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18 **UNITED STATES DISTRICT COURT**  
19 **DISTRICT OF NEVADA**

20 UNITED STATES OF AMERICA,

21 Plaintiff,

22 v.

23 PRIME SITES, INC., a Nevada corporation,  
24 also doing business as EXPLORE TALENT,

25 Defendant.  
26

Case No. 2:18-cv-199

**COMPLAINT FOR PERMANENT  
INJUNCTION, CIVIL PENALTIES, AND  
OTHER RELIEF**

1 Plaintiff, the United States of America, acting upon notification and authorization to the  
2 Attorney General by the Federal Trade Commission (“FTC” or “Commission”), for its  
3 Complaint alleges:

4 1. Plaintiff brings this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a) of  
5 the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and  
6 56(a), and Sections 1303(c) and 1306(d) of the Children’s Online Privacy Protection Act of 1998  
7 (“COPPA”), 15 U.S.C. §§ 6502(c) and 6505(d), to obtain monetary civil penalties, a permanent  
8 injunction, rescission or reformation of contracts, restitution, the refund of monies paid,  
9 disgorgement of ill-gotten monies, and other equitable relief for Defendant’s violations of the  
10 Commission’s Children’s Online Privacy Protection Rule (“Rule” or “COPPA Rule”), 16 C.F.R.  
11 Part 312, and Section 5 of the FTC Act.  
12  
13

14 **JURISDICTION AND VENUE**

15 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a),  
16 1345, and 1355 and 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a).

17 3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) and (c)(2), and 15  
18 U.S.C. § 53(b).  
19

20 **THE CHILDREN’S ONLINE PRIVACY PROTECTION ACT RULE**

21 4. Congress enacted COPPA in 1998 to protect the safety and privacy of children  
22 online by prohibiting the unauthorized or unnecessary collection of children’s personal  
23 information online by operators of Internet Web sites or online services. Congress directed the  
24 Commission to promulgate a rule implementing COPPA. The Commission promulgated the  
25 Children’s Online Privacy Protection Rule, 16 C.F.R. Part 312, on November 3, 1999, under  
26 Section 1303(b) of COPPA, 15 U.S.C. § 6502(b), and Section 553 of the Administrative  
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1 Procedure Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000. The Commission  
2 promulgated revisions to the Rule that went into effect on July 1, 2013. Pursuant to Section  
3 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C.  
4 § 57a(d)(3), a violation of the Rule constitutes an unfair or deceptive act or practice in or  
5 affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).  
6

7 **DEFENDANT**

8 5. Defendant Prime Sites, Inc., which also does business as Explore Talent  
9 (“Explore Talent”), is a Nevada corporation with a corporate mailing address of 3395 South  
10 Jones Boulevard, Suite 15, Las Vegas, Nevada 89146. Explore Talent transacts or has transacted  
11 business in this district and throughout the United States. At all times material to this Complaint,  
12 acting alone or in concert with others, Explore Talent has advertised, marketed, or sold online  
13 talent search services to consumers throughout the United States.  
14

15 **COMMERCE**

16 6. At all times material to this Complaint, Defendant has maintained a substantial  
17 course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act,  
18 15 U.S.C. § 44.  
19

20 **DEFENDANT’S BUSINESS PRACTICES**

21 7. Since 2008, Defendant has maintained an online talent search network called  
22 Explore Talent, which is available at the Web site ExploreTalent.com. Aspiring actors, models,  
23 and other artists can use Explore Talent to search for information about upcoming auditions,  
24 casting calls, and other professional opportunities. To create a free account, Explore Talent  
25 requires users—including children under 13—to submit personal information, such as their  
26 names, email addresses, and telephone numbers, and also requests that users provide mailing  
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1 addresses and photographs. Much of the personal information provided by users in setting up  
2 their accounts then becomes publicly available on users' profiles on ExploreTalent.com. Explore  
3 Talent has disclosed children's personal information without accurately describing its collection,  
4 use, or disclosure practices, and without notifying or obtaining consent from the children's  
5 parents. Despite these practices, Explore Talent falsely has represented to consumers in its  
6 Privacy Policy that it does not knowingly collect personal information from children under the  
7 age of 13.  
8

