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And The Putative Class*

7  
8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**

<p>11 GEOFFREY TAYLOR, individually and 12 on behalf of others similarly situated,  13 Plaintiff,  14 vs.  15 MEET MUSE MEDIA, INC.,  16 Defendant.</p>	<p>CASE NO: <b>'22CV1582 AJB KSC</b>  <u>CLASS ACTION</u>  COMPLAINT FOR DAMAGES FOR:  VIOLATIONS OF THE UNRUH CIVIL RIGHTS ACT, CAL. CIVIL CODE § 51  JURY TRIAL DEMANDED</p>
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1 INTRODUCTION

2 1. Geoffrey Taylor (“Plaintiff”), individually and on behalf of all other similarly  
3 situated California residents (“Class Members”), brings this action for damages  
4 and injunctive relief against Meet Muse Media, Inc. (“Defendant”), and its  
5 present, former, or future direct and indirect parent companies, subsidiaries,  
6 affiliates, agents, related entities for violations of the California Civil Code § 51,  
7 California Unruh Civil Rights Act (“UCRA”) in relation to Defendant’s adoption  
8 of arbitrary age discrimination practices.

9 2. The California State Legislature enacted the UCRA in 1959 to secure “equal  
10 access to public accommodations and prohibit discrimination by business  
11 establishments” for the benefit of the people of California. *Harris v. Capital*  
12 *Growth Investors XIV*, 52 Cal.3d 1142, 1150 (1991). The UCRA is very clear in  
13 protection of California citizens as free and equal:

14 “All persons within the jurisdiction of this state are free and  
15 equal, and no matter what their sex, race color, religion,  
16 ancestry, national origin, genetic information, marital status,  
17 sexual orientation, citizenship, primary language, or  
18 immigration status are entitled to the full and equal  
19 accommodations, advantages, facilities, privileges, or  
services in all business establishments of every kind  
whatsoever.” California Civil Code § 51(b).

20 3. Pursuant to the UCRA, each violation entitles Plaintiff and Class Members to  
21 \$4,000 in statutory damages, reasonable attorney’s fees, and costs. Cal. Civ. Code  
22 § 52(a).

23 4. Defendant created “Snack,” a new video dating mobile application Defendant  
24 touts as “dedicated to video sharing” to “meet real people by showing the real  
25 you” by saying “goodbye to the way your parents dated, and our hello to the way  
26 that GenZ actually connects and vibes.”<sup>1</sup>

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<sup>1</sup> <https://apps.apple.com/app/snack-video-dating/id1545836962>

1 5. In 2022, Plaintiff attempted to sign up for Snack, however, Snack refused him  
2 access. Specifically, Defendant stated that, since Plaintiff is over the age of thirty-  
3 five (35), Plaintiff would be unable to utilize Snack’s services. Defendant then  
4 suggested Plaintiff download “Tinder” or “Match,” two other mobile dating  
5 applications, not created or owned by Defendant.

6 6. By refusing Plaintiff access to the full and equal advantages, privileges, and  
7 services of the Snack application due to Plaintiff’s age, Defendant violated the  
8 UCRA.

9 7. Plaintiff brings this class action on behalf of a class of California consumers,  
10 described in more detail herein.

11 8. Plaintiff makes these allegations on information and belief, with the exception of  
12 those allegations that pertain to Plaintiff, or to Plaintiff’s counsel, which Plaintiff  
13 alleges on his personal knowledge.

14 9. Unless otherwise stated, all the conduct engaged in by Defendant took place in  
15 California.

16 10. All violations by Defendant were knowing, willful, and intentional, and  
17 Defendant did not maintain procedures reasonably adapted to avoid any such  
18 violation.

19 11. Unless otherwise indicated, the use of Defendant’s name in this Complaint  
20 includes all agents, employees, officers, members, directors, heirs, successors,  
21 assigns, principals, trustees, sureties, subrogees, representatives, and insurers of  
22 the named Defendant.

### 23 **JURISDICTION & VENUE**

24 12. Jurisdiction is proper under the Class Action Fairness Act (“CAFA”), 28 U.S.C.  
25 § 1332(d)(2), because Plaintiff, a resident of the State of California, seeks relief  
26 on behalf of a California class, which will result in at least one class member  
27 belonging to a different state than that of Defendant, a Canadian Corporation with  
28 its principal place of business in Vancouver, Canada.

1 13. Plaintiff is requesting statutory damages of \$4,000 per violation of Cal. Civil  
2 Code §51, which, when aggregated among a proposed class number in the tens  
3 of thousands, exceeds the \$5,000,000 threshold for federal court jurisdiction  
4 under CAFA.

5 14. Therefore, both diversity jurisdiction and the damages threshold under CAFA  
6 are present, and this Court has jurisdiction.

