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*Attorneys for Plaintiff and the Proposed Class*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

SYNERGY RX PBM LLC, Individually and  
On Behalf of All Others Similarly Situated

Plaintiff,

v.

LINKEDIN CORPORATION,

Defendant.

Case No.

**CLASS ACTION COMPLAINT**

- (1) Violation of Cal. Bus. & Bus. Prof. Code § 17200, *et seq.*
- (2) Fraudulent Misrepresentation
- (3) Negligent Misrepresentation
- (4) Breach of Implied Duty to Perform With Reasonable Care
- (5) Accounting

**JURY TRIAL DEMANDED**

1 Plaintiff Synergy RX PBM LLC (“Synergy” or “Plaintiff”), individually and on behalf of  
2 all others similarly situated, by and through its undersigned counsel, brings this class action  
3 complaint seeking monetary and injunctive relief against Defendant LinkedIn Corporation  
4 (“LinkedIn” or the “Company”). Plaintiff alleges the following upon information and belief based  
5 on the investigation of counsel, except as to those allegations that specifically pertain to Plaintiff,  
6 which are alleged upon personal knowledge.

7 **NATURE OF THE ACTION**

8 1. LinkedIn promotes itself as the world’s largest online network of business  
9 professionals with over 700 million members worldwide. As one of its primary sources of revenue,  
10 LinkedIn charges advertisers for displaying ads to LinkedIn members. Advertisers pay for these  
11 ads based on three metrics: each time an ad is displayed (“impressions”), each time a video ad is  
12 watched for a minimum duration (“video views”), or each time an ad is clicked (“clicks”). It is  
13 estimated that LinkedIn generated \$1.7 billion from ad sales to US-based advertisers in 2020.

14 2. LinkedIn sells its ads via real-time online auctions in which advertisers compete to  
15 show their ads to LinkedIn members. LinkedIn runs a new auction every time a new member logs  
16 in, and because LinkedIn boasts hundreds of millions of members, hundreds of millions of these  
17 auctions occur every day. Bids in each real-time auction are based on what different advertisers  
18 are willing to pay for a particular metric (i.e., impression, video view, or click), and then based on  
19 those bids and other factors, LinkedIn’s software programmatically determines (within  
20 milliseconds) which ad to show to a particular LinkedIn member and at what price.

21 3. The prices advertisers are willing to pay for LinkedIn ads depends on ad  
22 performance; that is, the rate at which LinkedIn members see and interact with the ads displayed  
23 to them. To enable advertisers to measure ad performance — and make informed decisions  
24 concerning ad spending — LinkedIn provides an interface called Campaign Manager that displays  
25 impressions, video views, and clicks per ad, as well as numerous derived metrics that incorporate  
26 those three base metrics as inputs (for example, “view rate,” which is calculated as video views  
27 divided by impressions).

1           4.       LinkedIn has long represented to advertisers that they can rely on the metrics in  
2 Campaign Manager to accurately analyze the performance of their ad campaigns. As noted, based  
3 on such performance, advertisers determine their ad spending. For example, advertisers might  
4 consider the percentage of members who watched a video ad (“view rate”) in deciding whether to  
5 buy more video ads, and how much to pay for those ads (with higher video view rates motivating  
6 advertisers to buy more video ads, and pay more for those ads in the auctions).

7           5.       Advertisers do not have access to the systems necessary to audit and verify the data  
8 underlying the metrics displayed in Campaign Manager; only LinkedIn has such access.  
9 Accordingly, advertisers rely on LinkedIn’s representations concerning the accuracy of the metrics  
10 in Campaign Manager, and rely on LinkedIn to implement systems to detect any errors that might  
11 inflate those metrics.

12           6.       On November 12, 2020, LinkedIn announced that measurement errors discovered  
13 in August 2020 inflated metrics tied to impressions and video views for more than two years,  
14 “potentially impacting” over 418,000 advertisers during that timeframe. For example, LinkedIn  
15 recorded video views for video ads that continued to play off-screen, which would have inflated  
16 video view rates (as a LinkedIn spokesperson confirmed). In other instances, LinkedIn recorded  
17 impressions when members simply rotated their phones.

18           7.       The inflated metrics that LinkedIn disclosed went undetected for so long because  
19 LinkedIn’s internal auditing processes and systems have been deficient for years. LinkedIn knew  
20 this and admitted as much in its November 2020 announcement when it disclosed that, as a result  
21 of discovering the inflated metrics, it would begin “investing in improvements to our processes  
22 and systems,” and retain the Media Rating Council (“MRC”) — a media industry watchdog — to  
23 “audit our metrics.” LinkedIn could and should have taken these steps years ago. Had it done so,  
24 the inflated metrics only first discovered in August 2020 would have been promptly detected and  
25 fixed before causing harm to advertisers. But it did not do so because inflated metrics boosted  
26 LinkedIn’s revenue.

1           8.       In its announcement, LinkedIn advised that it had issued “credits” to advertisers  
2 “potentially impacted” by the inflated metrics. But it has never disclosed how it calculated these  
3 “credits,” or how it determined which advertisers were “impacted.” Instead, LinkedIn has taken  
4 the position that it is free to unilaterally decide without any accountability which advertisers to  
5 compensate, and what sums to pay them (apparently based solely on PR considerations). That is  
6 unacceptable. Having effectively admitted that deficient auditing systems inflated key metrics for  
7 hundreds of thousands of advertisers for more than two years, LinkedIn is obligated to fully  
8 compensate all impacted advertisers for all the harm caused by those inflated metrics.

9           9.       In particular, since — as LinkedIn confirmed — invalid impressions and video  
10 views inflated the metrics displayed in Campaign Manager for over two years, then during that  
11 timeframe, ads *appeared* to perform better than they actually did. And since better ad performance  
12 leads advertisers to buy more ads, and increase the prices they pay for those ads, then — for more  
13 than two years — advertisers paid higher prices for ads than they otherwise would have paid, and  
14 bought more ads than they otherwise would have bought, absent the inflated metrics. There is no  
15 indication that LinkedIn is compensating advertisers at all for such harm (even though it  
16 substantially benefitted from the higher revenue generated from the inflated pricing).

17           10.       Moreover, it appears that LinkedIn’s measurement errors extend well beyond  
18 inflated metrics tied to impressions and video views. According to credible expert and other public  
19 sources, LinkedIn’s platform is plagued by fraudulent activity, including large volumes of invalid  
20 clicks. Thus, for years, advertisers have also been buying more ads, and paying higher prices for  
21 ads, based on inflated metrics tied to clicks. Advertisers must also be compensated for this harm.

22           11.       Finally, the fact that LinkedIn has failed to acknowledge the invalid clicks and other  
23 fraudulent activity on its platform discovered by third parties means that Plaintiff and other  
24 advertisers continue to face an actual threat of future harm of being further exposed to inflated  
25 metrics on LinkedIn that can only be addressed by injunctive relief.

26           12.       To ensure LinkedIn fully compensates Class members for all harm caused by  
27 inflated metrics on LinkedIn’s platform, and that LinkedIn implements adequate auditing

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1 processes and systems to promptly detect and fix future errors that would inflate metrics, Plaintiff  
2 asserts claims for violation of California’s Unfair Competition Law, Cal. Bus. & Prof. Code  
3 §17200 *et seq.* (“UCL”), fraudulent misrepresentation (or in the alternative, negligent  
4 misrepresentation), breach of the implied duty to perform with reasonable care, and at a minimum,  
5 an accounting, on behalf of itself and all other similarly-situated LinkedIn advertisers.<sup>1</sup>

6 **PARTIES**

7 13. Plaintiff is an LLC organized under the laws of the State of Delaware, with its  
8 principal place of business in New York.

9 14. Defendant is a corporation incorporated under the laws of the State of Delaware,  
10 with its principal place of business located at 1000 West Maude Avenue, Sunnyvale, California  
11 94085. Defendant is wholly owned by Microsoft Corporation (“Microsoft”).

12 15. Defendant conceived, reviewed, approved, directed, and controlled the misconduct  
13 conduct alleged herein in California; and invoiced and collected the fees wrongfully earned from  
14 such misconduct from California.

15 **JURISDICTION, VENUE AND CHOICE OF LAW**

16 16. This Court has subject matter jurisdiction over Plaintiff’s claims under 28 U.S.C.  
17 §1332(d)(2), the Class Action Fairness Act of 2005, because at least one member of the Class,  
18 which exceeds 100 members in the aggregate, is a citizen of a different state than Defendant and  
19 the amount in controversy exceeds \$5,000,000, exclusive of interest and costs.