9 8. Once users have created free accounts with Explore Talent, Defendant also has  
10 misrepresented the potential opportunities that are available. Specifically, Defendant sometimes  
11 represents that casting directors and agents are interested in particular Explore Talent users for  
12 specific acting roles. Defendant does this to convince users to pay for a monthly "pro"  
13 membership that purportedly will provide them with access to the identified opportunities.  
14 Defendant makes these representations without any basis for believing that casting directors or  
15 agents are in fact interested in Explore Talent users for specific roles.  
16

17 9. According to Defendant, Explore Talent is the "world's largest talent resource"  
18 and has more than 10 million members. More than one hundred thousand of those members  
19 have registered as under age 13.  
20

21 **DEFENDANT'S BUSINESS PRACTICES REGARDING COLLECTION OF**  
22 **INFORMATION FROM CHILD-DIRECTED APPLICATIONS**

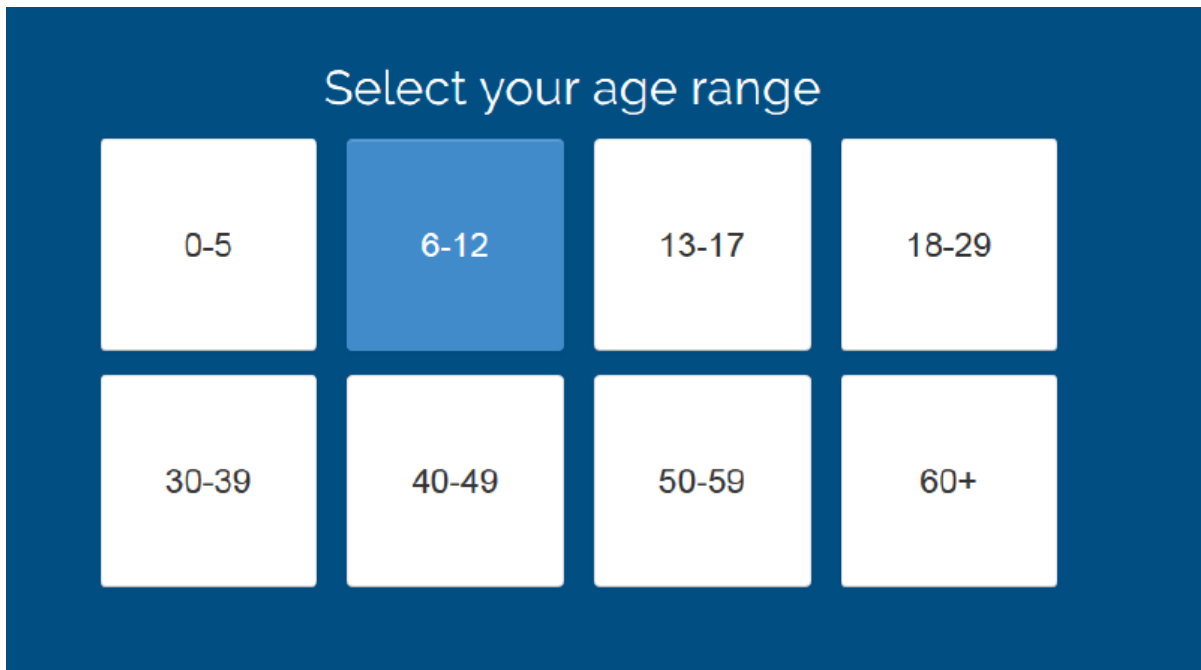
23 10. For purposes of Paragraphs 10 through 24 and 32 through 36, herein, the terms  
24 "child," "collects," "collection," "disclosure," "Internet," "operator," "parent," "personal  
25 information," "obtaining verifiable consent," and "Web site or online service directed to  
26 children," are defined as those terms are defined in Section 312.2 of the COPPA Rule, 16 C.F.R.  
27 § 312.2.  
28