7 15. Because Defendant conducts business within the State of California, personal  
8 jurisdiction is established.

9 16. Venue is proper pursuant to 28 U.S.C. § 1391 for the following reasons: (i) the  
10 conduct complained of herein occurred within this judicial district; and (ii)  
11 Defendant conducted business within this judicial district at all times relevant.

12 **PARTIES**

13 17. Plaintiff is, and at all times mentioned herein was, a natural person and resident  
14 of the State of California, living in Bakersfield, California and a resident of this  
15 judicial district.

16 18. Defendant is, and at all times mentioned herein was, a Canadian corporation with  
17 its principal place of business located at 1055 West Hastings Street, Suit 1700,  
18 Vancouver, BC Canada V6E2E9.

19 19. Plaintiff alleges that at all times relevant herein Defendant conducted business in  
20 the State of California, in the County of Kern, within this judicial district.

21 **FACTUAL ALLEGATIONS**

22 20. In February 2021, Defendant launched “Snack,” a new mobile dating application  
23 focused on videos of its users rather than the traditional dating applications  
24 centered around photos of the users.<sup>2</sup> Snack is touted as “the way GenZ actually  
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28 <sup>2</sup> <https://techcrunch.com/2021/05/10/snack-a-tinder-meets-tiktok-dating-app-opens-to-gen-z-investors/#:~:text=Snack%20began%20fundraising%20in%20September,and%20launched%20in%20late%20February.&text=%E2%80%9CWe're%20only%20about%20eight,user%20growth%2C%E2%80%9D%20Kaplan%20says.>

1 connects and vibes (video, video, video);”<sup>3</sup> however, as one writer notes, “it’s  
2 definitely not just for GenZ.”<sup>4</sup>

3 21. The CEO of Snack, Kim Kaplan, stated the purpose of watching the videos on  
4 Snack forces the user to be “more intentional about the decisions you’re making”  
5 versus the “low intent” of swiping on a photo (like Tinder or Match).<sup>5</sup>

6 22. In September 2022, intrigued by this new way to connect in the dating scene,  
7 Plaintiff attempted to download Snack onto his mobile device.

8 23. Plaintiff input his personal information, which included his age of thirty-seven  
9 (37); however, Defendant denied him access to the services of the application.

10 24. Defendant displayed the following message on Plaintiff’s screen:



3 <https://apps.apple.com/us/app/snack-video-dating-app/id1545836962>

4 <https://mashable.com/article/snack-gen-z-dating-app>

5 *Id.*

1 25. When designing and creating Snack, Ms. Kaplan stated, “Dating apps are about  
2 people connecting and meeting. That’s the ultimate goal . . . With Snack, you can  
3 create those more genuine connections in advance.”<sup>6</sup>

4 26. Defendant built Snack upon a vision of connection; however, Defendant  
5 intentionally excluded all users who were above the age of 35 from partaking in  
6 the advantages of the privileges of this vision.

7 27. As a result thereof, Plaintiff has been damaged as set forth in the Prayer for Relief  
8 herein.

9 28. Plaintiff seeks statutory damages and injunctive relief under California Civil  
10 Code § 52(a).

11 **STANDING**

12 29. Defendant’s conduct constituted arbitrary age discrimination because it denied  
13 Plaintiff and Class members full and equal accommodations, advantages,  
14 facilities, privileges, and services of Defendant’s dating application, in violation  
15 of UCRA.

16 30. Defendant continues to discriminate against potential Snack users in California  
17 based on the age of the user. A favorable decision by this court would redress the  
18 injuries of Plaintiff and the Class.

19 **CLASS ACTION ALLEGATIONS**

20 31. Plaintiff brings this lawsuit as a class action on behalf of himself and Class  
21 Members of the proposed Classes. This action satisfies the numerosity,  
22 commonality, typicality, adequacy, predominance, and superiority requirements  
23 of those provisions.

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<sup>6</sup> <https://dailyhive.com/vancouver/snack-app-kim-kaplan>

1 32. Plaintiff proposes the following Class consisting of and defined as follows:

2 **All persons in California that were denied access to**  
3 **Defendant’s application “Snack” because of their age.**

4 33. Excluded from the Class are: (1) Defendant, any entity or division in which  
5 Defendant has a controlling interest, and its legal representatives, officers,  
6 directors, assigns, and successors; (2) the Judge to whom this case is assigned  
7 and the Judge’s staff; and (3) those persons who have suffered personal injuries  
8 as a result of the facts alleged herein. Plaintiff reserves the right to redefine the  
9 Class and to add subclasses as appropriate based on discovery and specific  
10 theories of liability

11 34. **Numerosity**: The Class Members are so numerous that joinder of all members  
12 would be unfeasible and impractical. The membership of the entire Class is  
13 currently unknown to Plaintiff at this time; however, given that, on information  
14 and belief, Defendant’s application was accessed by tens of thousands of  
15 potential users each month, it is reasonable to presume that the members of the  
16 Class are so numerous that joinder of all members is impracticable. The  
17 disposition of their claims in a class action will provide substantial benefits to the  
18 parties and the Court.