20 17. This Court has personal jurisdiction over Defendant because it transacts business  
21 in this State, and because the tortious conduct alleged in this Complaint occurred in, was directed  
22 to, and/or emanated from California.

23 18. Venue is proper in this District under 28 U.S.C. §1391 because Defendant is  
24 headquartered in this District, and conducts business transactions in this District, and because the  
25 wrongful conduct giving rise to this case occurred in, was directed from, and/or emanated from  
26 this District.

27 \_\_\_\_\_  
28 <sup>1</sup> All emphasis herein is added, unless otherwise noted.

1 19. Defendant’s ads agreement contains a choice of law and venue provision providing  
 2 that if “an issue arises under this Ads Agreement (including non-contractual disputes or claims)  
 3 and the contracting entity . . . is . . . LinkedIn Corporation, then this Ads Agreement is governed  
 4 by the laws of the State of California, and any action or proceeding (including those arising from  
 5 non-contractual disputes or claims) related to this Ads Agreement will be brought in a federal court  
 6 in the Northern District of California.”<sup>2</sup>

7 **FACTUAL ALLEGATIONS**

8 **A. The Pricing of Online Ads Based on Viewability**

9 20. For many years, the common practice in the online advertising industry was to  
 10 charge advertisers for each ad displayed, regardless of where the ad appeared on a user’s browser  
 11 screen. But an ad served does not mean it was actually seen by the user on whose screen it  
 12 appeared. For example, an ad could appear at the bottom of a screen to where the user never scrolls  
 13 before leaving a website.

14 21. An online ad that is never seen — and thus cannot be clicked or otherwise provoke  
 15 any user engagement — does not provide any value to an advertiser. That is because, at bottom,  
 16 advertising is a marketplace for attention. Websites sell the attention of their users to advertisers,  
 17 and when an ad cannot attract the attention of a real website user (because it is never seen), the  
 18 advertiser derives no value from that ad. For this reason, there has been growing interest among  
 19 advertisers in recent years to pay only for ads that were viewed, as measured by technology that  
 20 records how many pixels of each ad is within a user’s view and for how many seconds.

21 22. Research has indicated that the inventory of online ad space that is “viewable” is  
 22 fairly low, while advertiser demand for “viewable” ads is high because “non-viewed” ads do not

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<sup>2</sup> <https://www.linkedin.com/legal/sas-terms> (last visited on Jan. 18, 2021).

1 provide value.<sup>3</sup> Therefore, websites that offer to reliably charge advertisers based on specific  
2 viewability standards can command premium prices.

3 23. When an advertiser purchases ads from a website offering to charge based on  
4 “viewability,” the price the advertiser pays for the ads is based on the *anticipated* level of ad  
5 viewability promised by the website. Accordingly, where “advertisers anticipate a high level of ad  
6 viewability, they are keen to pay a higher price for ads....”<sup>4</sup> On websites where advertisers cannot  
7 verify the *actual* level of viewability, however, and unbeknownst to them, actual ad viewability  
8 falls *below* the anticipated level of ad viewability for which they paid, advertisers are harmed  
9 because they are paying a higher price than they otherwise would have paid had they known about  
10 the lower level of ad viewability.<sup>5</sup> As alleged below, LinkedIn’s inflated metrics similarly caused  
11 advertisers to pay more for ads than they otherwise would have paid, and buy more ads than they  
12 otherwise would have bought, absent the inflated metrics.

13 **B. LinkedIn’s Advertising Offering**

14 24. LinkedIn promotes itself as the world’s largest online network of business  
15 professionals with over 700 million members worldwide.

16 25. Since December 2016, LinkedIn has been a division of Microsoft (which acquired  
17 LinkedIn in 2016 for \$26.2 billion). In its Form 10-K for the year ending June 30, 2020, Microsoft  
18 announced that LinkedIn’s total revenue in 2020 had grown 20% to \$8.1 billion.

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25 <sup>3</sup> “Advertising Viewability in Online Branding Campaigns,” at 5, 11, May 17, 2017,  
26 [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2969891](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2969891) (last visited on Jan. 18, 2021).  
27 This article refers to websites that sell advertising as “publishers.”

28 <sup>4</sup> *Id.* at 11.

<sup>5</sup> *Id.* at 11-12.

1           26. One of LinkedIn’s business lines is Marketing Solutions, which enables advertisers  
2 to create and display ads promoting their products and services to LinkedIn members. It has been  
3 estimated that LinkedIn’s US-based advertising revenue would grow to \$1.7 billion in 2020.<sup>6</sup>

4           27. One of the advertising solutions available under Marketing Solutions is “Sponsored  
5 Content,” which enables advertisers to display single image and video ads within the scrolling  
6 news feed shown to LinkedIn members.

7           28. Depending on their objectives, advertisers using Sponsored Content ads can elect  
8 to be charged for one of three different “billable events” associated with their ads: impressions,  
9 video views, or clicks (with LinkedIn distinguishing between “landing page clicks,” “engagement  
10 clicks,” and “clicks”).<sup>7</sup>

11           29. The actual price an advertiser pays for particular impressions, video views or clicks  
12 is determined in real-time, online auctions in which advertisers compete to show their ads to  
13 LinkedIn members. Bids are based on what advertisers are willing to pay for a particular metric  
14 (i.e., impression, video view, or click), and then based on those bids and other factors, LinkedIn’s  
15 software programmatically determines (within milliseconds) which ad to show to a particular  
16 LinkedIn member. LinkedIn runs an auction every time a LinkedIn member logs in, and thus  
17 hundreds of millions of these auctions occur every day.<sup>8</sup> The Interactive Advertising Bureau —  
18 the leading association for the online advertising industry — has analogized programmatic online  
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21 <sup>6</sup> “Microsoft reports strong growth for LinkedIn and cloud platform Azure in Q3 2020” Oct. 29,  
22 2020 <https://www.businessinsider.com/microsoft-shows-strong-growth-for-linkedin-azure-in-q3-2020-10> (last visited on Jan. 18, 2021).

23 <sup>7</sup> “Objective-based pricing for LinkedIn advertising”  
24 [https://business.linkedin.com/content/dam/me/business/en-us/marketing-](https://business.linkedin.com/content/dam/me/business/en-us/marketing-solutions/products/pdfs/Global_Pricing_Microsite_Page_Objective_Based_Pricing_Chart.pdf)  
25 [solutions/products/pdfs/Global\\_Pricing\\_Microsite\\_Page\\_Objective\\_Based\\_Pricing\\_Chart.pdf](https://business.linkedin.com/content/dam/me/business/en-us/marketing-solutions/products/pdfs/Global_Pricing_Microsite_Page_Objective_Based_Pricing_Chart.pdf)  
(last visited on Jan. 18, 2021). *See also* How much does it cost to advertise on LinkedIn  
<https://business.linkedin.com/marketing-solutions/ads/pricing> (last visited on Jan. 18, 2021).

26 <sup>8</sup> LinkedIn’s Advertising Cost and Pricing – Overview  
27 [https://www.linkedin.com/help/lms/answer/7431/linkedin-s-advertising-cost-and-pricing-](https://www.linkedin.com/help/lms/answer/7431/linkedin-s-advertising-cost-and-pricing-overview)  
28 [overview](https://www.linkedin.com/help/lms/answer/7431/linkedin-s-advertising-cost-and-pricing-overview) (last visited on Jan. 18, 2021).



1 ad auction platforms like LinkedIn to the public financial markets given the high volume of  
2 transactions on such platforms and the high speed at which transactions occur.<sup>9</sup>

3 **C. LinkedIn Charges Premium Prices for its Ads**

4 30. To secure premium prices for its ads, LinkedIn has purported to incorporate  
5 viewability standards into its advertising platform. For example, LinkedIn represents that it only  
6 charges an advertiser for an “impression” whenever an ad is “at least 50% in view on a member’s  
7 device screen or browser window for at least one second on desktop or 300 milliseconds on  
8 mobile.”<sup>10</sup> LinkedIn further represents that it only charges an advertiser for a “video view” for 2  
9 or more continuous seconds of playback with at least 50% of the video visible on the screen (or a  
10 click on a call-to-action, if that happens first).<sup>11</sup>

11 31. The actions of a user viewing a LinkedIn ad that will lead to a chargeable click are  
12 more complex. For example, if an advertiser’s campaign objective is user engagement, clicks for  
13 single image ads are chargeable in a wide range of scenarios.<sup>12</sup>

14 32. To further boost the prices advertisers are willing to pay for its ads, LinkedIn also  
15 stresses that the individuals viewing ads on its platform are comprised of highly desirable business  
16 professionals. For example, in an August 8, 2016 blog post, LinkedIn noted that “viewability” had  
17 become a significant concern for online advertisers, and represented that with “LinkedIn Display  
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20 <sup>9</sup> “OpenRTB” <https://www.iab.com/guidelines/openrtb/> (“Real-time Bidding (RTB) is a way of  
21 transacting media that allows an individual ad impression to be put up for bid in real-time. This  
22 is done through a programmatic on-the-spot auction, which is similar to how financial markets  
23 operate.”).