1           11.     Among other things, the Rule applies to any operator of a commercial Web site or  
2 online service that has actual knowledge that it collects, uses, and/or discloses personal  
3 information from children. The Rule requires operators to meet specific requirements prior to  
4 collecting online, using, or disclosing personal information from children, including but not  
5 limited to:

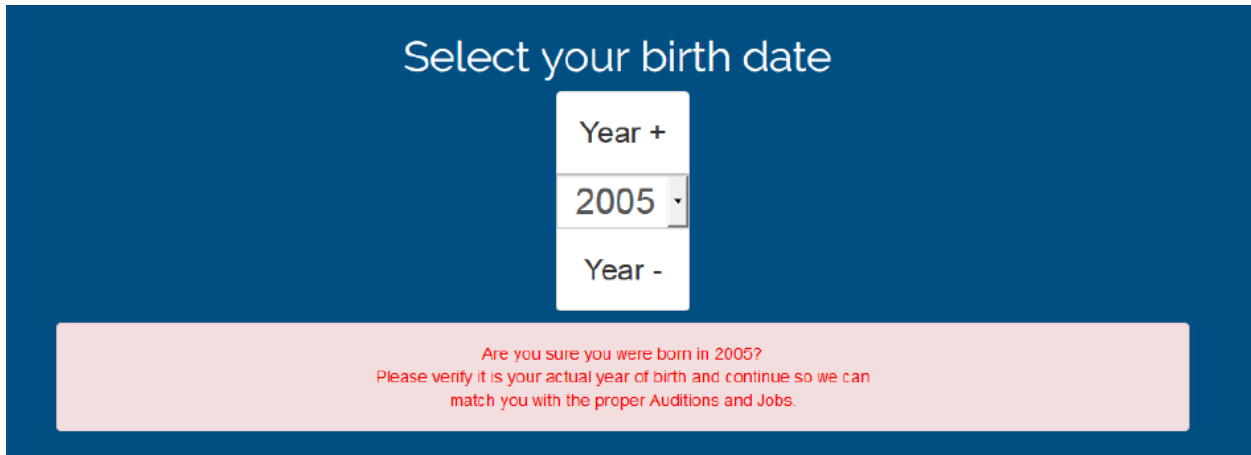
- 6                   a.     posting a privacy policy on its Web site or online service providing clear,  
7                             understandable, and complete notice of its information practices, including  
8                             what information the operator collects from children online, how it uses  
9                             such information, its disclosure practices for such information, and other  
10                            specific disclosures set forth in the Rule;  
11                   b.     providing clear, understandable, and complete notice of its information  
12                             practices, including specific disclosures, directly to parents when required  
13                             by the Rule; and  
14                   c.     obtaining verifiable parental consent prior to collecting, using, and/or  
15                             disclosing personal information from children.  
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19           12.     Explore Talent users who created accounts on ExploreTalent.com, including users  
20 who created both free and “pro” accounts, were taken to a registration page, where they were  
21 required to input their first name, last name, zip code, email address, gender, “age range,” height,  
22 and ethnicity. The listed options for age range included “0-5” and “6-12.” The following is a  
23 screenshot of the page where registrants are asked to select their “age range”:  
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13. On subsequent screens, Explore Talent requested that users input their telephone number, eye color, hair color, and birthdate, including year. The following is a screenshot of the page where Explore Talent requests users' birth year:



14. In requiring that users input their age range and birth year, Explore Talent did not place any limitations on the creation of an ExploreTalent.com account by any user who indicated an age of 12 or younger. Instead, Explore Talent collected the same personal information from children as from other users. Users who indicated any birth year, including birth years that

1 would indicate ages under 13, were merely presented with the following message, “Are you sure  
2 you were born in [selected birth year]? Please verify it is your actual year of birth and continue  
3 so we can match you with the proper Auditions and Jobs.”

