe workplace.

14 118. Section 6400 of California's Labor Code requires employers to "furnish employment
15 and a place of employment that is safe and healthful for the employees therein." Similarly, Section 6401
16 requires every employer to "furnish and use safety devices and safeguards, and [to] adopt and use
17 practices, means, methods, operations, and processes which are reasonably adequate to render such
18 employment and place of employment safe and healthful."

19 119. To protect employees from unsafe work places, California law requires that "[e]very
20 employer shall do every other thing reasonably necessary to protect the life, safety, and health of
21 employees." Cal. Labor Code § 6401. This includes "establish[ing], implement[ing], and maintain[ing]
22 an effective injury prevention program." Cal. Labor Code § 6401.7. Employers must "provide and use
23 safety devices and safeguards reasonably adequate to render the employment and place of employment
24 safe"; "adopt and use methods and processes reasonably adequate to render the employment and place
25 of employment safe"; and "do every other thing reasonably necessary to protect the life, safety, and
26 health of employees." Cal. Labor Code § 6403.

27 120. No employer can "require or permit any employee to go or be in any employment or
28 place of employment which is not safe and healthful." Cal. Labor Code § 6402.

1 121. Facebook did not provide a safe working environment. Facebook routinely and
2 repeatedly exposed Plaintiff and the class to content known to cause psychological trauma, including
3 PTSD. Even though Facebook knew of and could have reasonably implemented adequate safety
4 measures, the corporation refused to implement necessary and adequate safety and instructional
5 materials, warnings, and means to reduce and/or minimize the risks associated with exposure to
6 graphic content.

7 122. Facebook's failure to provide a safe workplace for Plaintiff and the class violates, *inter*
8 *alia*, California Labor Code §§ 6400, 6401, 6401.7, 6402 and 6403.

9 123. Facebook's illegal conduct was willful and serious, and directly caused harm to Plaintiff
10 and the class.

11 124. Plaintiff suffered an injury in fact because of Facebook's conduct and has lost money
12 because of Facebook's conduct.

13 125. Specifically, Plaintiff paid out of pocket for medical treatment and therapy for her
14 PTSD, which was caused by Facebook's conduct.

15 126. There were reasonably available alternatives to further Facebook's legitimate business
16 interests, other than the conduct described herein.

17 127. Facebook's failure to follow worker safety laws amounts to an unlawful, unfair, and
18 fraudulent business practice under California Business and Professions Code § 17200.

19 128. Plaintiff seeks all appropriate injunctive relief pursuant to Business and Professions
20 Code § 17203, including an order requiring Facebook to implement safety guidelines for all content
21 moderators.

22 129. Plaintiff seeks an injunction creating a court-supervised, Facebook-funded medical
23 monitoring program facilitating the diagnosis and adequate treatment of Plaintiff and the class for
24 psychological injuries, including but not limited to PTSD. The medical monitoring should include a
25 trust fund to pay for the medical monitoring and treatment of Plaintiff and the class as frequently and
26 appropriately as necessary.

27
28

1 130. Plaintiff and the class will be irreparably harmed and/or denied an effective and
2 complete remedy if such an order is not granted.

3 131. Plaintiff also seeks an award of attorney's fees.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff, individually and on behalf of the class, requests that the Court:

- 6 a. Certify this action as a class action, with a class as defined above;
- 7 b. Find that Plaintiff is a proper representative of the class, and appoint the undersigned as
8 class counsel;
- 9 c. Order Defendants to pay for notifying class members of the pendency of this suit;
- 10 d. Award declaratory and other equitable relief as is necessary to protect the interests of
11 Plaintiff, class members, and all former and current content moderators employed by a
12 third party to provide content moderation to Facebook;
- 13 e. Award injunctive relief as is necessary to protect the interests of Plaintiff and class
14 members, including enjoining Defendants from continuing to conduct business through
15 the unlawful and unfair practices alleged herein;
- 16 f. Require Facebook and Pro Unlimited to establish a fund in an amount to be determined
17 by the Court, for the purpose of establishing and maintaining a testing and treatment
18 program whereby Plaintiff, the class, and all former and current content moderators
19 employed by a third party to provide content moderation to Facebook will receive ongoing
20 medical testing and monitoring and, if necessary, medical and psychiatric treatment until it
21 can be determined that their psychological trauma is no longer a threat to their health;
- 22 g. Award Plaintiff and class members their reasonable litigation expenses and attorneys' fees;
23 and
- 24 h. Award any further relief that the Court deems just and equitable.

20 Dated: September 20, 2018

Respectfully Submitted, ↗

21 
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