24 <sup>10</sup> “Sponsored Content Viewability Measurement”  
25 <https://www.linkedin.com/help/lms/answer/88017> (last visited on Jan. 18, 2021).

26 <sup>11</sup> “Video Views Campaigns – Chargeable Clicks”  
27 <https://www.linkedin.com/help/lms/answer/107902> (last visited on Jan. 18, 2021); “Video  
28 Metrics in Campaign Manager – Definitions” <https://www.linkedin.com/help/lms/answer/85305>  
(last visited on Jan. 18, 2021).

<sup>12</sup> “Engagement Campaigns – Chargeable Clicks”  
<https://www.linkedin.com/help/lms/answer/107901> (last visited on Jan. 18, 2021).

1 Ads, programmatic advertisers *can rest assured knowing their impressions are viewable to a*  
2 *premium audience of professional decision makers and deal influencers.*<sup>13</sup>

3 **D. The Materiality of Accurate Metrics**

4 33. Accurate recording of impressions, video views, and clicks according to LinkedIn’s  
5 viewability standards is material to advertisers since advertisers obviously do not want to pay for  
6 billable events that are invalid (*e.g.*, because a member did not see an ad at all, or did not play it  
7 for the requisite amount of time; or a click was from an automated software program (*i.e.*, a “bot”)  
8 and not a real human).

9 34. Accurate measurement of metrics is also material to advertisers because they use  
10 these metrics to analyze the performance of their campaigns, and based on that performance, make  
11 decisions concerning how much to spend on advertising and what price to pay for ads in auctions.  
12 LinkedIn well-understands this, and to meet advertiser demand for analytics, offers advertisers  
13 access to an interface called Campaign Manager that displays base metrics (*i.e.*, impressions, video  
14 views, and clicks) and numerous derived metrics for individual ads in tables designed to let  
15 advertisers easily evaluate how their ads are performing.<sup>14</sup>

16 35. For example, an advertiser that launched a video ad can access a derived metric  
17 called “view rate,” which is a percentage calculated by dividing the number of video views by the  
18 number of impressions, and then multiplying by 100 (to convert to a percentage). LinkedIn also  
19 offers metrics that disclose how long LinkedIn members watched a video at different milestones  
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23 <sup>13</sup> “How LinkedIn Is Solving the Viewability Conundrum in Programmatic Advertising” Aug. 8,  
24 2016 [https://business.linkedin.com/marketing-solutions/blog/linkedin-b2b-marketing/2016/how-](https://business.linkedin.com/marketing-solutions/blog/linkedin-b2b-marketing/2016/how-linkedin-is-solving-the-viewability-conundrum-in-programmati)  
[linkedin-is-solving-the-viewability-conundrum-in-programmati](https://business.linkedin.com/marketing-solutions/blog/linkedin-b2b-marketing/2016/how-linkedin-is-solving-the-viewability-conundrum-in-programmati) (last visited on Jan. 18, 2021).

25 <sup>14</sup> As noted, a base metric is based on a direct count of raw data (*i.e.*, the total number of  
26 impressions, video views or clicks) based on LinkedIn’s viewability standards, while a derived  
27 metric is based on calculations using direct metrics as inputs (*e.g.*, view rate is derived by  
28 dividing video views by impressions, and click-through rate is derived by dividing clicks by  
impressions).

1 of the video from 25%, 50%, 75% to completion. The following screenshot depicts metrics in  
 2 Campaign Manager related to video ads: <sup>15</sup>

3 LinkedIn Video Ads Tutorial

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The screenshot shows the LinkedIn Campaign Manager interface. At the top, there are navigation tabs: CAMPAIGN PERFORMANCE, WEBSITE DEMOGRAPHICS, and ACCOUNT ASSETS. Below this, there are filters for Accounts, Campaign Groups, Campaigns, and Ads. A table displays performance metrics for video ads. The table has columns for Campaign Name, Cost Per Result, Impressions, Clicks, Average CTR, Views, View Rate, eCPV, Views @ 25%, Views @ 50%, Views @ 75%, Completions, Completion Rate, and Full Screen Placements. One campaign is selected, showing 39,918 impressions, 71 clicks, and a 0.18% CTR.

Campaign Name	Cost Per Result	Impressions	Clicks	Average CTR	Views	View Rate	eCPV	Views @ 25%	Views @ 50%	Views @ 75%	Completions	Completion Rate	Full Screen Placements
1 selected campaign	-	39,918	71	0.18%	12,659	31.71%	\$0.04	4,187	2,480	1,738	1,355	10.7%	897
159594374 - Sponsored Content	-	39,918	71	0.18%	12,659	31.71%	\$0.04	4,187	2,480	1,738	1,355	10.7%	897

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10 36. Similarly, Campaign Manager displays direct and derived metrics to help  
 11 advertisers analyze performance based on impressions and clicks:

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The screenshot shows the LinkedIn Campaign Manager interface. At the top, there are navigation tabs: CAMPAIGN PERFORMANCE, WEBSITE DEMOGRAPHICS, and ACCOUNT ASSETS. Below this, there are filters for Account, Campaign groups, Campaigns, and Ads. A table displays performance metrics for campaigns. The table has columns for Campaign Name, Status, Spent, Impressions, Clicks, Average CTR, Bid, Average CPM, and Average CPC. Several campaigns are listed, including 'FixDex CXO ADS Campaign' and 'FixDex CXO High Tech Namer ADS Campaign'.

Campaign Name	Status	Spent	Impressions	Clicks	Average CTR	Bid	Average CPM	Average CPC
50 campaigns	—	\$57,735.29	1,392,210	16,718	0.510%	—	\$20.21	\$5.10
FixDex CXO ADS Campaign ID: 9532102 - Sponsored Content	Active	\$4,169.34	23,130	619	0.10%	\$10.12	\$15.32	\$4.04
FixDex CXO High Tech Namer ADS Campaign ID: 9532102 - Sponsored Content	Draft	—	—	—	—	—	—	—
FixDex Life Sciences Name Campaign ID: 9532102 - Sponsored Content	Active	\$300.00	122,123	206	0.60%	\$4.05	\$10.23	\$6.10
FixDex CXO ADS Campaign CID: 45360423Sponsored Content	Active	\$150.50	2,000	203	0.40%	\$8.21	\$5.70	\$10.40
FixDex CXO ADS Campaign ID: 9532102 - Sponsored Content	Active	\$210.00	4,210	356	0.10%	\$5.20	\$12.50	\$4.51

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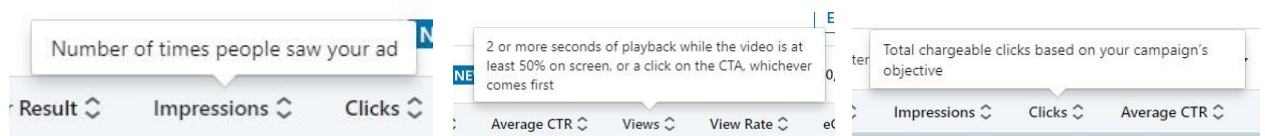
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<sup>15</sup> Screenshot taken from frame in “LinkedIn Video Ads Tutorial”  
<https://www.youtube.com/watch?v=3eTV-o5iJMY> (last visited on Jan. 18, 2021).