4 15. Users who submitted this registration information were then requested by Explore  
5 Talent to upload a picture. Explore Talent urged users to upload such a picture with the  
6 message:  
7

8 Agents & Casting Directors choose

9 Only serious candidates with pictures

10 Upload a picture or use your camera

11 16. After registering, all users, including users who had indicated their age was under  
12 13, were requested to input additional information, including their mailing address, weight,  
13 “body type,” and measurements for “waist,” “hips,” “bust,” “shirt,” “sleeve,” and “shoe.”  
14 Explore Talent also requested that the users include “Detailed User Info” describing their  
15 particular skills, modeling and acting categories, and other professional information.  
16

17 17. Explore Talent also allowed all users to “make friends” with other users. Users  
18 can “like” other users’ profiles, request to become “friends” with other users, and exchange  
19 direct, private messages with other users. Explore Talent did not restrict users’ ability to make  
20 friends with other users, view or like other users’ profiles, or exchange messages with other users  
21 based on the users’ listed age. Adults could become friends and exchange direct, private  
22 messages with children who had profiles on ExploreTalent.com without the children’s parents  
23 being notified of or consenting to the communications.  
24

25 18. ExploreTalent.com profiles are publicly visible. Explore Talent allowed both  
26 users with registered accounts and unregistered visitors to the Web site to search for users by  
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1 name, location, and age, including users under the age of 13. Users and unregistered visitors to  
2 ExploreTalent.com also could identify and view the profiles of friends of users.

3 ExploreTalent.com did not restrict the visibility of users' profiles based on the users' listed age.

4 19. Explore Talent maintained a fine-print Privacy Policy that users were not required  
5 to review or agree to in registering for an account. Explore Talent's Privacy Policy was  
6 available via a hyperlink located at the bottom of its home page, near a dozen other hyperlinks to  
7 other pages on Explore Talent's Web site. That Privacy Policy included a section entitled  
8 "CHILDREN UNDER THE AGE OF 13" that stated, in part, "If you are a child under the age of  
9 13, your profile must be created by a legal guardian. No one under age 13 may provide any  
10 information to or through [ExploreTalent.com]. We do not knowingly collect personal  
11 information from children under 13."  
12

13  
14 20. This Privacy Policy did not provide sufficient notice of the Web site's information  
15 practices with respect to children. In many instances where Explore Talent collects personal  
16 information from a user who is a child under 13, the child's parent likely would not have seen  
17 the Privacy Policy. Nor did the Privacy Policy provide adequate notice on a substantive basis  
18 about the information Explore Talent collected from children, how it used such information, or  
19 its disclosure practices for such information. This Privacy Policy also did not provide direct  
20 notice to parents of the information Explore Talent collected online from children, how it used  
21 such information, or its disclosure practices for such information.  
22

23 21. Additionally, Defendant's representation in its Privacy Policy that it did not  
24 knowingly collect personal information from children under age 13 was false.  
25 ExploreTalent.com imposed no restrictions on users who indicated that they were under the age  
26 of 13 and in fact routinely collected several categories of personal information from children.  
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1           22.     During the period from 2014 through 2016, ExploreTalent.com had more than  
2 100,000 members who registered as under age 13. As set forth in Paragraphs 10 through 16,  
3 Explore Talent collected personal information, including but not limited to full name, email  
4 address, mailing address, and telephone number, from tens of thousands of individuals who  
5 registered for free accounts on ExploreTalent.com with birthdates indicating that they were  
6 between the ages of 0 and 13. These users also had publicly visible profiles that included  
7 personal information, including the users' full names and photographs containing the users'  
8 image.  
9

10           23.     ExploreTalent.com did not verify that profiles listing an age under 13 were in fact  
11 being created by a legal guardian. Instead, Explore Talent knowingly collected and used  
12 information from tens of thousands of users who provided age ranges and birth years indicating  
13 that they were under 13, in violation of the COPPA Rule.  
14

15           24.     Explore Talent: (a) did not clearly, completely, or accurately disclose Explore  
16 Talent's information collection, use, and disclosure practices for children under age 13, as  
17 required by the Rule; (b) did not provide parents with a direct notice of its information practices  
18 prior to collecting, using, or disclosing children's personal information; and (c) did not obtain  
19 verifiable consent from parents prior to collecting, using or disclosing children's personal  
20 information.  
21

22                           **DEFENDANT'S SALE OF "PRO" MEMBERSHIPS**

23           25.     ExploreTalent.com purports to list more than 16,000 acting, modeling, and other  
24 professional opportunities. These opportunities are not with Explore Talent itself, but rather are  
25 with casting directors, agents, and other third parties.  
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1           26.     Although Explore Talent allows users to create free accounts on its Web site,  
2 users with free accounts cannot apply for the listed opportunities. Rather, ExploreTalent.com  
3 users must pay for a “pro” membership to apply for the opportunities. The monthly price for a  
4 pro membership is \$39.95.