19 35. **Commonality**: There are common questions of law and fact as to Class Members  
20 that predominate over questions affecting only individual members, including,  
21 but not limited to:

- 22 • Whether, within the statutory period, Defendant discriminated  
23 against Class Members based on age;
- 24 • Whether Defendant refused Class Members access to Snack based  
25 on age;

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- 1 • Whether Defendant had, and continues to have, a policy during the  
2 relevant period not allowing users over the age of 35 access to  
3 Snack; and
- 4 • Whether Defendant’s actions constitute a violation of Cal. Civil  
5 Code § 51.

6 36. **Typicality:** Plaintiff was denied the accommodations and services of  
7 Defendant’s mobile dating application due to his age, and thus, his injuries are  
8 also typical to Class Members.

9 37. Plaintiff and Class Members were harmed by the acts of Defendant in at least the  
10 following ways: Defendant, either directly or through its agents, denied Plaintiff  
11 and Class Members the full and equal services of utilizing the Snack mobile  
12 dating application due to the age of Plaintiff and Class Members. Plaintiff and  
13 Class Members were damaged thereby.

14 38. **Adequacy:** Plaintiff is qualified to, and will, fairly and adequately protect the  
15 interests of each Class Member with whom he is similarly situated, as  
16 demonstrated herein. Plaintiff acknowledges that he has an obligation to make  
17 known to the Court any relationships, conflicts, or differences with any Class  
18 Member. Plaintiff’s attorneys, the proposed class counsel, are versed in the rules  
19 governing class action discovery, certification, and settlement. In addition,  
20 Plaintiff’s attorneys, the proposed class counsel, are versed in the rules governing  
21 class action discovery, certification, and settlement. The proposed class counsel  
22 is experienced in handling claims involving consumer actions and violations of  
23 the California Civil Code § 51. Plaintiff has incurred, and throughout the  
24 duration of this action, will continue to incur costs and attorneys’ fees that have  
25 been, are, and will be, necessarily expended for the prosecution of this action for  
26 the substantial benefit of each Class Member.

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1 39. **Predominance**: Questions of law or fact common to the Class Members  
2 predominate over any questions affecting only individual members of the Class.  
3 The elements of the legal claims brought by Plaintiff and Class Members are  
4 capable of proof at trial through evidence that is common to the Class rather than  
5 individual to its members.

6 40. **Superiority**: A class action is a superior method for the fair and efficient  
7 adjudication of this controversy because:

8 a. Class-wide damages are essential to induce Defendant to  
9 comply with California law.

10 b. Because of the relatively small size of the individual Class  
11 Members' claims, it is likely that only a few Class Members could  
12 afford to seek legal redress for Defendant's misconduct.

13 c. Management of these claims is likely to present significantly  
14 fewer difficulties than those presented in many class claims.

15 d. Absent a class action, most Class Members would likely find  
16 the cost of litigating their claims prohibitively high and would  
17 therefore have no effective remedy at law.

18 e. Class action treatment is manageable because it will permit a  
19 large number of similarly situated persons to prosecute their  
20 common claims in a single forum simultaneously, efficiently, and  
21 without the unnecessary duplication of effort and expense that  
22 numerous individual actions would endanger.

23 f. Absent a class action, Class Members will continue to incur  
24 damages, and Defendant's misconduct will continue without  
25 remedy.

26 41. Plaintiff and the Class Members have all suffered and will continue to suffer harm  
27 and damages as a result of Defendant's unlawful and wrongful conduct.

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1 42. The Class may also be certified because:

- 2 • the prosecution of separate actions by individual Class Members
- 3 would create a risk of inconsistent or varying adjudication with
- 4 respect to individual Class Members, which would establish
- 5 incompatible standards of conduct for Defendant;
- 6 • the prosecution of separate actions by individual Class Members
- 7 would create a risk of adjudications with respect to them that
- 8 would, as a practical matter, be dispositive of the interests of other
- 9 Class Members not parties to the adjudications, or substantially
- 10 impair or impede their ability to protect their interests; and
- 11 • Defendant has acted or refused to act on grounds generally
- 12 applicable to the Class, thereby making appropriate final and
- 13 injunctive relief with respect to the members of the Class as a
- 14 whole.

15 43. This suit seeks only damages and injunctive relief for recovery of economic  
16 injury on behalf of Class Members and it expressly is not intended to request any  
17 recovery for personal injury and claims related thereto.