## E. LinkedIn's Representations Concerning the Accuracy of the Metrics in Campaign Manager

37. LinkedIn represents to advertisers that they can rely on the metrics in Campaign Manager to accurately analyze the performance of their ads. For example, on its website, LinkedIn represents that “Campaign Manager . . . reports *a wide range of metrics* for every campaign you run. *Learn how to use that info to measure ad performance and identify opportunities to improve your ROI.*”<sup>16</sup> On that same page, LinkedIn also states, “If you want to build brand awareness, you’d want a lot of views and interest (indicated by clicks on ads). *Focus on these metrics:* Clicks: the number of clicks on links in your ad; Impressions: The number of times people saw your ad.” Concerning video views, LinkedIn states “[g]etting your videos seen is the key result of the Video Views ad objective. View a wide variety of reporting metrics from the Campaign Manager reporting dashboard, including: Performance metrics; Engagement; Conversions; Bid and Budget.”<sup>17</sup>

38. LinkedIn represents the accuracy of the metrics directly in the Campaign Manager interface that every advertiser uses to analyze its campaigns. For example, in the interfaces depicted in the screenshots in paragraphs 35-36 above, when an advertiser hovers its mouse pointer over the word “Impressions” at the top of the relevant column, LinkedIn displays a hovercard that reads: “Number of times people saw your ad,” while hovering over the word “Clicks” at the top of the relevant column displays a hovercard that reads: “Total chargeable clicks based on your campaign’s objective,” and hovering over the word “Views” in the video metrics interface displays a hovercard that reads: “2 or more seconds of playback while the video is at least 50% on screen, or a click on the CTA [call to action], whichever comes first”:



<sup>16</sup> “Analyze your campaign performance” <https://business.linkedin.com/marketing-solutions/success/best-practices/analyze-your-performance> (last visited on Jan. 18, 2021).

<sup>17</sup> “Video Views - Ad Objective Overview” <https://www.linkedin.com/help/lms/answer/104427> (last visited on Jan. 18, 2021).

1 39. Advertisers rely on LinkedIn’s representations concerning the accuracy of the  
2 metrics in Campaign Manager to analyze the performance of their campaigns, and make decisions  
3 concerning their ad spending, since they do not have access to the systems necessary to audit and  
4 verify the data underlying those metrics; only LinkedIn has such access. Accordingly, advertisers  
5 also rely on LinkedIn to implement systems to detect any errors that might inflate the metrics.

6 40. As LinkedIn has recently acknowledged, however, its internal auditing processes  
7 and systems have long been deficient, which means there have long been measurement errors  
8 lurking undetected that inflated metrics for years. In turn, these inflated metrics deceived  
9 advertisers into believing that their campaigns were performing better than they actually were,  
10 which caused them to pay more for ads than they otherwise would have paid, and buy more ads  
11 than they otherwise would have bought, absent the inflated metrics.

12 **F. LinkedIn Discloses that Metrics Tied to Impressions and**  
13 **Video Views Were Inflated For More Than Two Years**

14 41. On November 12, 2020 — in a short 4-paragraph blog post — LinkedIn disclosed  
15 as follows:

16 We are committed to the transparency and integrity of our ads products. This  
17 commitment guides us as we improve our offerings and systems to help ensure we  
maintain a trusted platform.

18 This also means that when something goes wrong, we address it. In August, our  
19 engineering team discovered and then subsequently fixed *two measurement issues*  
20 *in our ads products that may have overreported some Sponsored Content*  
21 *campaign metrics for impression and video views. Together these issues*  
22 *potentially impacted more than 418,000 customers over a two plus year period.*  
More than 90% of customers saw an impact of less than US \$25, and we are  
currently working with all customers who were impacted to provide full credit to  
their accounts.

23 To ensure we are able to constantly learn and adjust, *we are working with the*  
24 *Media Rating Council (MRC) to proceed with an audit of our metrics,*  
25 *collaborating with Moat by Oracle Data Cloud to measure video viewability, and*  
*investing in improvements to our processes and systems.*

26 We are committed to delivering consistent advertising products and analytics that  
27 you can rely on and that align with industry and third-party standards. We’ll plan

1 to share updates on the ongoing work that we're doing to keep our advertising  
2 platform safe and trusted.<sup>18</sup>

3 42. Media reports in the wake of the disclosure confirmed that LinkedIn's "viewability"  
4 standards were violated, which caused metrics to be inflated. For example, the Wall Street Journal  
5 reported that video ads that continued to play off-screen were improperly recorded by LinkedIn as  
6 video views. A LinkedIn spokesperson confirmed that such errors would have inflated video-  
7 related metrics, including video view rates. The Wall Street Journal further stated that impressions  
8 were also overreported when, for example, users would rotate their phones or quickly move to  
9 other parts of the app.<sup>19</sup> Another publication, Social Media Today, also reported that errors were  
10 triggered when users rotated their phones, and that when this occurred, LinkedIn improperly  
11 recorded video views, "which were then listed within [advertiser] campaign metrics."<sup>20</sup>

12 43. The Wall Street Journal noted that LinkedIn's disclosure came "*after years* of  
13 advertisers demanding more transparency and third-party auditing of the metrics provided by  
14 social-media giants." As an example, it referenced a September 2016 incident in which Facebook  
15 — like LinkedIn — initially disclosed that a single video ad metric had been inflated for two  
16 years.<sup>21</sup> Over the next several months, media sources documented another *eight* measurement

17  
18  
19 <sup>18</sup>“We discovered two measurement issues. Here’s how we’re making it right” Nov. 12, 2020,  
20 <https://business.linkedin.com/marketing-solutions/blog/linkedin-news/2020/how-we-re-working-to-improve> (last visited on Jan. 18, 2021).

21 <sup>19</sup> “LinkedIn Finds Measurement Errors That Inflated Video and Ad Metrics” Nov. 12, 2020  
22 <https://www.wsj.com/articles/linkedin-finds-measurement-errors-that-inflated-video-and-ad-metrics-11605228577> (last visited on Jan. 18, 2021).

23 <sup>20</sup>“LinkedIn Discovers Ad Metric Error Which Lead to Over 400k Advertisers Being  
24 Overcharged” Nov. 12, 2020 <https://www.socialmediatoday.com/news/linkedin-discovers-ad-metric-error-which-lead-to-over-400k-advertisers-bein/588960/> (last visited on Jan. 18, 2021).

25 <sup>21</sup> “Facebook Overestimated Key Video Metric for Two Years” Sept. 22, 2016  
26 <https://www.wsj.com/articles/facebook-overestimated-key-video-metric-for-two-years-1474586951> (last visited on Jan. 18, 2021). *See also* “Facebook Video Metrics Update” Sept. 23,  
27 2016 <https://www.facebook.com/business/news/facebook-video-metrics-update> (last visited on  
28 Jan. 18, 2021).



1 errors on Facebook.<sup>22</sup> In February 2017, Facebook finally agreed to be audited by the MRC — a  
 2 nonprofit organization that audits and accredits the measurement of metrics reported by media  
 3 platforms to advertisers.<sup>23</sup> Less than two weeks later, Google also agreed to work with the MRC.<sup>24</sup>

4 44. LinkedIn, however, did not retain the MRC for nearly another four years. Instead,  
 5 it continued to self-audit, which was reckless since self-auditing is akin to “grading your own  
 6 homework.” As Keith Weed, chief marketing officer of Unilever, observed after Facebook’s  
 7 disclosures in September 2016, “tech companies that don’t let third parties measure their platforms  
 8 is equivalent to *‘letting them mark their own homework.’*”<sup>25</sup> Advertising giant Omnicom similarly  
 9 remarked: “This is why we and many others have been repeatedly saying that third-party  
 10 verification is *a fundamental requirement*. Publishers should not *‘grade their own homework.’*”<sup>26</sup>

11 \_\_\_\_\_  
 12 <sup>22</sup> “FAQ: Everything Facebook has admitted about its measurement errors” May 17, 2017  
 13 <https://marketingland.com/heres-itemized-list-facebooks-measurement-errors-date-200663> (last  
 14 visited on Jan. 18, 2021). *See also* “Facebook Says It Found More Miscalculated Metrics” Nov.  
 15 16, 2016 [https://www.wsj.com/articles/facebook-says-it-found-more-miscalculated-metrics-  
 16 1479303984](https://www.wsj.com/articles/facebook-says-it-found-more-miscalculated-metrics-1479303984) (last visited on Jan. 18, 2021).

17 <sup>23</sup> “Facebook agrees to be audited by Media Rating Council following misreporting scandal”  
 18 [https://www.thedrum.com/news/2017/02/10/facebook-agrees-be-audited-media-rating-council-  
 19 following-misreporting-scandal](https://www.thedrum.com/news/2017/02/10/facebook-agrees-be-audited-media-rating-council-following-misreporting-scandal) (last visited on Jan. 18, 2021).