5           27.     Explore Talent users can register and pay for a pro membership on  
6 ExploreTalent.com. On its Web site, Explore Talent entices consumers to “Upgrade to Pro” with  
7 the representation:  
8

9                   Want to land Auditions and get Hired?

10                   Agents constantly needing [*sic*] new faces, Upgrade to PRO so they can find you

11                   Apply to Unlimited Auditions and Jobs  
12

13           28.     On its Web site, Explore Talent also posts “Success Stories” of users who found  
14 opportunities through ExploreTalent.com. In these testimonials, users thank Explore Talent for  
15 helping them find roles in commercials, short and feature-length films, and other productions.

16           29.     Additionally, Defendant has placed unsolicited telephone calls to users of free  
17 ExploreTalent.com accounts to attempt to convince them to register for a pro membership. In  
18 these calls, Defendant’s telemarketers have represented to individual users that casting directors  
19 have interest in or have chosen them for specific acting opportunities. In many instances,  
20 Defendant’s telemarketers have claimed that a user has been specifically chosen for a part in an  
21 upcoming, well-known major motion picture. Defendant’s telemarketers have represented that,  
22 to apply for the identified opportunities, the user must pay for a “pro” membership.  
23  
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25           30.     To convince users to upgrade their memberships, Defendant’s telemarketers  
26 sometimes have told Explore Talent users that casting directors for particular motion pictures  
27 were interested in casting them for upcoming roles. In particular, one of Defendant’s  
28

1 telemarketers represented to a user that the casting director for a sequel of “Jack Reacher”  
2 starring Tom Cruise was particularly interested in auditioning the user for a paid speaking role in  
3 that film, but that the user first needed to upgrade to a pro membership. Before paying for such a  
4 membership, however, the user directly contacted the casting director, who told the Explore  
5 Talent user that the film was not working with Explore Talent and that all speaking roles in the  
6 film already were cast. Another of Defendant’s telemarketers specifically promised an Explore  
7 Talent user a role in an upcoming “Fast and Furious” movie if she paid for a pro membership.  
8 The user paid for the pro membership but received no contact about any such role.  
9

10 31. Defendant’s representations about acting opportunities are false or not  
11 substantiated. Defendant has made these claims without knowledge of any specific expressed  
12 interest by casting directors in the user, and without knowledge of users having been chosen for  
13 specific opportunities. Users who have paid to upgrade to a pro membership have not received  
14 the promised solicitations from casting directors or the specific casting opportunities touted by  
15 Defendant’s telemarketers.  
16

17 **DEFENDANT’S VIOLATIONS OF THE COPPA RULE**

18 **COUNT I**

19 32. In numerous instances, in connection with operating its talent search network,  
20 Defendant has collected, used, and/or disclosed, with actual knowledge, personal information  
21 from children under the age of 13. In doing so, Defendant has failed to: (1) provide sufficient  
22 notice on its Web site or online services of the information it collects online from children and  
23 how it uses such information, among other required content; (2) provide direct notice to parents  
24 of the information Defendant collects online from children and how it uses such information,  
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1 among other required content; and (3) obtain verifiable parental consent before any collection or  
2 use of personal information from children.

3 33. Defendant is an “operator” as defined by the COPPA Rule, 16 C.F.R. § 312.2.