18 44. The joinder of Class Members is impractical and the disposition of their claims  
19 in the Class action will provide substantial benefits both to the parties and to the  
20 court. The Class Members can be identified through Defendant’s records.

21 **CAUSE OF ACTION**

22 **ARBITRARY AGE DISCRIMINATION**

23 **CALIFORNIA CIVIL CODE § 51**

24 45. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.

25 46. Defendant created Snack, a mobile dating application, which instituted a  
26 prohibition on any person over the age of 35 from utilizing the application,  
27 including Plaintiff and Class Members within the State of California.

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1 47. Under section 51(b), “all persons,” including Plaintiff and Class Members, “are  
2 free and equal, and no matter” their personal characteristics, and “are entitled to  
3 the full and equal accommodations, advantages, facilities, privileges, or services  
4 in all business establishments of every kind.” Cal. Civ. Code § 51.

5 48. The list of protected classes within the section’s language includes “sex, race,  
6 color, religion, ancestry, national origin, disability, medical condition, genetic  
7 information, marital status, sexual orientation, citizenship, primary language, or  
8 immigration status;” however, as noted by previous California courts, “this list is  
9 ‘illustrative, rather than restrictive,’ and the Act’s proscription against arbitrary  
10 discrimination extends beyond these enumerated classes.” *Candelore v. Tinder,*  
11 *Inc.*, 19 Cal.App.5th 1138, 1145 (2018); quoting *In re Cox*, 3 Cal.3d 205, 212  
12 (1970).

13 49. The UCRA seeks to treat everyone free and equal based on the individual’s  
14 “personal characteristics” which are “not defined by ‘immutability, since some  
15 are, while others are not [immutable], but that they represent traits, conditions,  
16 decisions, or choices fundamentals to a person’s identity, beliefs and self-  
17 definition.” *Candelore*, 19 Cal.App.5th at p. 1145; quoting *Koebke v. Bernardo*  
18 *Heights Country Club*, 36 Cal.4th 824, 842-43 (2005).

19 50. Age constitutes a personal characteristic as protected by the UCRA, and the  
20 UCRA prohibits arbitrary discrimination based upon an individual’s age. *See*  
21 *Marina Point, Ltd. V. Wolfson*, 30 Cal.3d 721 (1982); *Pizarro v. Lamb’s Players*  
22 *Theatre*, 135 Cal.App.4th 1171 (2006); *Candelore v. Tinder*, 19 Cal.App.5th  
23 (2018); *Harris v. Capital Growth Investors XIV*, 52 Cal.3d 1142 (1991); and  
24 *Koebke v. Bernardo Heights Country Club*, 36 Cal.4th 824 (2005).

25 51. Defendant aims at supplying a dating application to a specified group of people,  
26 targeting “GenZ,” while instituting a blanket prohibition on any person over the  
27 age of 35.

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1 52. Defendant precluded Plaintiff and Class Members from utilizing the application,  
2 a service and accommodation Defendant provides for potential users to make  
3 romantic connections.

4 53. Defendant's purpose of creating Snack was to give users the ability to connect  
5 with potential relationships in more meaningful way compared to the traditional  
6 swiping of pictures that applications like Tinder and Match offer; however, when  
7 a user does not meet the specified age criteria for Snack, Defendant implores the  
8 user to in fact download Tinder and Match, further denying users, like Plaintiff  
9 and Class Members, the free and equal opportunity to Snack's services based on  
10 Plaintiff and Class Members' age.

11 54. By denying Plaintiff and Class Members the services of the Snack mobile dating  
12 application due to age, Defendant violates the UCRA.

13 55. Plaintiff and Class Members seek all relief available under Cal. Civil Code § 52,  
14 including \$4,000 per violation.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff and the Class Members pray that judgment be entered  
17 against Defendant, and Plaintiff and the Class be awarded damages from Defendant, as  
18 follows:

- 19 • Certify the Class as requested herein;
- 20 • Appoint Plaintiff to serve as the Class Representative for the Class; and
- 21 • Appoint Plaintiff's Counsel as Class Counsel in this matter for the Class.
- 22 • \$4,000 to each Class Member pursuant to California Civil Code § 52(a) for each  
23 violation of the UCRA;
- 24 • Reasonable attorneys' fees pursuant to Cal. Code of Civ. Proc. § 1021.5;
- 25 • Injunctive relief to prevent the further occurrence of such acts pursuant to  
26 California Civil Code § 51;
- 27 • An award of costs to Plaintiff; and

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- Any other relief the Court may deem just and proper including interest.

**TRIAL BY JURY**

56. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff and Class Members are entitled to, and demand, a trial by jury.

Respectfully submitted,

**SWIGART LAW GROUP**

Date: October 14, 2022

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**LAW OFFICE OF DANIEL G. SHAY**

Date: October 14, 2022

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