20 <sup>24</sup> “Google bows to third-party verification demands with YouTube now open to Media Ratings  
 21 Council audit” [https://www.thedrum.com/news/2017/02/21/google-bows-third-party-  
 22 verification-demands-with-youtube-now-open-media-ratings](https://www.thedrum.com/news/2017/02/21/google-bows-third-party-verification-demands-with-youtube-now-open-media-ratings) (last visited on Jan. 18, 2021).

23 <sup>25</sup> “Facebook Overestimated Key Video Metric for Two Years” Sept. 22, 2016  
 24 [https://www.wsj.com/articles/facebook-overestimated-key-video-metric-for-two-years-  
 25 1474586951](https://www.wsj.com/articles/facebook-overestimated-key-video-metric-for-two-years-1474586951) (last visited on Jan. 18, 2021). *See also* “Marketers, It’s Better To Grade Your Own  
 26 Homework” Jan 12, 2021 [https://www.forbes.com/sites/augustinefou/2021/01/12/marketers-its-  
 27 better-to-grade-your-own-homework/?sh=6d252514291d](https://www.forbes.com/sites/augustinefou/2021/01/12/marketers-its-better-to-grade-your-own-homework/?sh=6d252514291d) (last visited on Jan. 18, 2021).

28 <sup>26</sup> “Facebook Apologizes for Overstating Video Metrics”  
 29 [https://www.nytimes.com/2016/09/24/business/media/facebook-apologizes-for-overstating-  
 30 video-metrics.html](https://www.nytimes.com/2016/09/24/business/media/facebook-apologizes-for-overstating-video-metrics.html) (last visited on Jan. 18, 2021). While the inflated metrics disclosed by  
 31 Facebook did not directly affect billing, a class of advertisers sued Facebook on the grounds that  
 32 the inflated metrics caused advertisers to pay more for ads than they otherwise would have paid;  
 33 Facebook ultimately settled the case for \$40 million. “Facebook agrees to pay advertisers \$40M  
 34 in settlement over inflated ad metrics”  
 35 [https://www.bizjournals.com/sanjose/news/2019/10/07/facebook-ad-metrics-lawsuit-  
 36 settlement.html](https://www.bizjournals.com/sanjose/news/2019/10/07/facebook-ad-metrics-lawsuit-settlement.html) (last visited on Jan. 18, 2021).

1 45. In particular, social media platforms like LinkedIn that self-audit have a perverse  
2 incentive to overlook errors that inflate metrics since they benefit from the higher revenue  
3 generated by inflated metrics.<sup>27</sup>

4 46. Because LinkedIn self-audited instead of retaining MRC, and concededly failed to  
5 adequately invest in its internal auditing processes and systems, LinkedIn’s auditing processes and  
6 systems were deficient. As a result, measurement errors that inflated metrics and ad prices went  
7 undetected for years. LinkedIn knew this and admitted as much in its November 2020  
8 announcement when, after disclosing the inflated metrics, it advised that it would begin “investing  
9 in improvements to our processes and systems,” and finally retain the MRC to “audit our metrics.”

10 47. Unfortunately for advertisers, these remedial steps came four years too late. Had  
11 LinkedIn retained MRC to audit its metrics when its industry peers did back in early 2017, and  
12 adequately invested in its internal auditing processes and systems, the inflated metrics only first  
13 discovered in August 2020 would have been promptly detected and corrected before causing harm  
14 to advertisers. But such steps would have also reduced LinkedIn’s revenues, and thus LinkedIn  
15 willfully or recklessly refused to take such steps.

16 48. Meanwhile, LinkedIn has advised that it issued “credits” to advertisers “potentially  
17 impacted” by the inflated metrics. But it has not disclosed how it calculated the “credits,” or how  
18 it determined which advertisers were “impacted.” Instead, LinkedIn has taken the position that it  
19 is free to unilaterally decide without any accountability which advertisers to compensate, and what  
20 sums to pay them. But having effectively admitted that deficient auditing processes and systems  
21 inflated key metrics for hundreds of thousands of advertisers for more than two years, LinkedIn  
22 must fully compensate all impacted advertisers for all harm caused by those inflated metrics,

23  
24  
25 <sup>27</sup> See “Virtually All Fraud’—Were You The Perp, The Conduit, Or The Sucker?” Nov. 19, 2020  
26 [https://www.forbes.com/sites/augustinefou/2020/11/19/virtually-all-fraudwere-you-the-perp-the-  
27 conduit-or-the-sucker/?sh=2764afc84379](https://www.forbes.com/sites/augustinefou/2020/11/19/virtually-all-fraudwere-you-the-perp-the-conduit-or-the-sucker/?sh=2764afc84379) (last visited on Jan. 18, 2021) (programmatic ad  
28 exchanges have an incentive to ignore fraud because inflated ad impressions inflate ad revenues).  
By analogy to the stock market, fraud would be much more rampant were public companies  
permitted to self-audit their financial statements.



1 including but not limited to the inflated prices advertisers paid for ads for more than two years due  
2 to the inflated metrics.

3 49. Credible public sources also indicate that measurement errors on LinkedIn’s  
4 platform extend beyond those tied to impressions and video views to other errors that have  
5 remained undetected (or undisclosed) to date. LinkedIn must compensate advertisers for all harm  
6 caused by all inflated metrics that have existed or continue to exist.

7 **G. The LinkedIn Platform is Plagued by Fraud, Including Invalid Clicks**

8 50. Approximately five months ago, Ryan Gellis — the founder of RMG, an  
9 established digital marketing agency — published a post on LinkedIn asking for feedback on his  
10 theory that the “LinkedIn ad network is full of fraudulent accounts and *unchecked misclicks* that  
11 artificially inflate the cost of advertising and result in poor performance compared to other ad  
12 networks.” Gellis cited three factors supporting his suspicions: (1) the actual cost-per-click for  
13 certain advertising campaigns was *6-12 times higher* than LinkedIn had projected; (2) the  
14 advertising spend on LinkedIn happens so unbelievably fast that “it’s unrealistic that LinkedIn  
15 could so quickly match the intended audience with legitimate users as quickly as it does;” and (3)  
16 the behavior of the users clicking through on ads to visit websites is highly abnormal.<sup>28</sup>

17 51. Gellis traced these issues to LinkedIn’s lack of third-party verification: “A big  
18 problem is that the social networks don’t allow third-party analysis of their advertisement  
19 platforms like Google. *So when they say ‘we registered a click’ and display that to you in a*  
20 *dashboard, the industry standard way to know that’s accurate isn’t applied.*”<sup>29</sup>

21 52. Several sales and marketing professionals on LinkedIn agreed with Gellis’  
22 assessment. One (Tristan Oker) commented, “I think there is some merit to this.” Another (Neil  
23 DuPaul) stated, “I’ve had experience with LinkedIn ads over my last two positions and despite  
24 wanting to believe the opposite, I agree with you on many points.” And yet another (Albert Levett)

25  
26 <sup>28</sup> [https://www.linkedin.com/posts/ryan-gellis\\_theory-the-linkedin-ad-network-is-full-of-activity-6700077824360910848-LysO/](https://www.linkedin.com/posts/ryan-gellis_theory-the-linkedin-ad-network-is-full-of-activity-6700077824360910848-LysO/) (last visited on Jan. 18, 2021).

27  
28 <sup>29</sup> *Id.*

1 remarked that the results of his campaigns “are a little random (sometimes great, other times  
2 poor),” and suggested “this could be due to [Gellis’] theory.”<sup>30</sup>

3 53. Subsequently, Gellis published a YouTube video discussing abysmal results for  
4 two LinkedIn campaigns his agency launched to generate event registrations, including anomalous  
5 behavior by so-called LinkedIn members clicking on the ads.<sup>31</sup> Commenting on the video, a  
6 marketing professional (Heather Nix) stated, “I feel like the *last 2-3 years* have been horrible for  
7 ROI on LinkedIn. So much so that I’ve all but given up on it as an ad channel and am focused on  
8 organic now.”<sup>32</sup> Ad fraud expert and Forbes columnist Dr. Augustine Fou cited Gellis’ experiment  
9 as one example of ad fraud “so obvious that anyone can tell just by looking at [the] analytics.”<sup>33</sup>

10 54. Gellis’ revelations, and the validation he received from Dr. Fou and other  
11 professionals, show two things. *First*, that LinkedIn’s measurement errors also extend to metrics  
12 tied to clicks. LinkedIn must also fully compensate advertisers for all harm caused by such inflated  
13 metrics (and not just the harm caused by inflated metrics tied to impressions and video views).  
14 *Second*, LinkedIn’s auditing processes and systems for detecting invalid metrics remain deficient  
15 since LinkedIn has apparently not detected the invalid clicks and other fraudulent activity  
16 uncovered by Gellis. As a result, Plaintiff and other advertisers continue to face an actual threat of  
17 future harm of being further exposed to inflated metrics on LinkedIn that can only be addressed  
18 by injunctive relief.<sup>34</sup>

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19 <sup>30</sup> *Id.*

20  
21 <sup>31</sup> “Why Your LinkedIn Marketing Campaign Isn’t Working” Aug. 24, 2020.  
<https://www.youtube.com/watch?v=jKuyxgWuiRM> (last visited on Jan. 18, 2021).

22 <sup>32</sup> <https://www.linkedin.com/in/ryan-gellis/detail/recent-activity/shares/> (last visited on Jan. 18,  
23 2021).

24 <sup>33</sup> “Fraud So Obvious, You Can See It In Analytics (If You Looked)”  
25 <https://www.forbes.com/sites/augustinefou/2020/09/08/fraud-so-obvious-you-can-see-it-in-your-own-analytics/?sh=5ac094267904> (last visited on Jan. 18, 2021). *See also*  
26 <https://www.linkedin.com/in/augustinefou/> (last visited on Jan. 18, 2021).

27 <sup>34</sup> While the retention of the MRC was a necessary step towards strengthening LinkedIn’s  
28 auditing processes and systems (i.e., so LinkedIn was no longer self-auditing), such retention  
alone is not sufficient to protect Plaintiff and Class members from future harm from inflated

**PLAINTIFF’S EXPERIENCE**

1  
2 55. Plaintiff offers technology solutions to skilled nursing and long-term care (LTC)  
3 facilities to help them reduce their pharmacy spend.

4 56. Plaintiff has been purchasing and paying for LinkedIn ads (including video ads)  
5 since April 2019, and continues to advertise on LinkedIn.

6 57. Plaintiff saw and relied on the metrics displayed in Campaign Manager (including,  
7 but not limited to, metrics related to video ads) to analyze the performance and effectiveness of its  
8 campaigns, and make decisions concerning its spending on LinkedIn ads. Further, had LinkedIn  
9 disclosed that its auditing processes and systems were deficient, and therefore metrics were  
10 inflated, Plaintiff would have been aware of such disclosure and behaved differently in terms of  
11 its ad spending decisions.

12 58. Plaintiff justifiably relied on LinkedIn to display accurate metrics in Campaign  
13 Manager and maintain adequate auditing processes and systems.

14 59. In November 2020, Plaintiff became aware of the measurement issues publicly  
15 disclosed by LinkedIn. However, because Plaintiff does not have access to the systems necessary  
16 to audit and verify the metrics displayed in Campaign Manager, it has no means of determining  
17 the extent to which it was damaged by those errors, and/or other errors detected by third parties.

18 60. Accurate metrics were material to Plaintiff—it would have wanted to know that  
19 LinkedIn’s auditing processes and systems were deficient, and that the metrics displayed in  
20 Campaign Manager were consequently inflated.

21 61. As a result of LinkedIn’s misconduct alleged herein, Plaintiff paid for certain ads  
22 for which it should not have paid anything at all, paid more for other ads than it otherwise would  
23

24 \_\_\_\_\_  
25 metrics without further transparency into the “improvements” that LinkedIn has indicated it will  
26 implement with respect to its internal auditing processes and systems. *See* “Marketers, It’s Better  
27 To Grade Your Own Homework” Jan 12, 2021  
<https://www.forbes.com/sites/augustinefou/2021/01/12/marketers-its-better-to-grade-your-own-homework/?sh=6d252514291d> (last visited on Jan. 18, 2021) (explaining why being MRC-  
28 accredited is not sufficient for detection purposes).

1 have paid, and purchased more ads than it otherwise would have purchased, absent the inflated  
2 metrics.

3 62. Finally, because Plaintiff continues to advertise on LinkedIn, it faces an actual  
4 threat of future harm of being further exposed to inflated metrics on LinkedIn.

5 **CLASS ALLEGATIONS**

6 63. Plaintiff brings this action individually and as a class action pursuant to Federal  
7 Rules of Civil Procedure 23(a), 23(b)(1), 23(b)(2), and 23(b)(3) on behalf of the following  
8 proposed Class:

9 All persons or entities in the United States who, from January 21, 2017, to the  
10 present, paid for advertisements on LinkedIn's platform.

11 64. Specifically excluded from the Class are LinkedIn, its officers, directors, agents,  
12 trustees, parents, children, corporations, trusts, representatives, employees, principals, servants,  
13 partners, joint venturers or entities controlled by LinkedIn, and their heirs, successors, assigns, or  
14 other persons or entities related to or affiliated with LinkedIn and/or its officers and/or directors,  
15 the judge assigned to this action, and any member of the judge's immediate family.

16 65. Plaintiff reserves the right to amend the Class definition above if further  
17 investigation and/or discovery reveals that the Class should be expanded, narrowed, divided into  
18 subclasses, or otherwise modified in any way.

19 66. This action may be certified as a class action under Federal Rules 23(a) and 23(b)(3)  
20 because it satisfies the numerosity, commonality, typicality, adequacy, predominance and  
21 superiority requirements therein.

22 67. **Numerosity.** The members of the Class are so numerous that joinder of all members  
23 is impracticable. While the precise number of Class members is presently unknown, LinkedIn has  
24 disclosed that over 418,000 advertisers were potentially impacted by inflated metrics over a 2+  
25 year period.

26 68. **Existence and predominance of common questions of law and fact.** Common  
27 questions of law and fact exist as to all members of the Class and predominate over any questions  
28

1 affecting only individual Class members. The common factual and legal questions include, but  
2 are not limited to, the following:

- 3 (a) Whether and the extent to which metrics displayed in Campaign Manager  
4 were inflated;
- 5 (b) Whether and the extent to which LinkedIn's auditing processes and systems  
6 for monitoring the accuracy of metrics were deficient;
- 7 (c) Whether and the extent to which LinkedIn charged Class members for ads for  
8 which they should not have paid anything at all because of inflated metrics;
- 9 (d) Whether and the extent to which Class members paid higher prices than they  
10 otherwise would have paid, and bought more ads than they otherwise would  
11 have bought, because of inflated ad metrics;
- 12 (e) Whether LinkedIn engaged in fraudulent, unfair, and/or unlawful business  
13 practices under the UCL;
- 14 (f) Whether LinkedIn fraudulently (or in the alternative, negligently)  
15 misrepresented the accuracy of its metrics;
- 16 (g) Whether LinkedIn breached its implied contractual duty to perform with  
17 reasonable care;
- 18 (h) Whether Class members are entitled to an accounting;
- 19 (i) Whether LinkedIn's misconduct harmed Class members, and the amount of  
20 such harm; and
- 21 (j) Whether Class members are entitled to injunctive relief.

22 69. **Typicality.** Plaintiff's claims are typical of the claims of the other Class members  
23 in that Plaintiff and other Class members were injured by the same course of wrongful conduct by  
24 LinkedIn.

25 70. **Adequacy of representation.** Plaintiff will fairly and adequately protect the  
26 interests of the Class. Plaintiff has retained counsel highly experienced in complex consumer class  
27 action litigation, and Plaintiff intends to vigorously prosecute this action. Further, Plaintiff has no  
28 interests that are antagonistic to those of the other Class members.

71. **Superiority.** A class action is superior to all other available means for the fair and  
efficient adjudication of this controversy. The damages or other financial detriment suffered by

1 individual Class members is relatively small compared to the burden and expense that would be  
2 involved in individual litigation of their claims against LinkedIn. It would, thus, be virtually  
3 impossible for the Class members, on an individual basis, to obtain effective redress for the wrongs  
4 committed against them. Furthermore, individualized litigation would create the danger of  
5 inconsistent or contradictory judgments arising from the same set of facts. Individualized litigation  
6 would also increase the delay and expense to all parties and the court system from the issues raised  
7 by this action. By contrast, the class action device provides the benefits of adjudication of these  
8 issues in a single proceeding, economies of scale, and comprehensive supervision by a single  
9 United States District Court, and presents no unusual management difficulties under the  
10 circumstances presented in this case.

11 72. The Class may also be certified under Rules 23(a) and 23(b)(1) because the  
12 prosecution of separate actions by individual Class members would create a risk of (i) inconsistent  
13 or varying adjudication with respect to individual Class members that would establish  
14 incompatible standards of conduct for LinkedIn, or (ii) adjudications with respect to individual  
15 Class members that would, as a practical matter, be dispositive of the interests of other Class  
16 members not parties to the adjudications, or substantially impair or impede their ability to protect  
17 their interests.  
18

19 73. The Class may also be certified under Rules 23(a) and 23(b)(2) because LinkedIn  
20 has acted or refused to act on grounds generally applicable to the Class as a whole, thereby making  
21 appropriate final declaratory and injunctive relief with respect to members of the Class as a whole.  
22

23 **COUNT I**

24 **Violations of California's Unfair Competition Law**  
25 **Cal. Bus. & Prof. Code §§ 17200, et seq.**

26 74. Plaintiff re-alleges and incorporates by reference herein all of the allegations set  
27 forth above.  
28

1           75.     LinkedIn violated California’s UCL, Cal. Bus. & Prof. Code §17200 *et seq.*, by  
2 engaging in the fraudulent, unfair and unlawful business practices alleged herein. The conduct  
3 alleged herein is a “business practice” within the meaning of the UCL.

4           76.     LinkedIn’s dissemination of inaccurate and inflated impressions, video views,  
5 clicks and other metrics to Plaintiff and other Class members violated the fraudulent prong of the  
6 UCL because such dissemination was likely to deceive reasonable Class members into believing  
7 that their advertisements were performing better than they actually were (which would lead Class  
8 members to pay more for ads than they otherwise would have paid, and purchase more ads than  
9 they otherwise would have bought).

10          77.     LinkedIn knew or should have known that its metrics were inaccurate and inflated.  
11 Reasonable auditing processes and systems would have promptly discovered the inaccurate and  
12 inflated metrics, and thus had LinkedIn implemented and maintained reasonable auditing  
13 processes and systems, it would have confirmed its metrics were inaccurate and inflated, and  
14 corrected them before Plaintiff and other Class members were harmed.

15          78.     Additionally, LinkedIn violated the fraudulent prong of the UCL by failing to  
16 disclose to Plaintiff and other Class members that its auditing processes and systems were  
17 deficient, and thus measurement errors were lurking undetected that inflated metrics and ad prices.  
18 LinkedIn had a duty to disclose those facts to Plaintiff and other Class members since (i) those  
19 facts were material (i.e., any reasonable advertiser would consider it important to know that  
20 LinkedIn’s auditing processes and systems were deficient, and that this posed a significant risk of  
21 inflated metrics and ad prices), and (ii) LinkedIn had exclusive knowledge of and access to such  
22 facts. Had LinkedIn disclosed those facts, Plaintiff and other Class members would have been  
23 aware of them, and behaved differently by, among other things, adjusting their ad spending and  
24 bids, or ceasing advertising on LinkedIn altogether.

25          79.     LinkedIn’s dissemination of metrics it knew or should have known were inaccurate  
26 and inflated, and nondisclosure of its deficient auditing processes and systems, also constituted  
27 unfair practices under the UCL, since they were (i) oppressive, immoral, unethical, and  
28

1 unscrupulous, (ii) caused Plaintiff and other advertisers substantial injury (given the millions paid  
2 by Class members to LinkedIn for ads based on inflated metrics), and (iii) violated established  
3 public policy against deceptive conduct by businesses. Further, such misconduct allowed LinkedIn  
4 to have an unfair advantage over competitors who displayed accurate advertising metrics, and  
5 properly audited their metrics. Additionally, the justifications or reasons for, or the utility or  
6 benefit (if any) of LinkedIn's unfair and deceptive acts and business practices were substantially  
7 outweighed by the substantial economic harm that such conduct caused to Plaintiff and other Class  
8 members. Finally, the harm caused by LinkedIn's deceptive conduct was not one that Plaintiff and  
9 other Class members could have reasonably avoided, given LinkedIn's exclusive access to the raw  
10 data underlying the metrics that it disseminated, and exclusive knowledge concerning its auditing  
11 processes and systems.

12       80.     LinkedIn's dissemination of metrics it knew or should have known were inaccurate  
13 and inflated, and nondisclosure of its deficient auditing processes and systems, also constituted  
14 unlawful practices under the UCL because they violated California's False Advertising Law. *See*  
15 California False Advertising Law (Cal Bus. & Prof. Code §17500) ("FAL"). The misconduct  
16 alleged violated the FAL for the same reasons alleged above that it violated the fraudulent prong  
17 of the UCL.

18       81.     Because of LinkedIn's violations of the fraudulent, unfair and unlawful prongs of  
19 the UCL, Plaintiff and other Class members have suffered harm — they paid for certain ads for  
20 which they would not have paid anything at all, paid more for other ads than they otherwise would  
21 have paid, and purchased more ads than they otherwise would have bought.

22       82.     Plaintiff has standing to bring claims against LinkedIn for fraudulent, unfair and  
23 unlawful practices under the UCL on behalf of itself and Class members because it saw and relied  
24 on LinkedIn's false representations concerning the accuracy of the metrics in Campaign Manager  
25 to analyze campaign performance and make decisions concerning its spending on LinkedIn ads,  
26 and suffered economic injury as a result of such reliance. Further, Plaintiff relied on LinkedIn's  
27 omissions concerning the adequacy of LinkedIn's auditing processes and systems since had  
28



1 LinkedIn disclosed that its auditing processes and systems were deficient, Plaintiff would have  
2 been aware of such disclosure and behaved differently in terms of its ad spending decisions.

3 83. LinkedIn knew or should have known that Plaintiff regarded, or was likely to regard  
4 the accuracy of the metrics in Campaign Manager, and the adequacy of LinkedIn's auditing  
5 processes and systems, as important to Plaintiff's decisions concerning LinkedIn advertising.  
6 Indeed, any reasonable advertiser would consider it important to know that the metrics displayed  
7 in Campaign Manager were inflated, and that LinkedIn's auditing processes and systems were  
8 deficient. Accordingly, LinkedIn's false representations and omissions were material.

9 84. Because of LinkedIn's false representations and omissions, Plaintiff paid for certain  
10 ads for which it would not have paid anything at all, paid more for other ads than it otherwise  
11 would have paid, and bought more ads than it otherwise would have bought, absent the inflated  
12 metrics. Accordingly, LinkedIn's false representations and omissions were an immediate cause of  
13 Plaintiff's losses.

14 85. By reason of the fraudulent, unfair and unlawful practices of LinkedIn alleged  
15 above, Plaintiff seeks monetary compensation on behalf of itself and other Class members for all  
16 losses suffered as a result of such practices. Additionally, Plaintiff and other Class members  
17 continue to purchase advertising on LinkedIn, and thus face an actual threat of future harm of being  
18 further exposed to inflated metrics on LinkedIn. Plaintiff therefore requests injunctive relief to  
19 prevent future harm to itself and other Class members.

20 **COUNT II**

21 **Fraudulent Misrepresentation**

22 86. Plaintiff re-alleges and incorporates by reference herein all the allegations  
23 contained above.

24 87. As alleged in paragraphs 76 and 78 above, LinkedIn made misrepresentations both  
25 by disseminating inaccurate and inflated metrics to Plaintiff and other Class members, and  
26 concealing its deficient auditing processes and systems from Plaintiff and other Class members.

1 88. LinkedIn's misrepresentations were material since any reasonable advertiser would  
2 consider it important to know that the metrics displayed in Campaign Manager were inflated, and  
3 that LinkedIn's auditing processes and systems were deficient.

4 89. LinkedIn made its misrepresentations with knowledge of their falsity, or with  
5 reckless disregard for their truth.

6 90. LinkedIn made its misrepresentations with the intent of increasing its revenue by  
7 inducing Plaintiff and other Class members to pay for ads for which they should not have paid  
8 anything at all, pay more for other ads than they otherwise would have paid, and buy more ads  
9 than they otherwise would have bought.

10 91. Plaintiff and other Class members justifiably relied on LinkedIn's  
11 misrepresentations since LinkedIn had exclusive knowledge of all material facts relating to the  
12 accuracy of the metrics in Campaign Manager and the adequacy of its auditing processes and  
13 systems.

14 92. As a result of LinkedIn's misrepresentations, Plaintiff and other Class members  
15 were injured by paying for ads for which they should not have paid anything at all, paying more  
16 for other ads than they otherwise would have paid, and buying more ads than they otherwise would  
17 have bought.

18 **COUNT III**

19 **Negligent Misrepresentation**

20 93. Plaintiff re-alleges and incorporates by reference herein all the allegations  
21 contained above.

22 94. As alleged in paragraphs 76 and 78 above, LinkedIn made misrepresentations both  
23 by disseminating inaccurate and inflated metrics to Plaintiff and other Class members, and  
24 concealing its deficient auditing processes and systems from Plaintiff and other Class members.

25 95. LinkedIn's misrepresentations were material since any reasonable advertiser would  
26 consider it important to know that the metrics displayed in Campaign Manager were inflated, and  
27 that LinkedIn's auditing processes and systems were deficient.

1 96. As an alternative to pleading scienter, Plaintiff alleges that, at a minimum, LinkedIn  
2 made its misrepresentations without reasonable grounds for believing they were true.

3 97. LinkedIn made its misrepresentations with the intent of inducing reliance on such  
4 misrepresentations.

5 98. Plaintiff and other Class members justifiably relied on LinkedIn's  
6 misrepresentations since LinkedIn had exclusive knowledge of all material facts relating to the  
7 accuracy of the metrics in Campaign Manager and the adequacy of its auditing processes and  
8 systems.

9 99. LinkedIn owed a duty to Plaintiff and other Class members not to misrepresent the  
10 accuracy of its metrics, or the adequacy of its auditing processes and systems, and breached that  
11 duty by its misrepresentations.

12 100. As a result of LinkedIn's misrepresentations, Plaintiff and other Class members  
13 were injured by paying for ads for which they should not have paid anything at all, paying more  
14 for other ads than they otherwise would have paid, and buying more ads than they otherwise would  
15 have bought.

16 **COUNT IV**

17 **Breach of Implied Duty to Perform with Reasonable Care**

18 101. Plaintiff re-alleges and incorporates by reference herein all the allegations  
19 contained above.

20 102. Plaintiff and other Class members contracted with LinkedIn to provide them with  
21 advertising services. They did so through LinkedIn's common advertising interface, Campaign  
22 Manager, where Plaintiff and other Class members can, among other things, submit  
23 advertisements, set advertising budgets, select target audiences, and most critically, view metrics  
24 that enable them to analyze the performance and ROI of their advertising campaigns, and make  
25 decisions about ad spend.

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1           103. Plaintiff and other Class members met all or substantially all of their contractual  
2 obligations, including but not limited to, submitting their advertising for LinkedIn’s approval and  
3 paying for LinkedIn’s advertising services.

4           104. LinkedIn has obligations to invoice Plaintiff and other Class members accurately  
5 based on the standards that LinkedIn itself has established, to display accurate ad metrics in  
6 Campaign Manager, and to implement adequate auditing processes and systems to ensure that  
7 the ad metrics in Campaign Manager are accurate and not inflated.

8           105. There is not one integrated contract that spells out LinkedIn’s obligations to the  
9 Class, but the obligations above can be determined by reference to LinkedIn’s course of dealing  
10 and performance with the Class, industry practice, and from various web pages created and  
11 maintained by LinkedIn, including the “LinkedIn Ads Agreement”  
12 (<https://www.linkedin.com/legal/sas-terms>), LinkedIn’s “User Agreement”  
13 (<https://www.linkedin.com/legal/user-agreement>), LinkedIn’s “LinkedIn Advertising Policies”  
14 (<https://www.linkedin.com/legal/ads-policy>), and various help pages on LinkedIn’s website (*see*,  
15 *e.g.*, paragraphs 35-37 above), among others. In particular, the current LinkedIn Ads Agreement  
16 provides in Section 2 that the “Ad Services are designed to *enhance the effectiveness of your*  
17 *campaigns,*” and in Section 4 that “[y]ou may use Ad Services Data only on an aggregate and  
18 anonymous basis *to assess the performance and effectiveness of your campaigns and to*  
19 *optimize your campaigns.*”<sup>35</sup>

20           106. LinkedIn had a duty to perform the obligations above competently and with  
21 reasonable care. LinkedIn breached that duty by, among other failures, invoicing advertisers based  
22 on inflated metrics; reporting inflated metrics to advertisers in Campaign Manager; and failing to  
23 implement adequate auditing processes and systems to promptly detect and fix inflated metrics.

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27 <sup>35</sup> “Ad Services Data” is defined in Section 4 as “any data obtained in connection with the Ad  
28 Services [i.e., LinkedIn’s online advertising platform and the associated self-serve, auction-based  
ad services].”

1 107. Had LinkedIn used reasonable care to retain MRC to audit its metrics when its  
2 industry peers did back in early 2017, and reasonably invested in its auditing processes and  
3 systems, the measurement errors disclosed would have been promptly detected and fixed before  
4 harming advertisers, and LinkedIn would not have displayed inflated metrics in Campaign  
5 Manager for such lengthy periods of time.

6 108. As a result of LinkedIn's failure to provide its agreed advertising services  
7 competently and using reasonable care, Plaintiff and other Class members failed to receive the  
8 benefit of their bargain, including paying for ads for which they should not have paid anything at  
9 all, paying more for other ads than they otherwise would have paid, and buying more ads than they  
10 otherwise would have bought.

11 **COUNT V**

12 **Accounting**

13 109. LinkedIn on the one hand, and Plaintiff and other Class members on the other, are  
14 in a business relationship that requires an accounting because LinkedIn has conceded that it owes  
15 money to Plaintiff and other Class members as a result of inflated metrics tied to impressions and  
16 video views.

17 110. Calculation of the sums due Plaintiff and other Class members from the inflated  
18 metrics is complex, and LinkedIn has failed to provide Plaintiff and other Class members with  
19 adequate detail concerning the nature and scope of the inflated metrics, and the extent of the harm  
20 caused by such inflated metrics to Plaintiff and other Class members.

21 111. All of the data and other information necessary to calculate the harm caused by  
22 Plaintiff and other Class members by the inflated metrics are exclusively within the control of  
23 LinkedIn.

24 112. Having conceded it owes money to Plaintiff and other Class members, LinkedIn is  
25 not entitled to unilaterally decide without any accountability or oversight which Class members to  
26 compensate and how much to pay them.

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1 113. As a result, Plaintiff and other Class members seek, at a minimum, an order  
2 requiring LinkedIn to provide a full and complete accounting of all transactions and records  
3 relating to Plaintiff's and other Class members' advertising on LinkedIn to enable Plaintiff and  
4 other Class Members to determine the nature and scope of the inflated metrics, and the extent of  
5 the harm caused by such inflated metrics to Plaintiff and other Class members.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff respectfully prays for a judgment in its favor and in favor of the  
8 Class as follows:

9 A. Certifying this action as a class action, appointing Plaintiff as Class Representative,  
10 and appointing Plaintiff's undersigned counsel as Class Counsel, under Rule 23 of the Federal  
11 Rules of Civil Procedure;

12 B. Awarding declaratory and injunctive relief, including, but not limited to, (i)  
13 prohibiting LinkedIn from continuing to display inaccurate and inflated metrics, (ii) directing  
14 LinkedIn to implement adequate auditing processes and systems (in addition to MRC's audit) so  
15 that advertisers may rely on the integrity and accuracy of LinkedIn's metrics in the future; and (iii)  
16 directing LinkedIn to promptly disclose and fix any further inaccurate advertising metrics that it  
17 uncovers in the future;

18 C. Awarding Plaintiff and the Class monetary compensation for all losses caused by  
19 Defendant's misconduct alleged herein, whether as restitution or damages;

20 D. Directing Defendant to provide a full and complete accounting of all transactions  
21 and records relating to Plaintiff's and other Class members' advertising on Defendant's platform,  
22 and pay over to Plaintiff and other Class members the sums calculated to be due and owing to  
23 Plaintiff and the Class as a result of such accounting;

24 E. Awarding Plaintiff and the Class punitive damages;

1 F. Awarding Plaintiff and the Class attorneys' fees and costs (including, without  
2 limitation, under Section 1021.5 of the California Code of Civil Procedure);

3 G. Awarding Plaintiff and the Class prejudgment and post-judgment interest; and

4 H. Providing any and all further relief as the Court may deem just and proper.  
5

6 **JURY DEMAND**

7 Plaintiff requests a trial by jury of all claims that can be so tried.

8 DATED: January 21, 2021

Respectfully Submitted,

9 By: /s/ Jordan L. Lurie

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