4 34. Through the means described in Paragraphs 10 through 24 above, Defendant  
5 violated:

6 a. Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d), which requires an  
7 operator to provide sufficient notice on its Web site or online services of  
8 the information it collects online from children, how it uses such  
9 information, and its disclosure practices for such information, among other  
10 required content;  
11

12 b. Section 312.4(b) of the Rule, 16 C.F.R. § 312.4(b), which requires an  
13 operator to provide direct notice to parents of the information Defendant  
14 collects online from children, how it uses such information, and its  
15 disclosure practices for such information, among other required content;  
16 and  
17

18 c. Section 312.5(a)(1) of the Rule, 16 C.F.R. § 312.5(a)(1), which requires an  
19 operator to obtain verifiable parental consent before any collection, use,  
20 and/or disclosure of personal information from children.  
21

22 35. Defendant’s acts or practices, as described in Paragraph 34 above, violated the  
23 COPPA Rule, 16 C.F.R. Part 312.  
24

25 36. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section  
26 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or  
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1 deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act,  
2 15 U.S.C. § 45(a).

3 **DEFENDANT’S VIOLATIONS OF THE FTC ACT**

4 37. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts  
5 or practices in or affecting commerce.”

6 38. Misrepresentations or deceptive omissions of material fact constitute deceptive  
7 acts or practices prohibited by Section 5(a) of the FTC Act.

8 **COUNT II**

9 39. In numerous instances, in connection with operating its talent search network,  
10 Defendant has represented, directly or indirectly, expressly or by implication, that it does not  
11 knowingly collect personal information from children under the age of 13.  
12

13 40. In truth and in fact, in numerous instances in which Defendant has made the  
14 representation set forth in Paragraph 39 of this Complaint, Defendant has knowingly collected  
15 personal information from children under the age of 13.  
16

17 41. Therefore, Defendant’s representation as set forth in Paragraph 39 of this  
18 Complaint is false and misleading and constitutes a deceptive act or practice in violation of  
19 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).  
20

21 **COUNT III**

22 42. In numerous instances, in connection with the advertising, marketing, promotion,  
23 offering for sale, or sale of pro memberships that allow users to apply for roles through its talent  
24 search network, Defendant has represented, directly or indirectly, expressly or by implication,  
25 that Explore Talent users have been specifically chosen for a role in an upcoming motion picture  
26 or have been the subject of interest from casting directors.  
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1           43.     In truth and in fact, in numerous instances in which Defendant has made the  
2 representations set forth in Paragraph 42 of this Complaint, such representations were false or  
3 misleading, or were not substantiated at the time Defendant made them.

4           44.     Therefore, the making of the representations set forth in Paragraph 42 of this  
5 Complaint constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15  
6 U.S.C. § 45(a).

7  
8                                   **THE COURT'S POWER TO GRANT RELIEF**

9           45.     Defendant violated the Rule as described above with the knowledge required by  
10 Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

11           46.     Each collection or use of a child's personal information in which Defendant  
12 violated the Rule in one or more of the ways described above, constitutes a separate violation for  
13 which Plaintiff seeks monetary civil penalties.

14           47.     Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by  
15 Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, and  
16 Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to  
17 award monetary civil penalties of not more than \$16,000 for each such violation of the Rule on  
18 or after February 10, 2009.

19           48.     Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant  
20 injunctive and such other relief as the Court may deem appropriate to halt and redress violations  
21 of any provision of law enforced by the FTC.  
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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff United States of America, pursuant to Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a) of the FTC Act, 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a), and the Court's own equitable powers, requests that the Court:

(1) Enter a permanent injunction to prevent future violations of the FTC Act and the COPPA Rule by Defendant;

(2) Award Plaintiff monetary civil penalties from Defendant for each violation of the COPPA Rule alleged in this Complaint; and

(3) Award such other and additional relief as the Court may determine to be just and proper.

Dated: February 5, 2018

FOR THE FEDERAL TRADE  
COMMISSION

MATTHEW H. WERNZ  
SAMUEL A.A. LEVINE  
Federal Trade Commission

FOR PLAINTIFF  
THE UNITED STATES OF AMERICA

CHAD A. READLER  
Acting Assistant Attorney General  
Civil Division

ETHAN DAVIS  
Deputy Assistant Attorney General

GUSTAV W. EYLER  
Acting Director  
Consumer Protection Branch

/s/ Kathryn A. Schmidt  
KATHRYN A. SCHMIDT  
Trial Attorney

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Property, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE